

TOWN OF AVON, COLORADO
AVON REGULAR MEETING FOR TUESDAY, JANUARY 10, 2012
MEETING BEGINS AT 5:30 PM
AVON TOWN HALL, ONE LAKE STREET



PRESIDING OFFICIALS

MAYOR	RICH CARROLL
MAYOR PRO TEM	KRISTI FERRARO
COUNCILORS	DAVE DANTAS, CHRIS EVANS, TODD GOULDING AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.

TOWN STAFF

TOWN ATTORNEY: ERIC HEIL	TOWN MANAGER: LARRY BROOKS	TOWN CLERK: PATTY MCKENNY
---------------------------------	-----------------------------------	----------------------------------

ALL REGULAR MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING CITIZEN AND COMMUNITY INPUT AND PUBLIC HEARINGS
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS
AGENDAS ARE POSTED AT AVON TOWN HALL AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY
THE AVON TOWN COUNCIL MEETS ON THE SECOND AND FOURTH TUESDAYS OF EVERY MONTH

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF AGENDA

3. DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

4. COMMUNITY & CITIZEN INPUT

- a. Letter from Planning & Zoning Commission Chairman Regarding Land Use Code Amendment (*Chris Green, Chairman*) Present Resolution requesting Council consideration of a land use code amendment that would revise the application approval process
- b. Vail Honeywagon Email re: Procurement Policy (*Jaime Walker, Community Relations Officer*) Email from Vail Honeywagon owner regarding local preference; Council consideration of including a future discussion on the topic

5. CONSENT AGENDA

- a. Minutes from December 13, 2011
- b. Resolution No. 12-01, Series of 2012, Resolution Approving The Locations For Posting The Notices Of Public Meetings (*Patty McKenny, ATM Management Services*)

6. ORDINANCES

- a. **Public Hearing** on Ordinance No. 11-16, Series of 2011, Second Reading, Ordinance Amending Section 12.04.040 of the Avon Municipal Code Regarding Violations of Chapter 12.04 Construction Work Within Public Ways (*Eric Heil, Town Attorney*) Review proposal to change penalties from "criminal to civil" for certain Public Work's code violations
- b. Ordinance No. 12-01, Series of 2012, First Reading, Ordinance Amending Chapter 2.30 Town Code of Ethics of the Avon Municipal Code (*Eric Heil, Town Attorney*) Review proposed amendments to the Code pertaining to conflict of interest and code of ethics

7. UNFINISHED BUSINESS

- A. Update on Removal of Abandoned Modular Buildings from Lot 5, Village (at Avon) Filing 1 (*Justin Hildreth, Town Engineer*) Removal of Modular buildings from Lot 5

TOWN OF AVON, COLORADO
AVON REGULAR MEETING FOR TUESDAY, JANUARY 10, 2012
MEETING BEGINS AT 5:30 PM
AVON TOWN HALL, ONE LAKE STREET



8. NEW BUSINESS

9. RESOLUTIONS

10. TOWN MANAGER REPORT

11. TOWN ATTORNEY REPORT

- a. Chapel Square Deed Restricted Unit: Update on Status of Foreclosure of Unit

12. MAYOR REPORT

13. EXECUTIVE SESSION:

- a. Meet with Town Attorney for the purpose of receiving legal advice to specific legal questions pursuant to Colorado Revised Statute §24-6-402(4)(b) regarding correspondence from Eagle County School District's attorney Richard Lyons.
- b. Personnel matters pursuant to Colorado Revised Statute §24-6-402(4)(f) regarding annual performance review of the Town Attorney and Town Manager.

14. ADJOURNMENT

FUTURE COUNCIL AGENDA DATES & PROPOSED TOPICS:

JANUARY 24TH: Swift Gulch construction Update & PW Facilities Relocation to Lot 5



Avon... a smoke-free community

Post Office Box 975
One Lake Street
Avon, Colorado 81620

970-748-4000
970-949-9139 Fax
Relay recognized
www.avon.org

01.06.12

Town Council
Town of Avon
PO Box 975
Avon, Colorado 81620

Honorable Mayor and Town Council:

The Planning and Zoning Commission is presenting Resolution 11-12 to you for your consideration requesting you to initiate the action represented by this resolution.

The proposed resolution and requested action addresses the application approval process in the Town Center core that was modified with the approval November, 2010 of the revised land use code for the Town of Avon.

The approval process that was in place prior to the adoption of the land use code in November, 2010 placed the duty for application approvals within the purview of the Town of Avon Planning and Zoning Commission.

The adoption of the new Town of Avon Land Use Code revised that approval process for the Town Center zone district adding a second approval level by the Town Council for applications in this zone.

