

A meeting of the Board of Trustees of the Village of Avon was held in Conference room A and B of Village Hall, 74 Genesee Street, Avon, New York, on November 15, 2021.

Present: Thomas Freeman, Mayor  
 Tim Batzel, Trustee  
 Mark McKeown, Trustee  
 Patrick McCormick, Trustee  
 Bill Zhe, Trustee

Staff: Ken Farrell, Supt. of Public Works  
 Joseph Geer, Chief of Police  
 Andy Anderson, Fire Marshal

Visitors: Amanda Hoffmann, resident  
 Edward Forsythe, resident

Per new legislation signed into effect by Governor Hochul, the meeting was made available to the public by video/teleconference. However, the Board is currently meeting in person and invites the public to do so if comfortable. The Board requests that you wear a mask in the Village Hall, regardless of vaccination status, and if you have symptoms or feel sick, to please stay home.

Mayor Freeman called the meeting to order at 6:04pm and began with the Pledge of Allegiance.

**VOUCHERS and MANUAL CHECKS:**

Upon a motion by Trustee McKeown, the following vouchers were approved for payment.

#1-GENERAL FUND	\$219994.49
#4-SCHEDULE C	\$19113.96
#5-WATER	\$31159.16
#6-SEWER	\$79133.61
#TA00-TRUST & AGENCY	\$272.48
#HH50-TURNOUT GEAR	2686.22
TOTAL	\$352359.92

Manual Check:

The motion was seconded by Trustee McCormick and carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

**DPW UPDATE:**

Supt. Farrell was provided the following update to the Board electronically:  
The crew worked on the following:

Past 2 Weeks

1. Leave pickup
2. Repaired fire hydrant on E. Main St.
3. Repaired Fence on North Ave. (curve)
4. Repaired manhole cover on Doorer Ave.
5. Black top repairs(potholes)
6. Cleared culver pipe of debris (Genesee & Spring)
7. Kraft & Barilla (SIU) Sewer use permit sent out
8. Working on salter for 6-wheeler dump truck
9. Preparing trucks for winter operations
10. Water Break 74 Genesee St. (front of office)
11. 1 -Sewer Call out

Wastewater

1. Boiler Inspection from NYS, LMC a 3-party inspection on boiler per NYS
2. Aqualogics worked on controls for trickling filter pumps
3. Siewert replace lift pump #1 and lift station

Water

1. Preconstruction meeting on Pebble Beach Pump Station.
2. Mulligans Farms – Thornton Engineering information for Dept. of Health info. Signing so they can send in (see info)

Next 2 weeks

1. Continue with leaves
2. Get equipment in winter operations

Information:

- Hach Service Agreement- service contract for software updates provided to the Board. Cost \$3659.00
- Insurance adjuster met with Supt Farrell at the Downs to review the damage done to the concession stand in the fire. Replacement cost value provided by him was \$25879.98. Supt. Farrell also met with the fire investigator.

**MRB UPDATE:**

Bill Davis, of MRB provided a copy of the overall drainage concept plan for Bruce Howlett's property with 3 plans showing potential easements needed to operate and maintain the drainage outlets from potential stormwater facilities on his property out to Polebridge Road/Route 5 & 20. MRB will be providing a proposal to advance the design phase. The Board continued the discussion with Trustee McKeown stating he is not in favor of the Village taking on all the responsibility for any maintenance needed when the work is all being done in the Town. Trustee



Batzel, McCormick, and Zhe all agree that the Town needs to share in this. Mayor Freeman would like to go to the Town to get a commitment of help from them.

**TEASURER UPDATE:**

Treasurer Quinlan provided the Board with the following update electronically:

- 2017 GVBA documents submitted to NYS Dept. of Ag for approval on 10/29...project includes portable horse stalls, electric and water to the polebarn, paved driveway, and drainage improvements. Working on MWBE paperwork for this grant.
- Working on 2019 and 2021 GVBA grant documents and quotes...2019 project will be portable restrooms, and 2021 project will be a gazebo.
- National Grid streetlight documents to be reviewed and accepted.
- Awaiting SHPO comments on our National Register draft, then Landmark Society will make revisions and can hold a final public meeting.
- Preparing open air structure RFP for NYMS-TA grant.
- Mural and sponsor info. is complete. Recognition event to be held on 12/4 at 3:30 p.m. during the Avon Holiday Spectacular.
- Continue to work on Jen Talbot’s recommendations
- The Board needs to determine use(s) of the ARPA funds.
- Festival planning for 7/9/22 is underway.
- Submitted GVCA Community Arts grant for Mural Arts Festival on 11/4.
- Pump Station bond sale of \$950,000 was on 11/4. Three bidders with low bid of 1.469% from Roosevelt & Cross.
- Park bench recognition events to be planned.
- Awaiting date/time from Olie Olson for BOCES benches’ recognition event.

