

Avon Village Board Meeting
Monday, December 15, 2008

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The meeting of the Board of Trustees of the Village of Avon was held at the Avon Village Hall, 74 Genesee Street, Avon, New York on Monday, December 15, 2008.

Present: Thomas Freeman, Mayor
Mark McKeown, Trustee
William Zhe, Trustee
Philip Swanson, Trustee

Absent: Robert Hayes, Trustee

Staff: John Barrett
Ryan Colvin
Reid Whiting
James Carney
Tony Cappello
Jeremy Batzel

Visitors: Richard Neth
Tim Batzel
Hal Cole
Sarah Twamley

Mayor Freeman opened the meeting at 6:30 p.m. with the Pledge of Allegiance.

VILLAGE BOARD MEETING MINUTES:

Upon a motion made by Trustee McKeown the minutes from December 1, 2008 meeting are hereby approved as submitted. Trustee Swanson seconded the motion and it was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes

OPEN PROJECTS:

Upon a motion made by Trustee Zhe the following project is hereby established and funded as follows:

Bulletproof Vest	\$1060	to be Funded by a USDOJ BVP
	Grant for \$530	and BVP State Aid for \$530

Trustee McKeown seconded the motion and it was carried by the following vote:

Mayor Thomas Freeman	Voting	Yes
Trustee Mark McKeown	Voting	Yes
Trustee Philip Swanson	Voting	Yes
Trustee William Zhe	Voting	Yes

CLOSED PROJECTS:

Upon a motion made by Trustee Swanson the following project is hereby closed and the remaining monies returned to their original source:

<u>Project Name</u>	<u>Balance Remaining</u>	<u>Original Source</u>
H47-NYS DEC Forestry	\$657.04	A201-Gen. Fund
H96-STEP	\$0.	

Trustee Zhe seconded the motion and it was carried by the following vote:

Thomas Freeman, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes

VOUCHERS AND MANUAL CHECKS:

Upon a motion by Trustee Zhe, the following vouchers are approved for payment:

Fund # 1 General Fund	\$26,510.51
Fund # 4 Schedule C	\$ 3,903.14

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Fund # 5 Water	\$ 1,839.98
Fund # 6 Sewer	\$ 1,335.57
Fund # 9	\$
Fund #10	\$
Fund #11	\$39,561.65
Fund #17	\$ 4,399.65
Fund #43	\$
Fund #44	
Fund #45	\$
Fund #46	\$
Fund #47	\$
Fund #48	\$
Fund #49	\$
Fund #50	\$
Fund #56	\$
Fund #57	\$
Fund #58	\$
Fund #59	\$
Fund #60	\$
Fund #61	\$
Fund #62	\$
Fund #63	\$
Fund #64	\$
Fund #65	\$
Fund #66	\$
Fund #67	\$
Fund #68	\$
Fund #69	\$
Fund #70	\$ 35.49
Fund #71	\$
Fund #72	\$
Fund #73	\$
Fund #74	\$
Fund #75	\$
Fund #76	\$
Fund #77	\$
Fund #78	\$
Fund #79	\$ 3,818.30
Fund #80	\$ 32.76
Fund #81	\$

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Fund #82	\$
Fund #83	\$
Fund #84	\$
Fund #85	\$ 32.76
Fund #86	\$
Fund #87	\$ 1,060.00
Fund #88	\$
Fund #89	\$
Fund #90	\$
Fund #91	\$
Fund #92	\$
Fund #93	\$
Fund #94	\$ 81.85
Fund #95	\$
Fund #96	\$
Fund #97	\$
Fund #98	\$
Fund #99	\$
TOTAL	\$ 82,611.66

Trustee McKeown seconded the motion and it was carried by the following vote:

Thomas Freeman Mayor	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

AUDIT SERVICES:

On November 7, 2008 the Treasurer sent out requests for proposals to qualified CPA firms for audit services. Treasurer Quinlan asked the Board to resolve to approve Raymond F. Wager's terms and that the Mayor execute the proposal. At the previous meeting the Mayor suggested removing the \$150 charge out of the agreement for meeting with the Board. The Village Board had previously budgeted \$6,000 for the audit. \$2,000 will come from the General Fund, \$2,000 will come from the Water Fund and the remaining \$2,000 will come out of the Sewer Fund. The remaining balance of \$1,500 will be split between general, water and sewer. The firm will provide the regular audit in accordance with GASB 34, assist with the preparation of the Management Discussion and Analysis (MD&A), and update the depreciation schedule totals for \$7,500.