After careful and deliberate consideration the Planning and Zoning Commission believes the revised approval process is confusing to potential applicants, and requires two separate reviews of an application potentially negating an approval by the Planning and Zoning Commission and adding additional expense to the application process.

The Planning and Zoning Commission respectfully and formally requests the Town Council initiate an action to revise the approval process to what existed prior to the adoption of the revised land use code. It is the opinion of the Planning and Zoning Commission that by initiating this action the Town Council will:

- 1 Simplify and clarify the application and approval process for use by right projects in the Town Center zone;
- 2 Maintain appeals rights for citizens within the town who wish to be heard before the Town Council; and,
- 3 Maintains the ability of the Town Council to review approvals of the Planning and Zoning Commission on proposed Town Center projects.

We appreciate your consideration of this request.

Sincerely,

Christopher J. Green, AIA
Chair – Planning and Zoning Commission

**TOWN OF AVON, COLORADO
PLANNING AND ZONING COMMISSION RESOLUTION 11-12
SERIES OF 2011**

**A RESOLUTION RECOMMENDING THAT THE AVON TOWN COUNCIL INITIATE
AMENDMENTS TO TITLE 7 OF THE AVON MUNICIPAL CODE, SECTION 7.16.080,
DEVELOPMENT PLAN, AND TABLE 7.16-1, DEVELOPMENT REVIEW PROCEDURES AND
REVIEW AUTHORITY, CONCERNING THE TOWN COUNCIL REVIEW OF TOWN CORE
MAJOR DEVELOPMENT PLANS**

WHEREAS, the Town Council adopted the Avon Development Code (ADC) requiring Town Council approval for Major Development Plans located in the Town Core; and

WHEREAS, Table 7.16-1, Development Review Procedures and Review Authority, and Section 7.16.080(e)(1) specify that "...The Town Council shall render the final decision on a major development plan within the Town Core"; and

WHEREAS, the Avon Planning and Zoning Commission is appointed to serve as the design review board for the Town of Avon in accordance with Section 7.12.040(a)(5), ADC; and

WHEREAS, the PZC finds that the addition of the Town Council review in the Town Core would create an undue burden on an applicant to submit to two separate design review processes and review bodies; and

WHEREAS, the Town Council may appeal any design review decision by the PZC pursuant to Section 7.16.160, Appeal, ADC; and

WHEREAS, the inclusion of the Town Council in the design review process may marginalize the PZC's duty as the design review board; and

WHEREAS, the proposed changes meet the Review Criteria outlined in section 7.16.040, Code Text Amendments.

WHEREAS, the removal of Town Council review of major development plans in the Town Core will encourage development of vacant parcels in the Town Core; and,

NOW THEREFORE, BE IT RESOLVED, that the Planning and Zoning Commission hereby recommends that the Town Council of the Town of Avon initiate a Code Text Amendment to Section 7.16.080, Development Plan, & Table 7.16-1, Development Review Procedures and Review Authority, to remove the Town Council authority to render the final decision on major development plans in the Town Core.

ADOPTED THIS 20th DAY OF DECEMBER, 2011.

SIGNED:

ATTEST:



Chris Green, Chair



Scott Prince, Secretary



Memo

To: Honorable Mayor and Town Council
Thru: Larry Brooks, Town Manager
Thru: Patty McKenny, Assistant Town Manager
From: Jaime Walker, Community Relations Officer
Date: January 5, 2012
Re: Community Input—Vail Honeywagon email re: Procurement Policy

Summary:

On Tuesday, December 27, Avon Town Council received an email from Matt Donovan, owner of Vail Honeywagon regarding the Town's Procurement Policy sharing his concerns about the policy and its emphasis on price without consideration of local preference. The email is attached.

Mayor Carroll sent a response to Matt Donovan on January 6th which also is attached.

Council Action:

Per a request from Councilman Evans, the Town Council is to determine if the Procurement Policy warrants a report from staff and discussion during a future Council meeting.

Town Manager Comments:

Jaime Walker

Subject: FW: Procurement process

From: Matt Donovan [<mailto:matt@vailhoneywagon.com>]

Sent: Tuesday, December 27, 2011 3:46 PM

To: Avon Council Web

Cc: M Donovan/Vail Honeywagon

Subject: Procurement process

Dear Avon Town Council

Our company was recently asked to re-bid our current waste services at the Town of Avon Municipal location for the 2012 budget. Recognizing the financial pressure that many municipalities are forced to deal with, we were well aware price would be an important factor. To my knowledge our bid came in ~\$60 per month over a competitor.