**MINUTES:**

Upon a motion made by Trustee McCormick and seconded by Trustee Zhe, the minutes from the November 1, 2021, were approved as submitted. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

**CLERK UPDATE:**

Clerk Randall provided the following update to the Board:

- Cancer Benefit policy for Fire Department- policy is up for renewal in January. Total per firefighter will be \$188 per qualified members and \$174 for inactive members. Currently, there are 19 active members and 1 inactive member covered. This year, the Board has the option to include exterior fire fighters as well. Requirements remain the same and members must be active for 5 years or more to be covered. Inactive members are covered for 60 months after leaving the fire service.

Upon a motion made by Trustee McKeown and seconded by Trustee Batzel, the Board accepted the cancer policy renewal for the fire department. The amount per member will be \$188 for active

members and \$174 for inactive members for this coverage. The Board has chosen to only cover the interior fire fighters. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

- Christmas Tree Bid Award: Received 1 bid: J.Ayers of Ayers Forest Products. Mr. Ayers bid was \$599 for 24 6–7-foot Fir/Evergreen trees. The trees are to be delivered on November 29<sup>th</sup>, 2021.

Upon a motion made by Trustee Zhe and seconded by Trustee Batzel, the Board accepted the bid for \$599 from Ayers Forest Products. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

- The Holiday Spectacular will be happening December 4, 2021. This year the event will be held outside with many events, a tree lighting, and Santa. Check out [www.AvonHolidaySpectacular.com](http://www.AvonHolidaySpectacular.com) for a listing of events and times.
- The Presbyterian Woman’s group is selling wreaths. Please contact Sally Sakshaug by 11/16/2021 if interested.
- Trustee Zhe provided the Board with minutes from the October 2021 Parks meeting.

**SENIOR NUTRITION LEASE AGREEMENT EXTENSION:**

Upon a motion made by Trustee McCormick and seconded by Trustee Zhe, the Board agreed to extend the current lease agreement with The Livingston County Office of the Aging for use of Conference Room A for the Senior Nutrition Program for 1 year through December of 2022. Monthly rent will remain \$350 for the room use and \$37.50 for the dumpster rental. The total amount per month will continue at \$387.50 per month. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

**POLICE UPDATE:**

Chief Geer provided the following report to the Board:

- Received six resumes in response to the advertisement for full time officer. The ad has been out for two weeks. He will continue to collect resumes until the end of November and will schedule the first round of interviews in December. Second round of interviews open to Board members that are interested.
- Officer Greco will not be leaving the department.



- Court Security- Chief Geer discussed the request for village officers to provide security at the court. He is confident that his staff can do it however, he does not feel that it should come from the police budget. He feels it should be paid directly by the court.
- Deer Committee meeting will be held Thursday November 18<sup>th</sup>, 2021, at 7pm. Chuck Kanty has stepped away from the committee and his duties will be taken over by Scott Gage.

## **FIRE MARSHAL UPDATE:**

Fire Marshal Anderson provided the following update:

- BCM Consulting- Terry Ekwel, independent inspector was hired to consult and give a report on 52 West Main Street. The property has been deemed uninhabitable. Fire Marshal Anderson will prepare a letter documenting the violations and the code requirements, which will be reviewed by Mr. Ekwel, the Village Attorney, and the Board. The letter will then be sent to the owner of the property.
- Community Manor Fire- Fire Marshal Anderson met with Fire Chief Strozewski and the property maintenance manager of Community Manor to discuss the fire and the repair work necessary. They have already lined up a contractor.

## **PUBLIC HEARING- TREE ORDINANCE**

Upon a motion made by Trustee McKeown and seconded by Trustee Zhe the Board opened the public hearing for the Tree Ordinance at 7:00pm. Trustee McKeown read the following notice:

### **NOTICE OF PUBLIC HEARING**

**PLEASE TAKE NOTICE** that a public hearing will be held before the Board of Trustees of the Village of Avon on November 15, 2021, at 7 p.m. at the Village Hall, 74 Genesee Street, Avon, New York on the following matters:

A local law known as the “Tree Code” to replace Section 44.31 of the Village Code.