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Upon a motion by Trustee Swanson, the following audit service with Raymond F. Wager is accepted and the motion was seconded by Trustee Zhe and carried by the following vote:

Thomas Freeman Mayor	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

DEPARTMENT OF PUBLIC WORKS:

John Barrett distributed copies of his six month budget to the Board.

Superintendent Barrett updated the Board on the status of his department as follows:

- Grinding machine worked great on the sidewalks
- Leaves are finished
- Snow plow equipment ready to go
- Worked on taking trees down last week
- Finished coverall building out back
- Will be building some picnic tables

Mayor Freeman asked Superintendent Barrett for a list of all the projects that are planned for the winter months.

Trustee McKeown – What’s going on with the DOT guys and stripping?

Chief Carney – I’m not sure what the contractor is going to do at this point. I asked what the plan is and shifting the lanes and they said they thought the plan would be to move the lanes over to the South side so when the weather gets good they can start working. There’s no place for snow removal the way the lanes are now.

Mayor Freeman – Should we ask them to put their signs back out that lanes are shifted to the left?

Chief Carney – That would be a good idea.

Mayor Freeman – I will talk with Laurel Barber, (Lane shift to the left, or lane shift to the right).

John Barrett – Dick Martin cleaned the gasoline tanks out up at Ilers. The wash water is aerated and stripped so it would pass SPEDES level. They’re looking for permission to dump it down our sewer. I checked with MRB to make sure it was ok.

Mayor Freeman – Would we charge what we use to charge haulers for domestic waste?

The Board agreed there should be a charge for the service

EXECUTIVE SESSION:

Upon a motion made by Trustee Zhe, the Board went into executive session at 6:55 p.m. to discuss personnel issues and exited at 7:15 p.m. Trustee Swanson seconded the motion and it was carried by a unanimous vote.

UNIFORM COMMITTEE:

Richard Neth spoke on behalf of the Uniform Committee and introduced the Committee to the Board. He announced that so far they had purchased 20 uniforms and should receive them by Christmas. However, we need help to purchase the remaining 11 uniforms. The cost is on average \$600 per uniform, (does not include a hat). We have 11 people on the second list that we would like to order uniforms for by January so we have them by parade season.

Trustee Zhe – Last time you were here we asked for the criteria to get a new uniform.

Richard Neth – We are working on that. We have a sign out sheet for the brass and a sign out sheet for the uniform. People might be in the department one to two years before they receive a uniform. We have some criteria in place for receiving a uniform and are still working on it. It's a privilege not a right and you're going to have earned the right to keep it.

Mayor Freeman – We strongly need to know what the bylaws are. I want to see your package in place. Clearly there is no money in the budget this year.

Richard Neth – What criteria are you looking for?

Mayor Freeman - Care, maintaining the condition, and who's going to get them.

Richard Neth – We are looking at people who are really active, who do a lot of parades, and people who in the past have contributed a lot to the department.

Mayor Freeman – Is there a minimum order?

Sarah Twamley – No, they would come here for one uniform.

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Trustee McKeown – What’s the grant cycle?

Tim Batzel – It’s a one time thing. The 20 uniforms were paid through the grant and a fund raiser. We came up with approximately \$3,000.

Mayor Freeman – What if we break it down like four uniforms each year?

Richard Neth – We could continue to have that as an annual budget item.

Trustees McKeown – Make uniforms a separate line item in the budget.

Richard Neth– And through our fund raisers, we’ll try to continue to contribute to that.

Mayor Freeman – I’d like to see the Uniform Committee come back the second meeting in January with their final criteria in place.