As a truly local business I am concerned that the Town of Avon procurement process focuses entirely on price and does not take into account the value of local business. Truly Local businesses have local owners that spend money locally. I (as we all should) make every effort to patronize local businesses. Although simpler said than maybe done, I feel Town's should "dig deeper" when the pricing is close, to justify the best decision for the Town. Vail Honeywagon supports many special events in Avon that in turn make them a success and translates into sales tax revenue. Personally, I contribute to the sales tax base.

The competitor selected is based out of Carbondale and began soliciting business in the Eagle Valley only 2-3 months ago. To my knowledge the Town of Avon would be their 2nd customer. I do not consider Carbondale local.

I am not taking issue with competition or the Town's duty to be fiscally diligent.

My hope is that you review the procurement process to allow for decisions to be made based on what is the best for the Town not necessarily what services are the least expensive for the Town.

Respectfully submitted
Matt Donovan Owner

Ps I appreciate the council members individual support of our business:-)

Matt Donovan - Owner
Since 1978, "Satisfaction guaranteed or your trash back!"
[\(970\) 476-3511](tel:9704763511)
[\(970\) 926-3712](tel:9709263712) fax

Jaime Walker

From: Rich Carroll email
Sent: Thursday, January 05, 2012 12:12 PM
To: Matt Donovan
Cc: Jaime Walker; Patty McKenny
Subject: Update Re: Procurement process

Hello Matt,

Thank you for your email regarding the Town of Avon's procurement policies. We understand your concerns about the policy and its emphasis on price without consideration of local preference.

A little background on the Procurement Policy is that the Town of Avon implemented the procurement policy in the summer of 2011 as a requirement for receiving federal grant money. The intent of the policy is to help the Town meet the required Federal guidelines and be fiscally responsible while balancing quality and reliability of services and goods with competitive pricing. Being a new policy, there are components that need further review and perhaps adjustments to accommodate the realities of the marketplace. I will talk with the rest of Council to determine if the policy warrants a discussion during a future Council meeting.

We always appreciate hearing from citizens and value your feedback.

Rich Carroll, Mayor Town of Avon
Phone # 970-949-4744

From: "Matt Donovan" <matt@vailhoneywagon.com>
To: avoncouncilweb@avon.org
Cc: "M Donovan/Vail Honeywagon" <matt@vailhoneywagon.com>
Sent: Tuesday, December 27, 2011 3:18:27 PM
Subject: Procurement process

Dear Avon Town Council

Our company was recently asked to re-bid our current waste services at the Town of Avon Municipal location for the 2012 budget. Recognizing the financial pressure that many municipalities are forced to deal with, we were

Background Information Regarding Vail Honeywagon's Bid

Avon's Procurement Policy requires town staff to solicit three bids for all material, equipment, services, and supplies totaling \$3,000 or more.

Joe Histed, Parks Supervisor, asked Vail Honeywagon to re-bid work for trash removal for the Avon municipal building in early November. In addition, Waste Management and MRI from Carbondale were also asked to submit bids.

A copy of the procurement policy was not included in the request, but later forwarded to Vail Honeywagon per request after their bid was submitted. The solicitation did imply that the Town was seeking bids from multiple companies.

MRI's bid came in at \$297/ month with recycling, Honeywagon's bid came in at \$333 / month with recycling and Waste Management's came in at \$415 / month with recycling; the difference in these numbers between MRI and Honeywagon is \$36 or about 10%. Vail Honeywagon's proposal also said they would add a fuel surcharge (amount unknown), which the other company did not.

As part of support for the community, Honeywagon supports several local events such as the USA Pro Cycling Challenge (undercutting Waste Management for the Vail and Avon stages enough so that it was the only waste company at the two stages), and in 2011 Vail Honeywagon is hauling away Christmas trees for free as a service to the Town.

Historical invoices from Vail Honeywagon date back in our current system to 2001.

2011

Muni - \$601.38/month
Rec - \$693.81/quarter

2006
Muni - \$534.84/month
Rec - \$648.50/quarter

2002
Muni - \$484.47/month
Rec - \$578.81/quarter

2010

Muni - \$596.53/month
Rec - \$690.03/quarter

2005
Muni - \$518.10/month
Rec - \$622.19/quarter

2001
Muni - \$484.47/month
Rec - \$578.81/quarter

2009

Muni - \$595.68/month
Rec - \$665.45/quarter

2004
Muni - \$508.70/month
Rec - \$607.75/quarter

2008

Muni - \$602.28/month
Rec - \$691.45/quarter

2003
Muni - \$484.47/month
Rec - \$578.81/quarter

2007

Muni - \$564.51/month
Rec - \$662.40/quarter

Memo

To: Honorable Mayor and Town Council
Thru: Larry Brooks, Town Manager
From: Patty McKenny, Director Administrative Services
Date: January 5, 2012
Re: Resolution No. 12-01, Series of 2012, Posting Locations

Summary: Resolution No. 12-01, Series 2012 is presented to Council for their approval of the four locations used for posting the notices of public meetings.