The proposed local law is available for review at the Village Hall located at 74 Genesee Street, Avon, NY, from 8:00 a.m. to 4:00 p.m. Monday through Friday.

The Board of Trustees will, at the aforesaid time and place hear all persons in support of this local law or objection thereto. Persons may appear in person or by agent or attorney.

Dated: October 18<sup>th</sup>, 2021

By Order of the Board of Trustees  
of the Village of Avon  
Heather Randall, Village Clerk

The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

The new tree ordinance will be replacing Section 44.31 of the Village Code. The draft is as follows:

**Village of Avon Tree Ordinance**

**Title**

This chapter shall be known as the “Tree Code”.

**Purpose**

In recognition of the environment, health, and aesthetic benefits of its urban forest, this chapter established the policies, regulations, and standards pursuant to the planting, maintenance, protection, preservation, removal, and replacement of trees on public lands within the Village of Avon. These provisions are enacted to:

- A. Establish the minimum sustainable amount of tree cover on public lands within the Village at 80% of potential planting sites.
- B. Maintain Village trees in healthy and non-hazardous condition through good arboricultural practices.
- C. Establish and maintain appropriate diversity in tree species and age classes in order to provide a stable and sustainable urban forest.

**Jurisdiction**

- A. The Village of Avon shall have full power and authority over all trees, plants, and shrubs (excluding grass) located within street right-of-way, public parks, public right-of-way or easement, and other public places in the Village.
- B. Conflict with ordinances. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, land development, safety or health ordinance or code(s) of this municipality, the County Livingston, or the State of New York, the provision which establishes the higher standard for the promotion and the protection of the safety and health of the people shall prevail.
- C. Partial invalidity. If any section of this chapter shall be held unconstitutional, illegal, invalid, or otherwise unenforceable, the remainder of this chapter shall remain in full force and effect and enforceable as such.
- D. Nothing in this chapter shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal of tree(s) which is/are deemed to be dangerous, unsafe, or unhealthy.

**Definitions**

As used in this chapter, the following terms shall have the meanings indicated:



**Community Forestry Management Plan**

A framework for public tree management that includes an inventory of existing trees; identification of planting sites; prioritized planting plan; standards for tree selection, siting, and planting.

**Master Tree List**

A compilation of suitable and desired types and species of trees able to thrive on Village streets and public places within the Village. The Master Tree List is housed in the Village Office, and is drawn from:

- A. Recommendations from the 2019 Tree Inventory Report and Management Plan.
- B. Cornell University's "recommended Urban Trees for USDA Plant Hardiness Zone 6 and Colder. The master tree list also includes a list of trees that not be planted because the Village has too many of them or are inappropriate street trees.
- C. DEC list of recommended trees.

**Tree Board**

The Tree Board for the Village of Avon is a sub-committee of the Parks Commission, a standing committee of the Village Board.

**Tree Board Annual Report**

An annual written report to the Parks Commission and the Village Board covering the actions and goals relating to the Village's public trees and including such activities as street tree inventories, tree plantings and removals, and educational programs for the public.

**Tree Lawn**

That part of the right-of-way, highway reservation not covered by the sidewalk or other pavement lying between a property boundary line and that portion of the street usually used for vehicular traffic.

**Tree Board***Membership:*

The Tree Board membership shall consist of not fewer than five nor more than nine members appointed by the Mayor, subject to the approval of the Village Board. If possible, members shall be residents of the Village, but not required, and at least one should have professional training in forestry. If none do, one ex-officio, non-voting member who has expertise in urban forestry, may be appointed. Members shall serve without compensation. If a vacancy shall occur during the term of a member, his or her successor shall be appointed by the Mayor, subject to the approval of the Village Board, to complete the unexpired portion of the term in which the vacancy occurred. The Mayor, subject to the approval of the Village Board, shall also have the power to remove any member of the Board.

*Organization:*

Members of the Tree Board shall select a Chair for a minimum of two years and a recording secretary. The Board shall adopt rules and regulations concerning its governance and operation.

*Authorization and Duties:*

The Tree Board shall be authorized to fulfill the following duties:

Develop and maintain a comprehensive tree plan for the Village of Avon. The tree plan is to be completed and reviewed on an annual basis.

Develop a list of appropriate tree species for planting in the various types of locales within the tree lawn and public parks. Reference Master Tree List.