POLICE UPDATE:

Chief Carney’s monthly police report was acknowledged by the Board.

Chief Carney reported he had talked to Greece Police who implemented the local traffic tickets for a while until they realized they weren’t getting grant funding because the State was loosing money.

Attorney Whiting – It’s a huge endeavor.

Mayor Freeman asked Chief Carney if he had given any special attention on some of the concerns mentioned at the neighborhood meetings.

Chief Carney – I spent a lot of time on Spring Street and I didn’t see the problems.

Chief Carney informed the Board that he would like to start the process and asked the Board to release monies from the project for the new police vehicle. At this point he was not sure of what type of vehicle he would be ordering.

Chief Carney - The Charger has been a very reliable vehicle up until recently. We have a fluke problem with it now. We brought it to Genesee Valley 4 times and Dansville 4 times and they can’t find the problem. While driving it stalls out. From a patrol standpoint, most of guys prefer driving a car rather than a truck. I’d like to get the process going. The Crown Vic has 80,000 miles on it.

The County is using Chevy Tahoe’s.

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The Board agreed not to release the monies until the Police Department knows what type of vehicle they will be purchasing.

Mayor Freeman informed Chief Carney that he would like to see the Village spread their business out between Scottie's and Tim's Tire & Alignment at 81 West Main Street.

ATTORNEY REID WHITING:

Attorney Whiting reported that there are still two outstanding high profile use variance applications pending. One is for Jim Schillinger and the second one is for Richard Martin. The Planning Board issued two favorable advisory opinions. They don't get into the hardship issue. I suggest that the Use Variance be bulked up and that sufficient documentation be requested. The applications we have on file have not submitted any financial data. Cost, expenses, rental, etc., it's my position to notify the Zoning Board of Appeals that they can't make a decision without these documents. We're shooting in the dark. It's prejudicial to the applicant if they're not given pertinent data. I'm going to try to overhaul the whole project.

Attorney Whiting submitted a memo he had sent to the Zoning Board of Appeals & Planning Board regarding Changes to Application for Use Variance. You need to compute a rate of return. If they don't provide all the information, then the Zoning Board of Appeals is not obligated to act on it. Without data we can't act on it and the current application doesn't ask for that. Use variances are very difficult to get.

The existing application does not afford the applicant sufficient guidance to provide objective proof that the permitted uses within the zone cannot produce a reasonable rate of return. The reported cases flesh out the specific data constituting "dollars and cents" proof of rate of return. I recommend that section 8 of the application be supplemented as follows:

8. No reasonable return on the property can be realized under any permitted use in the zone: ("Dollars and cents" proof of inability to realize reasonable return must be submitted, including the following:
 - a. Price paid for the entire parcel. Best evidence: attorney-certified closing statement or HUD-1 form for residential property.
 - b. Present value of the parcel or the relevant part thereof. Best evidence: appraisal from certified appraiser dated within six (6) months of the date of application.
 - c. Maintenance expenses. Best evidence: expense statement prepared by a CPA for the preceding three years.

- d. Real property taxes. Best evidence: receipts from town, village and school district for the most recent fiscal year of each municipality and for each year of claimed hardship.
- e. Amount of mortgages and other encumbrances. Best evidence: current statement of principal balance from mortgagee and other lienors; copies of easements.
- f. Income from the land. Best evidence: Schedule E for property involved of federal form 1040 for last three years; and
- g. Other relevant factors, including but not limited to:
 - i. All efforts to sell the premises to a buyer planning to devote the premises to a permitted use
 - ii. All efforts to sell the premises to a buyer planning to devote the premises to a use not permitted within the zone in question
 - iii. Submit all purchase offers presented to applicant within last three years
 - iv. Submit all listing contracts entered into by applicant and realtor within last three years.
 - v. Submit proof of all advertising efforts within last three years.
 - vi. All efforts to lease the premises to a tenant planning to devote the premises to a permitted use
 - vii. All efforts to lease the premises to a tenant planning to devote the premises to a use not permitted within the zone in question
 - viii. Submit all leases tendered by prospective tenants
 - ix. Submit all listing contracts for leasing purposes
 - x. Submit proof of all advertising for lease.