Previous Council Action: The Town Council adopts this type of resolution on an annual basis as required by Colorado Revised Statutes.

Background: The four locations have been as follows:

- ✓ Avon Town Hall, One Lake Street, Bulletin Board
- ✓ Avon Recreation Center, 90 Lake Street, Bulletin Board
- ✓ Alpine Bank, 10 W. Beaver Creek Boulevard, Bulletin Board
- ✓ Avon Public Library, 200 Benchmark Road, Front Area Bulletin Board

Discussion: Colorado Revised Statutes, Subsection 24-6-402 addresses the specific guidelines involved with the open meetings law and posting notices. Notices must be posted at least 24 hours prior to each meeting. Regular council meeting notices and planning & zoning meeting notices are posted on the Friday before the meeting and emailed to Avon's distribution list of several hundred-email addresses. In addition to the posting, the regular council meeting agendas are published in the Vail Daily on the Monday before the Tuesday meeting. These posting locations are also used for special meeting notices and public hearing notices for ordinances.

Town Manager Comments:



**TOWN OF AVON, COLORADO
RESOLUTION NO. 12-01
SERIES OF 2012**

**A RESOLUTION APPROVING THE LOCATIONS
FOR POSTING THE NOTICES OF PUBLIC MEETINGS**

Whereas, Local Public Bodies, including the Avon Town Council, are required by Subsection 24-6-402 (2)(c) C.R.S., to designate annually at the Town Council's first regular meeting of each calendar year, the place at which notice will be posted at least 24 hours prior to each meeting.

NOW, THEREFORE BE IT RESOLVED BY THE AVON TOWN COUNCIL AS FOLLOWS:

Notice of meetings of the Town Council required pursuant to Section 24-6-401, et seq., C.R.S. shall be posted within the boundaries of the Town at least 24 hours prior to each meeting at the following locations:

Avon Town Hall, One Lake Street, Bulletin Board
Avon Recreation Center, 90 Lake Street, Bulletin Board
Alpine Bank, 10 W. Beaver Creek Boulevard, Bulletin Board
Avon Public Library, 200 Benchmark Road, Front Area Bulletin Board

ADOPTED THIS 10TH DAY OF JANUARY 2012.

**TOWN COUNCIL
TOWN OF AVON, COLORADO**

Rich Carroll, Mayor

Attest:

Patty McKenny, Town Clerk



MEMORANDUM

TO: Honorable Mayor Carroll and Town Council Members
CC: Larry Brooks, Town Manager and Eric Heil, Town Attorney
FROM: Meredith Van Horn, Assistant Town Attorney
RE: Second Reading, Ordinance No. 11-16 Repealing and Reenacting Public Works Violations Provisions
DATE: January 6, 2012

Summary: On December 13, 2011 the Town Council passed on first reading Ordinance No. 11-16 AN ORDINANCE AMENDING SECTION 12.04.040 OF THE AVON MUNICIPAL CODE REGARDING VIOLATIONS OF CHAPTER 12.04 CONSTRUCTION WORK WITHIN PUBLIC WAYS. This ordinance updates Avon Municipal Code §12.04.040 to de-criminalize the penalties for violations of the section.

Requested Action: Approval on second reading of Ordinance No. 11-16 AN ORDINANCE AMENDING SECTION 12.04.040 OF THE AVON MUNICIPAL CODE REGARDING VIOLATIONS OF CHAPTER 12.04 CONSTRUCTION WORK WITHIN PUBLIC WAYS.

Thanks, Meredith

**TOWN OF AVON, COLORADO
ORDINANCE NO. 11-16
SERIES OF 2011**

**AN ORDINANCE AMENDING SECTION 12.04.040 OF THE AVON MUNICIPAL
CODE REGARDING VIOLATIONS OF CHAPTER 12.04 CONSTRUCTION WORK
WITHIN PUBLIC WAYS**

WHEREAS, the Town of Avon (“Town”) is a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, the Town has broad authority to regulate construction and work performed in the public right-of-ways within the Town of Avon; and

WHEREAS, it is the Town Council’s opinion that the health, safety and welfare of the citizens of the Town of Avon would be enhanced and promoted by the adoption of this ordinance; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with state law, the Avon Municipal Code and the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies the proposed amendment to the Avon Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Repealed and Reenacted. Section 12.04.040 of the Avon Municipal Code is hereby amended by repealing Section 12.04.040 in its entirety and re-enacting Section 12.04.040 to read as follows:

“12.04.040 Violation – penalty.

Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed to have committed a civil infraction for each and every day or portion thereof during which any infraction is committed, continued or permitted and shall be subject to the penalties contained in Chapter 1.09 of this Code.”

Section 3. Codification Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 6. Effective Date. This Ordinance shall take effect seven days after public notice following final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 9. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

[Signature Page Follow]

INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING and setting such public hearing for January 10, 2012 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado, on December 13, 2011.

Rich Carroll, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:

APPROVED AS TO FORM:

Patty McKenny, Town Clerk

Eric J. Heil, Town Attorney

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on January 10, 2012.

Rich Carroll, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

Patty McKenny, Town Clerk

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD DECEMBER 13, 2011**

A regular meeting of the Town of Avon, Colorado was held at the Avon Town Hall, One Lake Street, Avon, Colorado in the Council Chambers.

Mayor Rich Carroll called the meeting to order at 5:30 PM. A roll call was taken and Council members present were Dave Dantas, Chris Evans, Kristi Ferraro, Todd Goulding, Amy Phillips and Buz Reynolds. Also present were Town Attorney Eric Heil, Town Manager Larry Brooks, Assistant Town Manager Patty McKenny, Assistant Town Manager Community Development Sally Vecchio, Assistant Town Manager Finance Scott Wright, Town Engineer Justin Hildreth, Director PW&T Jenny Strehler, Community Relations Officer Jaime Walker, as well as other staff members and the public.

AGENDA APPROVAL & DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Mayor Carroll noted that the agenda will include an addition of a 6b) that will address council & staff updates items from the work session agenda.

COMMUNITY & CITIZEN INPUT

- a. Mayor Carroll Presentation of USA Pro Cycling Challenge Stage 4 Start Winner Jersey to Avon Stage Sponsor Westin Riverfront Resort & Spa, with Jeff Borrel, Operations Manager accepting the framed shirt.
- b. Correspondence from Avon Center at Beaver Creek Homeowners Association regarding Bus Service (*Robert Tartre, Treasurer, & George Pakozdi, Board Member*) **Email & Response Only**

SPECIAL EVENT UPDATES

- a. 2012 Gran Fondo Update (*Danita, Chirichillo, Special Events Supervisor, Chris Laskey, Owner & CEO, Independent Endurance Sports, Tim Baker, Beaver Creek Resort Company*)

Both parties presented information on this event; Chris Laskey noted that he hoped the event would become a part of the Avon and Beaver Creek location. There was a presentation of the number of projected visitors and projected revenues the event would generate. After some discussion about funding resources and amounts, Councilor Ferraro moved to approve expenditures in the amount of \$18,688 from the economic development program to fund the 2012 Gran Fondo event; Councilor Dantas seconded the motion and it passed unanimously. There was some brief discussion about the need to keep a \$10K contingency within the economic development program to use for other future use.

- b. Wine / Beer Festival Update (*Danita Chirichillo, Special Events Supervisor, Tanya Everist, NRC 365*)
There was some discussion about the event; there was council support to include this event in 2012.

- c. December 2011 "Icing on the Lake" Update (*Meryl Jacobs, Recreation Director*)

CONSENT AGENDA

Mayor Carroll asked for a motion on the consent agenda. Councilor Dantas moved to approve the consent agenda; Councilor Evans seconded the motion and it passed unanimously.

- a. Minutes from November 22, 2011

COUNCIL & STAFF UPDATES

Councilor Dantas left the meeting at this time (around 6:30 PM).

- a. Open Space Advisory Committee Update (*Rich Carroll, Mayor*)
- b. "Skier Express" Transit Services Implementation Plan Update (*Jenny Strehler, Director PW&T*)
Update on implementation progress of skier shuttle transit service
- c. Metcalf Drainage Project Update (*Jeff Schneider, Project Engineer*) *Update on re-scoping the project due to the elimination of the bicycle climbing line in the revised 2012 CIP Budget/ **Memo only***

There was discussion about the idea that there was going to be a delay in this project. It was noted that the engineering department strongly recommended installing the pipe for drainage purposes in 2012. There was confirmation that funding is available for both projects, Metcalf Drainage project in 2012 and the lake liner in 2013, and if, in an emergency, there are funds available in 2012 for the lake liner. There was a request to review some of the drainage issues on Nottingham Road, preferable in February.

