

# Minutes of the Meeting of the Avon Township Board of Supervisors

September 4, 2024

Avon Township Hall, 16881 Queens Road, Avon (MN)

**Call to Order:** Chad Klocker, *Vice-Chair*, called the meeting of the Avon Township Supervisors to order at 7:00 P.M. in the Main Chamber of the Avon Township Hall. This meeting, like other Town meetings, was also available virtually via Zoom at <https://us02web.zoom.us/j/8325486945>, Passcode: AvonTown.

**Pledge:** The Pledge of Allegiance was recited.

**Roll Call:** Present – LeRoy Gondringer, Chad Klocker, Kelly Martini, and Marion Gondringer (*Acting Clerk*). Absent: Brian Rassier. A quorum was present. Also present – Craig Blonigen (*PC*), Paul Buttweiler (*Deputy Treasurer*), Rich Sanoski (*PC*), Andrew Wensmann (*PC*) and Lori Yurczyk (*PC Chair*).

**Approval of Agenda:** Klocker moved to approve the agenda with a few minor changes including adding a Sheriff's Deputy report prior to public comments. Gondringer second. Both in favor. Motion carried.

**Minutes:** There was an editorial change to "Storm Clean Up" on page three. Gondringer moved to approve the minutes of the August 7, 2024 meeting as amended. Klocker second. Both in favor. Motion carried.

**Public Hearings:** *none*.

**Sheriff's Department Report:** Deputy Sheriff Laura McLaughlin appeared at the meeting to provide a report to the Township Supervisors. Deputy McLaughlin reported in June there 102 total calls that included traffic stops, welfare checks, and medical emergencies. In July there was 113 calls including mostly traffic stops, water craft violations, a few car crashes, and 2 wild fires. In August there were 117 calls, with mostly traffic stops and some agency assists. She said that numbers were pretty steady and that Avon Township call numbers are reasonable.

Gondringer inquired about loud music complaints at Shady's on Pelican Lake. Avon ordinances should be listed in the Stearns County e-site listing so they can be more readily enforced. She said our Township attorney should make the initial contact. McLaughlin advised to wait till November when the new e-site system rolls out at the County; Klocker will follow up at that time. Mr. John Theilman remarked that if you can hear the noise 50 feet from the structure, it's a violation of the Avon Township Noise Ordinance, unless they have a permit. To date, Shady's has not requested a permit from the Town. Deputy McLaughlin invited Supervisors to contact her with any questions or concerns.

**Public Comments:** Mr. Joe Koopmeiners stated that he stopped the person cutting ditches simply to inform him that an area had been missed in the cutting process. Supervisors Rassier reported this to Mr. Koopmeiners employer. Mr. Koopmeiners stated he didn't harass the Town employee and that Supervisor Rassier should have contacted him directly if he thought there was a problem.

Ms. Wendy Hanson, Pelican Lake Road, inquired about the process to go through to install a single-stall, detached garage on her property. She was instructed to contact Stearns County Environmental Services.

**Planning Commission (PC) Report** – *presented by Lori Yurczyk, Chair.*

1. **Lahr Septic Encroachment** – Because clear drawings were not available at the PC meeting, a recommendation could not be made. Scott Lahr, 33418 Shorewood Drive, zoomed into tonight's meeting to answer questions as needed. He stated that he is seeking an easement for a septic system with three tanks and a drain field. The tanks and part of the drain field would be in the utility easement. This will be a pretreatment system with

no mound. The utility easement will be encroached, but Mr. Lahr stated that no part of the system will be in the Township ROW. It seems there is no need for the Township to provide an encroachment agreement, but that Mr. Lahr would need to go through the utility providers (Xcel). Ms. Heidi Winskowski also available on Zoom, entered the discussion saying that she could find no notes in reference to this particular situation, and she doesn't anticipate a need for township involvement. Ms. Winskowski felt Lahr would need action by the utility provider. Yurczyk inquired whether digging might occur in the road ROW. Klocker said that this would not be likely. Mr. Lahr said perhaps the Township could simply write a written report/letter acknowledging encroachment into the utility easement. Gondringer moved that the Town takes no exception to the septic work, and that since there will be no encroachment into the road right-of-way (ROW) then there is no need for an encroachment agreement with the Township, and the Township is not responsible for cost of relocating any buried or overhead utilities. Second by Klocker. Both in favor. Motion carried. Klocker said that he should contact the Township and a letter of support or an encroachment agreement can be provided if required.