Attach all documents as Schedules numbered according to the factors listed above. Examples, Schedule 8a, closing statement; Schedule 8.g.iii, purchase offers presented, etc.

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Please feel free to add to this expansion as you see fit. If you decide to expand the form as suggested, perhaps the two boards should propose that the Village Board approve the revised application by resolution.

Mayor Freeman suggested that Attorney Whiting have a special session with the Planning Board and the Zoning Board of Appeals to educate these board members.

Tony Cappello – After continuing to look at the property on the side hill, I'm going to write a letter that these properties be vacated before someone gets hurt. I am going to call the Health Department. There is no money going into the apartments. If you're not going to keep them up, then they should be condemned. I will take pictures of everything, and will have the Fire Marshall work with me on this.

Mr. Cappello informed the Board that he knew nothing about an additional apartment going in at Dick Martins until the Post Office asked the Village Office to assign an apartment number for the new apartment.

Trustee Zhe – What is the legal process for this?

Attorney Whiting – I'll have to check it out. If it was an apartment and the use ceases, you can't bring it back to an apartment.

Mayor Freeman asked Tony Cappello to look into the apartment that's for rent in the former Genesee Sun's location. I believe it accesses through the front.

TRAINING FOR PLANNING AND ZONING BOARD MEMBERS:

After a brief discussion Trustee Zhe offered the following resolution and moved for its adoption:

RESOLUTION

WHEREAS, Chapter 662 of the Laws of New York, 2006 was passed by the NYS Legislature in 2006, signed by the Governor on September 13, 2006, and went into effect on January 1, 2007; and

WHEREAS, each member of a Planning Board and Zoning Board of Appeals is required to complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties; and

WHEREAS, the Village Board of Trustees has the responsibility to set the official policy for Planning board and Zoning Board of Appeals member training requirements; now therefore be it

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RESOLVED, that each member or alternate member of the Planning Board and Zoning board of appeals is hereby required to complete four hours of training in a calendar year; and be it further

RESOLVED, that if a Planning Board of Zoning Board of Appeals member accrues more than four hours of training during a calendar year, the hours in excess of four hours will be credited to the following years; and be it further

RESOLVED, that approved training options include, but are not limited to, Genesee/Finger Lakes Regional Planning Council Local Government Workshops, Livingston County Planning Department Staff training, New York State agency planning workshops and courses, State municipal association conferences and/or training sessions conducted by counties other than Livingston County, training sessions conducted by municipalities, American Planning Association training sessions and/or conferences, and college or university planning training sessions, and other training approved by the Village Mayor; and be it further

RESOLVED, that the training format can include, but is not limited to electronic media, video, distance learning, and traditional classroom training; and be it further

RESOLVED, that the Deputy Clerk shall keep records of Planning Board and Zoning Board of Appeals member annual training hours; and be it further

RESOLVED, that all training certificates or other documentation of training must be submitted to the Deputy Clerk annually.

Trustee McKeown seconded the motion and it was carried by the following vote:

Thomas Freeman Mayor	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

GEO-THERMAL TRANSMISSION LINE EASEMENT:

The Town submitted for the Village Board's review and execution a transmission line easement to lay, construct, operate, maintain, alter, repair, replace, remove or change the size of geo-thermal transmission lines with appurtenances on, through or under certain lands for Tax Map Parcel #34.10-1-54. (144' x 33' wide)

Upon a motion by Trustee Zhe the easement was approved by the Village Board. The motion was seconded by Trustee McKeown and carried by the following vote:

Thomas Freeman Mayor	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
Philip Swanson, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

EXECUTIVE SESSION:

Upon a motion by Trustee Zhe, the Board entered into executive session at 9:15 p.m. to discuss personnel matters. Trustee McKeown seconded the motion and the Board exited executive session at 9:50 p.m. The motion was carried by a unanimous vote.

Upon a motion, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,



Patricia E. Baker
Village Clerk