

Board of Selectmen
Francis A. Hegarty
Wayne Phillips
Steven P. Rose

Town of Avon Massachusetts

Town Offices
Buckley Center 02322
(508) 588-0414
FAX (508) 559-0209



BOARD OF SELECTMEN MEETING
THURSDAY, FEBRUARY 2, 2006
7:30 P.M.

Members present: Francis A. Hegarty, Chairman
Wayne Phillips
Steven P. Rose

Others Present: Joseph Lalli, Town Counsel

Chairman Hegarty called the meeting to order at 7:30 p.m.

On a motion made by Mr. Phillips, seconded by Chairman Hegarty, it was unanimously voted to approve the minutes of Thursday, January 19, 2006 as submitted. Mr. Rose abstained from voting since he was absent from the meeting.

Chairman Hegarty opened the meeting with the following public announcements:

A Special Town Meeting is scheduled for Monday, February 6, 2006 at 7:30 p.m. at Avon Middle/High School. There are fourteen (14) articles on the warrant. All residents are urged to attend.

The last day for pick up of Christmas trees is Monday, February 6th (curbside).

On Tuesday, February 14th Senator Joyce will hold office hours at the Avon Town Hall Meeting Room from 11:30 a.m. to 12:30 p.m. Any residents with concerns or questions for the Senator are invited to stop at Town Hall. No appointment is necessary.

Norfolk County Register of Deeds, William O'Donnell, will hold office hours at the Town Hall on Wednesday, February 15th from 10:00 a.m. to noon. The Register or staff will be available to answer questions or concerns about any Registry of Deeds matter and information would be available about the Massachusetts Homestead Act. No appointment is needed.

7:45 p.m.—By-Law Committee Public Hearing

(See attached signed By-Law Committee Minutes).

It was unanimously voted to approve one day special alcohol permits for Avon Fish & Game Association for the following dates:

Friday night supper 2/3;
Friday night supper 2/10;
Friday night supper 2/17;
Friday night supper 2/24;
and Sunday 2/5/06 (Super Bowl party)

Mr. Rose made a motion to grant the request submitted by Lynne Freedman to hold the eleventh annual Janet McDonald Memorial Walk Against Cancer on Saturday, April 1, 2006. Mr. Phillips seconded the motion. The vote was unanimous.

Meeting dates for the month of March were set as follows:

Thursday, March 2, 2006 at 7:30 p.m.
Thursday, March 16, 2006 at 7:30 p.m.

Mr. Phillips made a motion to pay all vouchers for the payment of bills as approved. Mr. Rose seconded the motion. All were in favor.

8:00 p.m.—Opening of Bids for Annual Town Report Book for 2005

Chairman Hegarty read the Legal Notice for the printing of the Annual Town Report based on 850 copies with copy to be submitted to the printer by February 28, 2006.

Listed below are the bids opened by Mr. Phillips:

1. Rapid Reproductions	\$3730. plus \$4.38 for additional pages
2. Athol Press	\$600.00 for the cover —no base price on bid
3. Choice Printing	\$5904.12
4. Commonwealth Printing	\$2596.00 plus \$3.00 additional pages
5. Betterway Print	\$4600.00 plus \$27.70 for additional pages
6. Graphic Image	\$4560.00
7. TecDoc Publishing	\$3162.00 plus \$3.72 per page additional

On a motion made by Mr. Phillips, seconded by Mr. Rose, it was unanimously voted to take the bids under advisement and award the bid for printing of the Annual Town Report at the next meeting scheduled for 2/16/06. Mr. Rose seconded the motion. All were in favor.

At 8:10 p.m. Chairman Hegarty called for a brief recess.

At 8:15 p.m. the Board reconvened.

8:15 p.m. —TAZ Transportation Hearing

Building Inspector Robert C. Borden and Charles Marinelli, owner of TAZ Transportation, appeared before the Board.

Chairman Hegarty reported the purpose of the hearing is to determine whether or not an individual is running a “home occupation” at 71 Glendower Street and does such a business in a residential neighborhood violate the Town of Avon Zoning By-Laws?

Mr. Borden stated that numerous written and verbal complaints were received regarding running a business out of a residential address at 71 Glendower Street.

Mr. Borden presented to following timetable of events:

On May 23, 2005 a letter was sent from former Building Inspector, Robert Mottau, to Mr. Marinelli stating “my office has received numerous complaints regarding running your business out of your residential address.”