2. **Hennen Light Pole in Town Road ROW** – a solar light pole, 30 feet from the center of the road, was requested by Mr. Mike Hennen, 37204 Pelican Lake Road. The PC recommended to not approve a light pole be placed inside the road ROW. The Supervisors took no action since Mr. Hennen was not present at tonight's meeting. It's possible he may return at a future date.
3. **County Ordinance 677 Hearing** – this hearing regards ordinance changes concerning utility work in the road ROW. The PC identified no concerns with the proposed changes; no Township action was recommended. The Supervisors took no action.
4. **County Park Improvement Funds** – Funding is available for park improvements. In general, the PC was opposed to parks on township property due to liability and did not recommend any specific project for funding. The Supervisors took no action.
5. **Avon Township Road Map** – MNDOT sent a road map to edit. The legend appeared inaccurate. The PC recommends no action until further clarification is received from MNDOT. The Supervisors took no action.
6. **Driveway Dispute** – a dispute between residents will result in a trial to which Yurczyk and Gondringer have been subpoenaed. Yurczyk is being asked to testify to verify the accuracy of the minutes being referenced in the trial. The PC recommends that Town staff are compensated when serving as a representative for their Township responsibility. Gondringer stated that he will not be bill for his time, but that employees should be compensated when acting on behalf of the Township. Klocker was concerned that staff testimony could result in potential legal problems for the Township, especially in a civil case such as this. Klocker moved that when any employee from the township who is required to go to court on Township business will be paid the hourly wage as set up on the Fee Schedule, as well as any other unreimbursed costs, such as mileage or parking expenses that may be incurred. Second by Gondringer. Both in favor. Motion carried.
7. **Shady's Noise Violation** – The PC reviewed the noise ordinance and MN State recommendations. The PC recommends: (a) adding to the ordinance Section 7.2 failure to obtain a permit will be a fine of \$500 (misdemeanor). Klocker will contact the County Attorney for suggestions, but is concerned the increased fee would change the level of offense from a petty misdemeanor to a misdemeanor; (b) adding a section (*i.e.*, 4.2) that noise levels must be reduced after 10:00 PM; and (c) following up with Stearns County regarding other issues such as the stage appears to be located in a Town road ROW. Klocker was told by the owner of the establishment that since the building is movable it does not need a permit to be allowed on the ROW. No verification of that is available at this time.

Mr. John Theilman spoke about the structure being constructed last year and that the volume at their events is not acceptable. He requested the volume be reduced and the response from the Sheriff was that they pleaded ignorance. The officer asked them to reduce the volume and the business did not respond to that in

any way. The Sheriff again requested a reduction and again received no response. Klocker stated that the band did stop on the second night at 10:15 PM. A new manager is present now. The owner stated that they typically have about 10 events a year. Thielman stated that if the business gets an exemption permit, he still cannot violate the ordinance in reference to volume and time frames. Klocker was concerned that the business would not be able to conduct business as needed. Thielman stated that if the business is breaking the rules of the ordinance, and the ordinance is not enforced, then the ordinance is not effective. He feels fewer events might be acceptable, but that ten a year, most likely all in the summer months, is excessive; and the volume is too loud. The amount of the fine could be increased for successive violations. Wensmann suggested that Shady’s wasn’t even following the daytime noise guidelines. The Supervisors took no action and will reexamine the ordinance in October.

- 8. **Assorted** – Town staff and the public are reminded that the December meeting of the PC will be held on December 18, 2024. The Clerk will be on a leave of absence until December.

Gondringer moved to approve the PC report. Klocker second. All in favor. Motion carried.

**Treasurer’s Report:** The Treasurer provided the cash control statement from August 1, 2024 to August 31, 2024 (*appended below*). Martini reported.

**For the Period :** 8/1/2024 To 8/31/2024

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$216,650.09	\$2,158.74	\$3,487.88	\$215,320.95
Road and Bridge	\$244,806.11	\$372.71	\$260.65	\$244,918.17
Demolition Escrow - Maciejewski	\$0.00	\$0.00	\$0.00	\$0.00
Novel Solar Decommissioning Escro	\$0.00	\$0.00	\$0.00	\$0.00
Novel Vegetation Plan Escro	\$0.00	\$0.00	\$0.00	\$0.00
Road Damage Deposit	\$1,000.00	\$500.00	\$0.00	\$1,500.00
Fire Fund	\$20,598.18	\$0.00	\$0.00	\$20,598.18
General Capital Projects	\$48,915.33	\$0.00	\$0.00	\$48,915.33
ARPA Fund	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$531,969.71</b>	<b>\$3,031.45</b>	<b>\$3,748.53</b>	<b>\$531,252.63</b>

Gondringer moved to approve the Cash Control and Treasurer’s Report. Klocker second. Both in favor. Motion carried.