Provide advice and consultation regarding trees to the Village Board, Village employees and private citizens residing in the Village of Avon.

Any requests from property owners for tree plantings, prunings and removals on tree lawn will be reviewed by the Tree Board and the DPW Superintendent.

Regularly communicate with the DPW Superintendent on all matters regarding Village trees; work closely with the DPW Superintendent in planning and implementing tree planting.

Monitor the inventory of Village trees (all trees located on land owned or controlled by the Village of Avon to be sure that changes are reflected in the inventory.

Coordinate activities, including but not limited to, the commemoration of Arbor Day and to inform and educate the public about the urban forest.

Make budget recommendations to the Village Board for Tree Board expenses and purchase of trees. A minimum annual tree maintenance operating budget of \$2.00 per capita is to be maintained for Tree City USA certification.

Together with the Village and Parks Commission, apply for grants related to the planting, educational outreach, activities coordinated with other committees and boards.

Review and make recommendations regarding Village policies, resolutions and local laws impacting trees.

**Regulation of Vegetation***Planting*

The Village shall have the right to plant and maintain the right-of-way of all streets, avenues, highways and on public grounds. The Tree Board will make all reasonable efforts to comply with property owners' requests regarding placement of a tree on the right-of-way adjoining their property.

Any tree that must be removed shall be placed by new planting within consistent, reasonable, and appropriate planting specifications.



Trees will be replaced in accordance with the master tree plan developed and maintained by the Tree Board.

No person shall plant any tree in the right-of-way except in accordance with policies, regulations, specifications established pursuant to this chapter.

Owners of private property adjoining a Village Street may request a tree for the tree lawn. Requests will be submitted on the “tree request form” available in the Village of Avon municipal office. The Tree Board will select a suitable tree for the location per the Master Tree List, which takes into consideration:

- ...the diversification of our community forest
- ...the specific location
- ...the presence of utility lines and other constricting factors

Private property owners may, at their own expense and with the written approval of the Tree Board and the DPW Superintendent, plant appropriate trees on the tree lawn. The DPW Superintendent shall authorize the approval of the planting in writing and shall approve a map or diagram showing the location of the tree planting. Any tree so planted shall be considered a public tree and be added to the Village Tree Inventory Report.

### **Pruning and Topping of Trees**

#### *A. Topping of trees is expressly forbidden*

Tree pruning shall be accomplished in accordance with the procedures set forth in the most recent ANSI A300 standards.

#### *B. Tree removal*

The Superintendent of Public Works or certified arborist shall treat or remove any public trees that are dead, diseased, or constitute a hazard of life or property. No person other than the mentioned above or his duly authorized deputy, agent, or employee, shall prune, cut down, remove, or destroy any public tree on Village property unless directed by the Director.

Requests by persons for removal of diseased or hazardous trees in the tree lawn must be made to DPW. Trees will be inspected to determine their health and any hazard that they pose. Final decisions regarding removals will be made by the Superintendent of Public Works.

#### *C. Abatements of hazards and public nuisances*

If a private tree is determined by the Superintendent of Public Works to constitute a public nuisance or public hazard, the owner will be required, by written notification, to trim, remove or otherwise control the tree to abate the hazard. Failure to do so within 15 days will be deemed a violation of this chapter and the DPW may then conduct the necessary abatement at the owner’s expense.

### **Conflicts between Trees and Structures**

- A. Where sidewalk or curb damage due to tree roots occurs, every reasonable effort shall be made to correct the problem without removing or damaging the tree. The DPW Supt. shall be responsible for developing or approving the corrective measures.
- B. The DPW Supt. of Public Works shall be contacted in the event of any emergency work



that may impact Village trees, plants, or shrubbery.

### **Cooperation between Agencies**

- A. Communication between the DPW and the Tree Board regarding any operations that affect Village trees is essential to the long-term management of the Village's trees. This includes, but not limited to, notification of tree pruning, removal, request for plantings, utility company activities relating to trees, and Arbor Day and other educational tree programs.
- B. Any public utility maintaining any overhead wires, underground pipes or conduits shall obtain permission from the DPW Supt. before performing any maintenance work on the wires, pipes, or conduits which could cause injury to the Village of Avon trees. The public utility shall in no way injure, deface, prune, or scar any Village of Avon trees until their plans have been approved by the DPW Supt.

### **Planting Requirements in New Residential Developments and Industrial and Commercial Sites**

All new development including, but not limited to, residential, commercial, industrial, and parking lots, will include the planting of such trees and at such density as shall be determined by the Planning Board.