On May 31, 2005 Mr. Borden sent a letter to the Board of Selectmen stating he was following up on Mr. Mottau’s letter to TAZ Transportation and provided the Board with copies of the letters of complaint and nine (9) livery licenses issued to TAZ. Mr. Borden reported that “any further investigation would require the Police Department to check the registration numbers of cars parked in the vicinity of 71 Glendower Street.”

On June 7, 2005 Dr. Howard Martin, a resident at 38 Glendower Street, Avon, telephoned Mr. Borden.

On June 9, 2005 Mr. Marinelli returned Mr. Borden’s phone call.

On June 10, 2005 Dr. Martin sent a follow-up complaint letter to the Board of Selectmen stating “despite the letter from Mr. Mottau, it appears that business goes on as usual with TAZ Transportation.” Mr. Borden reads Dr. Martin’s letter of June 10, 2005.

On June 23, 2005 a verbal complaint was received from Julia Miglin of 39 Glendower Street.

On November 9, November 17 and November 22, Mr. Borden failed to connect with Dr. Martin by telephone.

On November 28, 2005 Mr. Borden sent a memo to the Board of Selectmen stating that “as Zoning Enforcement Officer, it is my opinion that this transportation business violates Section 5-3(G) and Section 7-5(I) of the Avon Zoning By-Law.”

Mr. Charles Marinelli, owner of TAZ Transportation appeared before the Board stating that “he works on his cell phone out of his vehicle and not out of his house. Employees do not pick up vehicles from his driveway.”

Town Counsel stated there are two problems:

- (1) Is TAZ Transportation a “Home Occupation” as defined with the current Town of Avon By-Laws? (Section 7-5(I))
- (2) It appears that TAZ Transportation, located at 71 Glendower Street has vehicles marked with the company name parked at that location. (Section 5-3(G))

Town Counsel further stated that Mr. Borden has indicated that the vehicles on the property with the white business lettering constitute an “accessory use.” Mr. Borden also indicated to Town Counsel that “the use of storing livery vehicles the way they are lettered alters the residential appearance of the home.” If this activity does continue will he need a “special permit”? Does the parking of vehicles harm the façade of the building?

Town Counsel indicated that “Mr. Borden claims the parking of vehicles changes the appearance of 71 Glendower Street. It looks like a business and not a home.” In Mr. Borden’s opinion, “yes, the vehicles affect the façade of the building.”

Town Counsel stated the Board is now faced with the decision whether or not to grant Mr. Marinelli his nine (9) livery licenses.

Attorney Gladstone, representing Mr. Marinelli appeared before the Board.

Attorney Gladstone reiterated the following facts:

“There is nothing specific in the Avon Zoning By-Laws that prohibits Mr. Marinelli’s business. No one comes to Mr. Marinelli’s residence.”

At 9:00 p.m. Chairman Hegarty opened up the hearing for public comment.

1. Mrs. Strenger of 32 Maple Ave. commented in opposition.
2. Dr. Howard Martin of 38 Glendower commented that “with 4-5 vehicles with signage the appearance of the property is affected.”
3. A resident of 65 Oak Street commented that an ice cream truck and school bus are parked on Oak Street and doesn’t have a problem with it.
4. Mr. Giovannielli of 61 Glendower Street had Chairman Hegarty read his complaint letter. He is requesting “that you discontinue this non-conforming use of the property at 71 Glendower Street and deny a license for operating a business at that location. We very much wish to restore and preserve the residential character of our neighborhood.”

5. Dr. Ambrosino commented that 4-5 vehicles are parked at 71 Glendower Street and it affects the appearance of the neighborhood. There is a home business going on.

Chairman Hegarty repeated that the fact that cars are parked at the location is no proof that a home business is going on. The By-Laws are very ambiguous as to what violations may or may not be taking place at the location.

Chairman Hegarty asked the Board for their comments.

Mr. Rose commented that the hearing should be tabled for a short time period so that the Board has time to review all the information given.

Mr. Phillips stated he would like to grant the (9) licenses for TAZ Transportation and continue the hearing.

Mr. Rose made a motion to grant the nine (9) licenses to TAZ Transportation with the caveat that the licenses may be revoked if necessary. Mr. Phillips seconded the motion. All were in favor.

After further discussion, Mr. Rose made a motion to close the hearing and the Board would render a decision at the February 16, 2006 Board meeting. Mr. Phillips seconded the motion. All were in favor.

On a roll call vote, the Board voted to enter into Executive Session for the purpose of collective bargaining and would not reconvene in open session.

Mr. Rose voted aye.

Mr. Phillips voted aye.

Chairman Hegarty voted aye.

Respectfully submitted,



Miriam Rothstein

Secretary