**Claims, Receipts & Payroll:** The claims (4733-4747) totaled \$2,914.42. The payroll was \$2,710.37. The elections payroll was \$2,820.94. Brian Pilarski requested return of his damage deposit, but the paperwork apparently got lost in the shuffle. He completed a new document. Motion to approve by Gondringer. Second by Klocker. Both in favor. Motion carried. Mr. Pilarski also requested payment for the driveway work. The Supervisors will pay Granite City Paving directly once Mr. Pilarski provides an invoice for the completed work. There was a sizable invoice from the Township attorney regarding the noise ordinance. Gondringer said that the Supervisors should first authorize contacting the attorney. Two checks were voided – 11192 and 11211. The Albany Mutual check from last month was signed. The Zoom invoice due date is Sept 25th and was added to the list to be paid. Gondringer moved to approve the August claims, receipts and payroll. Klocker second. Both in favor. Motion carried.

**Town Hall Report:** *no report.*

**Road Report:**

- a. **Monthly update/report** (*including mowing and weed updates*) – the second round of mowing is complete. This will be revisited in October to determine if a third pass is required.
- b. **Snow policy** – No action was taken on Resolution 07-10-24-2. A copy of the changes were not available.
- c. **Snow Plow Update** – will get DOT'd next month.
- d. **Snow Plow Drivers** – Our new driver, Perry Gerding, was hired tonight. Dylan will show Gerding the routes.
- e. **Gravel Roads** – there are some wash outs on Peach Drive. Klocker moved to have Lange's grade the gravel roads. Gondringer second. Both in favor. Motion carried. Klocker thinks the cost is \$140/hour. A few of the roads will not be done including 360th Street west of Co Rd 155. No work will be done on Meadowview Road, including grading or adding gravel, because it has no residents living there.
- f. **Culverts on Shorewood Drive** – in progress, delayed due to rain. Klocker alerted neighbors. There are no bussing concerns. The Pelican Lake Road culvert will be discussed in October.
- g. **Couch on Norway Road** – neighbors don't know who it belongs to. Klocker will have Schirmers remove it.
- h. **Brushing around stop sign on St. Anna Drive** – Klocker cut the brush.
- i. **Shouldering work on Two Rivers Road and 190th** – Klocker will have Schirmers fill the pothole.
- j. **Parkwood Circle** – a crack-filling plan will be discussed at road inspection.
- k. **360th Street Update** – no gravel will be added at this time.
- l. **Road inspection** – We will wait till November so Gerding can join in.
- m. **Lower Spunk Lane cul-de-sac** – a resident requested gravel at the cul-de-sac. It was inspected by Klocker and no action is needed at this time.
- n. **Brush Blocking Stop Sign on 185th complaint** – This is located near the mobile home park. Klocker inspected and felt there were no concerns.
- o. **Trees in ROW on St. Anna Drive** – A tree has been pushed into the ditch. Schirmers will be chipping brush in the area and will take care of it.
- p. **Skid loader bucket repair** – Klocker will have Schirmers take it to Mayers Repair to have a new cutting edge put on.
- q. **Brush cutter rental** – This will be addressed next spring.
- r. **New complaint re brushing & potholes on 185th Avenue** – Klocker inspected and feels there is not a concern with this.

- s. **Highland Terrace 911 Sign Relocation Update** – Klocker will check into this.

Gondringer moved to accept the Road Report. Klocker second. Both in favor. Motion carried.

**Business:**

1. **TDR Discussion with Heidi Winskowski** – At the invitation of the Supervisors, Ms. Heidi Winskowski, Stearns County Environmental Services, appeared at the meeting via Zoom to discuss and clarify the transfer of development rights (TDR) program.

Ms. Winskowski said that the new standards were adopted in 2010. What's allowed across the board in Section 9 of the 439 Ordinance are two major options for TDR transfer: (1) **transfer building entitlements from properties contiguous to each other** regardless of ownership. No township approval is needed in these cases. This is allowed as part of a subdivision process; and (2) **transfer from noncontiguous properties**, but the properties must be owned by the same party transferring the entitlements, for three years before the transfer is made. This is allowed within townships, and approval is only needed if the transfer crosses from township to township. In this case, both townships must approve the transfer by some formal approval.

The County adopted Section 11, a true TDR program, if the township had entitlements that could be transferred to areas of development from specific area to designated growth areas. This would allow for more development in specific areas of the township. The town could designate sending and receiving areas. The town must take steps to designate that they will take part in this program. This may become a much less limited transfer process. No townships in Stearns County have yet adopted this section. Gondringer asked if Section 11 could be used for a one-lot development on a parcel with no building entitlements. Winskowski stated that Section 11 is not intended to be used in this way. So there really is no way to do this. What if he could find a credit on the opposite side of the township, could he do it for just one lot? Heidi stated that this is not the intent of section 11. Its intent was to transfer to a development that is more broad and not specific to a certain lot.