RESOLUTIONS

Resolution No. 11-15, Series of 2011, Resolution Approving the Temporary Easement Agreement for a Parcel of Land, TE-20, Located at Lot 20, Benchmark at Beaver Creek, Amendment 4, for the Purpose of Constructing the Metcalf Road Widening and Drainage Improvements (*Justin Hildreth, Town Engineer*)

The item was presented by the Town Engineer who noted that this arrangement was only for one year. In light of the previous discussion, there may need to be some revisions to this agreement, an update would be provided in 2012. Councilor Evans moved to approve Resolution No. 11-15, Series of 2011, Resolution Approving the Temporary Easement Agreement for a Parcel of Land, TE-20, Located at Lot 20, Benchmark at Beaver Creek, Amendment 4, for the Purpose of Constructing the Metcalf Road Widening and Drainage Improvements conditioned upon an approved contract for the project. Mayor Pro Tem Ferraro seconded the motion and it passed unanimously by those present (Dantas absent).

Resolution No. 11-16, Series of 2011, Resolution Approving the Intergovernmental Agreement between the Town of Avon and State of Colorado Department of Transportation for Enhancement Grant Project STE C 440-008 (18628), Eagle Valley Trail (*Jeff Schneider, Project Engineer*)

Jeff Schneider, Project Manager, spent a moment reviewing the need for executing the IGA as referenced above. The council packet memo provided the detail about the three phases of trail construction that is slated for construction in 2012 as follows:

Phase 1: Avon Road to Post Blvd. and funded by the CDOT grant for \$355K

Phase 2: Post Blvd. to Eagle Vail Interstate 70 interchange and funded by ECO Trails

Phase 3: bridge over Eagle River and funded by the Town, ECO Trails and \$497K GOCO grant

Mayor Pro Tem Ferraro moved to approve Resolution No. 11-16, Series of 2011, Resolution Approving the Intergovernmental Agreement between the Town of Avon and State of Colorado Department of Transportation for Enhancement Grant Project STE C 440-008 (18628), Eagle Valley Trail. Councilor Phillips seconded the motion and it passed unanimously by those present (Dantas absent).

Budget 2012 Update & Resolutions (*Scott Wright, Finance Director*) *Review final 2012 Budget, Fund Balances and Final Revisions*

After a brief summary as to the nature of the budget related resolutions by Finance Director Scott Wright, the following motion was made to adopt the list of Resolutions:

Councilor Phillips moved to approve Resolutions No. 17, No. 18, No. 19, No. 20, No. 21, and No. 22. Councilor Goulding seconded the motion and it passed unanimously by those present (Dantas absent).

1. Resolution No. 11-17, Series of 2011, Resolution to Amend the 2011 Town of Avon Budget *(Scott Wright, Finance Director)*
2. Resolution No. 11-18, Series of 2011, Resolution to Amend the 2011 Town of Avon Capital Projects Fund Budget *(Scott Wright, Finance Director)*
3. Resolution No. 11-19, Series of 2011, Resolution to Adopt the 2012 Town of Avon Budget *(Scott Wright, Finance Director)*
4. Resolution No. 11-20, Series of 2011, Resolution to Accept the proposed Town of Avon Long Range Capital Program and Simultaneously adopt the Year 2012 Capital Projects Fund Budget *(Scott Wright, Finance Director)*
5. Resolution No. 11-21, Series of 2011, Resolution Levying General Property Taxes for the Year 2011, to help defray the costs of government for the Town of Avon, Colorado, for the 2012 Budget Year *(Scott Wright, Finance Director)*
6. Resolution No. 11-22, Series of 2011, Resolution Levying General Property Taxes for the Year 2011, to help defray the Costs of government for the Town of Avon General Improvement District No. 1, Avon, Colorado, for the 2012 Budget Year *(Scott Wright, Finance Director)*

ORDINANCES

Ordinance No. 11-16, Series of 2011, Ordinance Amending Section 12.04.040 of the Avon Municipal Code Regarding Violations of Chapter 12.04 Construction Work Within Public Ways *(Meredith Van Horn, Town Attorney)* Review proposal to change penalties from "criminal to civil" for certain Public Work's code violations

Associate Town Attorney Meredith Van Horn presented this ordinance as clean up language for the Avon Municipal Code, that would change the penalty associated with Chapter 12.04 Construction Work Within Public Ways from criminal in nature to civil in nature. Councilor Goulding moved to approve Ordinance Amending Section 12.04.040 of the Avon Municipal Code Regarding Violations of Chapter 12.04 Construction Work Within Public Ways; Councilor Evans seconded the motion and it passed unanimously by those present (Dantas absent). The Public Hearing is scheduled for January 12, 2012.

There being no further business to come before the Council, the meeting adjourned at 7:30 pm.