- A. Landscaping plans submitted by developers must include the planting of street trees, and, if appropriate, park trees that are in compliance with the Tree Board's master list in terms of size, species, and density. The developer will work with Public Works in administering the Plan.
- B. The developer shall be responsible for tree planting and all irrigation and maintenance of the tree for a two-year period from the time of the planting and shall replace any trees that die during this period.
- C. Approval of the Village of Avon Planning Board for new developments is contingent upon submission of a tree-planting plan approved by the Tree Board.

### **Conservation of Forest and Woodland Resources during Development**

For the protection of trees, setting standards and limits in areas where land use is intensified, developers shall seek the advice of the Tree Board for planting recommendations.

### **Harming Public Trees Prohibited**

It is a violation of the provisions of this chapter for any person to abuse, mutilate or destroy any tree(s), plant(s), or shrub(s) on public lands. This includes posting, attaching, affixing, or putting up in any manner any sign, poster or other object to any live shade tree in any public street or public place in the Village. Tapping or extracting in any manner, sap from any live shade tree in any public street or public place in the Village is also prohibited. Allowing gaseous, liquid, or solid substance harmful to trees to come into contact with their roots, trunks, or leaves is also prohibited except for the following: during application(s) of the substances in the performance of the normal maintenance of streets, roads, sidewalks, tree lawns or driveways.

### **Penalties for Offenses**

Violation(s) of any provisions of this chapter shall be an offense punishable by a fine not to exceed \$250 and imprisonment for up to 15 days for each offense. In the case of a violation



consisting of the abuse, damage, mutilation, or destruction of more than one tree or shrub on public lands, the damage, mutilation, abuse of, or destruction of each tree or shrub shall be a second offense. Nothing in this paragraph shall limit the right of the Village to pursue any remedy available to it under 861 of the New York Real Property Actions and Proceeding Law and/or Subdivision (2) of 382 of the Executive Law of New York State.

The Board reviewed the draft and found it to be satisfactory. There was no public comment.

Upon a motion made by Trustee McKeown and seconded by Trustee Zhe, the Board closed the public hearing at 7:10 pm. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

Upon a motion made by Trustee Batzel and seconded by Trustee McCormick, the Board accepted the Tree Ordinance as submitted. This will replace section 44.31 of the Village Code. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

**TRUSTEE UPDATE:**

- ✚ Trustee McKeown asked about the work that appears to be underway at Barilla. Supt. Farrell stated that he believes Barilla is extending the parking area. Fire Marshal Anderson does not believe a permit is required and will look into it.
- ✚ Trustee Batzel discussed the ARPA monies with the Board. He has reached out to several agencies to find out if the Village has standing to use a portion of that money to fund the EMS program currently being applied for in the Fire Department. Start up costs are needed. The agencies stated that as long as the program has some sort of tie to Covid, the money can be used.
- ✚ Trustee McCormick stated that he was very interested in finding out more information from Empire Access and a timeline for a fiber optic internet choice for residents of the Village. Empire Access has started coming into the Village for that purpose, but only a few residents have been able to acquire fiber optic internet at the moment. He will follow up.
- ✚ Trustee McKeown emailed the Board points he pulled from the National Grid contract that he feels all should be aware of, along with a few questions for National Grid themselves. The Board agreed to send the numbers to the vendors for review.

- Committee kick off meeting for the joint sewer committee with the Village, Town, LCIDA, and LCWSA will be happening later in the month.

**EXECUTIVE SESSION:**

Upon a motion made by Trustee Zhe and seconded by Trustee Batzel, the Board entered executive session at 7:27pm for the purpose of discussing proposed, pending, or current litigation. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

Upon a motion made by Trustee McCormick and seconded by Trustee Zhe, the Board exited executive session at 8:45pm. No action was taken. The motion was carried by the following vote:

Thomas Freeman, Mayor	Voting	Yes
Tim Batzel, Trustee	Voting	Yes
Patrick McCormick, Trustee	Voting	Yes
Mark McKeown, Trustee	Voting	Yes
William Zhe, Trustee	Voting	Yes

Upon a motion made by Trustee McCormick and seconded by Trustee Zhe the Board adjourned at 8:46pm. The motion was carried by a unanimous vote.

Executive session notes were submitted by Trustee McKeown.

Respectfully submitted,



Heather Randall  
Village Clerk