Blonigen asked for clarification as to Section 11 being intended for growth areas which would be receiving areas, and not for individual homes. Ms. Winskowski agreed. She also stated that some townships do not allow transfers from another township. Avon Township could amend our ordinance to prohibit any transfers in and/or out of the township.

In reference to the structure at Shady's, a 150+ sq foot structure must be permitted and meet setbacks, and cannot be in a Township ROW. They would need a conditional use permit for such a structure if they want to expand and have outdoor seating/bar area. The County has been in contact with the owner of the bandshell and is having discussions about it. Klocker asked who would enforce the rules. Ms. Winskowski stated that since it is shoreland, the County is responsible and that a notice would come to the Township when /if a hearing is set for this concern. Ms. Winskowski is not directly involved, but thinks the situation is currently at a standstill and not sure of the next steps. When asked what would happen if the township didn't approve the liquor license, she thought that the County Commissioners might not approve it.

Buttweiler asked if building entitlements can be seen on the property viewer. Ms. Winskowski replied that the County would need to research each property to determine entitlements available on specific properties. She also said that they round-up for building entitlements (*i.e.*, 80% Rule).

Ms. Winskowski also responded to the earlier public comment about building a garage and said the best place for the resident to begin would be to contact Stearns County Environmental Services (302-656-3202).

2. **Perry Gerding** – Is the new employee hired to help plow snow and do other jobs. He was able to meet face-face with the Supervisors and Town staff. He completed necessary hiring paperwork. Klocker will be his Supervisor.
3. **Meeting Dates** – the December meeting of the PC was previously rescheduled to December 18<sup>th</sup>. The January Supervisors meeting is scheduled for January 1<sup>st</sup>. Gondringer moved to reschedule the January meeting to January 8, 2025. Klocker second. Both in favor. Motion carried.

**Reports:** *none*

**Announcements:**

1. There were no new sign requests. A 911 sign, 16713, was delivered, but it's not clear to which property it belongs.
2. A **Construction Site Permit** was issued to David & Theresa Gerads, 34698 Princewood Rd, Avon.
3. No **Special Assessment Searches** were conducted.
4. No **feedlot permits** were received.
5. No **Provisional Use permits** were received.
6. **County/Hearings** – no pertinent County hearings/actions.
7. **Avon Fire Dept** – July Calls. City of Avon – Medicals-10; Avon Township – Medicals- 11, Fire-1; Colleeville Township – Medical-4; St. Wendel Township – Medical 0; I-94 – 1 medical
8. A letter was sent to Shady's regarding the Noise Ordinance and Permit for a Noise Exemption.
9. MAT's 2024 Fall Legislative & Research Committee Meeting will be held Friday, September 13 from 9 AM to 4:30 PM; St. Cloud.
10. Grant funding is available from the Opioid Settlement grant to the County.
11. Grants for installing solar at the Town Hall are available. Gondringer stated it may cover up to 90% of the cost. The application process opens Oct 21<sup>st</sup>. A webinar is available on Sept 5. Klocker will research the payback.
12. Township Day at the Capitol will be January 27, 2025.
13. A resident questioned why a Supervisor had called his employer.

**Old Business:** Culvert mapping project with County app; 135<sup>th</sup> Avenue project with St. Wendel; Windows; Case to display old documents; Window treatments; Exterior sign for the Hall; hiring HR / payroll company; salt shed overhang/awning; culverts (Pelican Lake Road, Shorewood Drive); CDL License changes; Employee *Handbook*.

**Signatures / Documents / Treasurer:** Documents were signed as necessary.

**Announcement of Next Regular Supervisor Meeting:** The next scheduled meeting is October 2, 2024. Ms. Heidi Winkowski will attend. The meeting will be *available on Zoom at the URL above*.

**Other Upcoming Meetings/Events:** (*available on Zoom at the URL above*):

- a) Joint Planning Board *ad hoc* OAA Committee – September 23, 2024; Avon City Hall. 7 PM. Klocker and Gondringer will attend. Klocker will contact Jodi at the city to organize.
- b) Planning Commission Meeting – September 25, 2024; 7:00 PM
- c) General Election – November 5; 7 AM – 8 PM; Town Hall

**Adjournment:** Gondringer moved to adjourn the meeting at 9:06 PM. Klocker second. Both in favor. Motion carried.

**Respectfully submitted,**  
Stephen G. Saupe, Clerk  
Marion Gondringer, Deputy Clerk

**date:** September 22, 2024

**Supervisor Signatures:**

date: \_\_\_\_\_

\_\_\_\_\_  
LeRoy Gondringer

\_\_\_\_\_  
Chad Klocker

\_\_\_\_\_  
Bryan Rassier