RESPECTFULLY SUBMITTED:

 Patty McKenny, Town Clerk

APPROVED:

Rich Carroll	_____
Dave Dantas	_____
Chris Evans	_____
Kristi Ferraro	_____
Todd Goulding	_____
Amy Phillips	_____
Albert "Buz" Reynolds	_____



MEMORANDUM

TO: Honorable Mayor Carroll and Town Council Members
CC: Larry Brooks, Town Manager
FROM: Eric Heil, Town Attorney
RE: Ordinance No. 12-01 Amending the Town Code of Ethics
DATE: January 6, 2012

Summary: Ordinance No. 12-01 Amending the Town Code of Ethics is presented for first reading to the Town Council. This memorandum discusses changes to the Town Code of Ethics. The current Town Code of Ethics was adopted in 1992 by Ordinance No. 92-15. Attached to this memorandum is a copy of the Town Code of Ethics, State Code of Ethics and Article XXIX of the Colorado Constitution.

Discussion of Amendments: The proposed amendments primarily adopt language in the State Code of Ethics, set forth in C.R.S. §24-18-101 *et. seq.* and address the option of a home rule municipality to supersede Article XXIX of the Colorado Constitution.

Confidential Information: Avon Municipal Code ("AMC") section 2.30.060(1) is amended to adopt the language in the State Code of Ethics which expands the violation for disclosure of confidential information to include any use which would be detrimental to the Town.

Voluntary Disclosure to Secretary of State: Avon Municipal Code ("AMC") section 230.110 is revised to track the language in the State Code of Ethics.

Enforcement: AMC section 2.30.140 is revised to allow the District Attorney to pursue enforcement actions in a manner consistent with the State Code of Ethics. A sentence in AMC 2.30.140(c) which allows any complainant from instituting direct legal action through the appropriate judicial authority is deleted. The meaning and application of this sentence is not clear. As a result of these changes, enforcement of the Avon Town Code of Ethics would occur through either the Avon Town Council or through the District Attorney's office.

Liability: AMC section 2.30.150 is revised to adopt language in the State Code of Ethics concerning liability for breach of fiduciary duty in a manner consistent with breach of a private fiduciary. This provision significant expands the potential liability of a town official for violations of the Town Code of Ethics.

Gift Reporting: AMC section 2.30.170 is a new section which (1) elects the option to supersede the gift ban set forth in Article XXIX of the Colorado Constitution, (2) adopts requirements for reporting and disclosure of gifts in excess of \$50, and (3) establishes guidelines for the Town Council to review whether gifts constitute a conflict of interest under the Town Code of Ethics.

Proposed Motion: "I move to approve first reading of Ordinance No. 12-01 AN ORDINANCE AMENDING CHAPTER 2.30 TOWN CODE OF ETHICS OF THE AVON MUNICIPAL CODE"

Thanks, Eric

**TOWN OF AVON, COLORADO
ORDINANCE NO. 12-01
SERIES OF 2012**

**AN ORDINANCE AMENDING CHAPTER 2.30 TOWN CODE OF ETHICS
OF THE AVON MUNICIPAL CODE**

WHEREAS, the Town of Avon (“Town”) is a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, pursuant to Section 5.5(d) of the Avon Home Rule Charter states that, “Council shall adopt a Town Code of Ethics which shall set forth ethical standards and standards of conduct for elected and appointed officials of the Town;” and

WHEREAS, Town Council believes that amendments to the Town Code of Ethics which are consistent with the State Code of Ethics will promote application and enforcement of the Town Code Ethics; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with state law, the Avon Municipal Code and the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies the proposed amendment to the Avon Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. **Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. **First Amendment.** Section 2.30.060(1) of the Avon Municipal Code is hereby amended by repealing Section 2.30.060(1) in its entirety and re-enacting Section 2.30.060(1) to read as follows:

“Disclose or use confidential information acquired in the course of such officer’s duties in order to further a business or other undertaking in which such officer has a substantial financial interest or for any use which would be detrimental to the Town;”

Section 3. **Second Amendment.** Section 2.30.080 of the Avon Municipal Code is hereby amended by revising the Section title to read, “**2.30.080 Disclosure of conflict of interest in Town Council action.**”

Section 4. **Third Amendment.** Section 2.30.110 is hereby repealed in its entirety and re-enacted to read as follows:

“2.30.110 Voluntary Disclosure to Secretary of State.

A Town officer may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Such Town officer

shall make the disclosure in writing to the secretary of state, listing the amount of his or her financial interest, if any, the purpose and duration of his or her services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his or her interest. If he or she then performs the official act involved, he or she shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction under this Town Code of Ethics or any other local, state or other code of ethics or standards of conduct.”

Section 5. Fourth Amendment. Section 2.30.140(c) is hereby amended by repealing and deleting the last sentence as follows:

~~“However, nothing in this Chapter shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.”~~

Section 6. Fifth Amendment. Section 2.30.140 is hereby amended by enacting a new subsection (d) to read as follows:

“(d) The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the Avon Town government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such Town officer.”

Section 7. Sixth Amendment. Section 2.30.150 is hereby amended by enacting a new subsection (d) to read as follows:

“(d) A Town officer whose conduct departs from his fiduciary duty is liable to the people of the Town of Avon as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his or her trust.”

Section 8. Seventh Amendment. Chapter 2.30 is hereby amended to enact a new Section 2.30.170 to read as follows:

“2.30.170 Gift Reporting.

(a) In accordance with §7, Article XXIX of the Colorado Constitution, the requirements of Article XXIX of the Colorado Constitution shall not apply to the Town of Avon. It is the intention and purpose that this section 2.30.170, Chapter 2.30 Avon Town Code of Ethics of the Avon Municipal Code, and any other applicable Avon Home Rule Charter provision, ordinance or resolution adopted by the Town of Avon shall completely address all matters set forth in Article XXIX of the Colorado Constitution.

(b) Any town official or town employee who receives any present, or offer of future, individual gift, favor, loan, service of thing of value in excess of \$50.00 and such gift is offered due to such person’s status as a town official or town employee then such town official or town employee shall report such gift and the estimated value to the Town Clerk. The Town Clerk shall promptly disclose gifts received, or offer of future gifts, to the Town Council. The failure of a town official or town employee to report a gift to the Town Clerk shall constitute a violation of the Avon Town Code of Ethics.

(c) Council shall determine if gifts received or offered in the future constitute a conflict of interest in accordance with the Avon Town Code of Ethics. Gifts which are given by an individual who is a relative or personal friend of the recipient on special occasions shall not be deemed a conflict of interest. Gifts which are given without the purpose or intent to influence a town official or town employee in connection with an official act or as a reward for an official act taken and gifts which do not create the appearance of impropriety shall not be a conflict of interest. Gifts which are received which are determined by Council to be a conflict of interest shall be returned. The failure of a town official or town employee to return a gift or reimburse the equivalent value when Council determines such gift is a conflict of interest shall constitute a violation of the Avon Town Code of Ethics.”

Section 9. Codification Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 10. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 11. Effective Date. This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 12. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 13. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and

for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 14. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the Ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING and setting such public hearing for January 24, 2012 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado, on January 10, 2012.

Rich Carroll, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:

APPROVED AS TO FORM:

Patty McKenny, Town Clerk

Eric J. Heil, Town Attorney

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on January 24, 2012.

Rich Carroll, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

Patty McKenny, Town Clerk

AVON TOWN CODE OF ETHICS

Town Code of Ethics

2.30.010 Citation.

This Chapter shall be known and may be cited as the "Avon Town Code of Ethics."

2.30.020 Declaration of policy.

The proper operation of democratic government requires that public officers be independent, impartial and responsible to the people; that government decisions and policy be made within the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all Town officers is adopted. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officers by setting forth those acts or actions that are incompatible with the best interest of the Town, and by directing disclosure by such officers of private financial or other interests in matters affecting the Town. (Ord. 92-15 §1(part))

2.30.030 Finding of local concern.

The Town Council finds and determines that the matter of ethical municipal government is a matter of local concern upon which home rule municipalities in Colorado are fully empowered to legislate and to supersede conflicting state statutes. (Ord. 92-15 §1(part))

2.30.040 Effect of common law.

This Chapter shall supersede and override the common law as to the subject matter of this Chapter. (Ord. 92-15 §1(part))

2.30.050 Definitions.

As used in this Chapter, unless the context requires otherwise:

Business means any corporation, limited liability corporation, partnership, sole proprietorship, trust or foundation, or other

individual or organization carrying on a business operated for private profit.

Confidential information means all information, whether transmitted orally or in writing, which is of such a nature that it is not, at that time, a matter of public record or public knowledge.

Council or Town Council means the Town Council of the Town of Avon.

Council Member means any member of the Town Council.

Officer means any person holding a position by election or appointment in the service of the municipality, whether paid or unpaid, including the members of the Town Council and any other Town board, committee or commission.

Official act or official action means any vote, decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority.

Substantial financial interest means an interest owned or held by an officer which is:

- a. An ownership interest in a business;
- b. A creditor interest in an insolvent business;
- c. An ownership interest in real or personal property;
- d. A loan or any other debtor interest;
- e. A directorship or officership in a business.

An officer shall be presumed to have a *substantial financial interest* in any of the abovementioned interests owned, held or controlled by such officer's spouse or dependent children. (Ord. 93-8 §1, 1993; Ord. 92-15 §1(part))

2.30.060 Conflict of interest.

A Town officer shall not:

AVON TOWN CODE OF ETHICS

- (1) Disclose or use confidential information acquired in the course of such officer's duties in order to further a business or other undertaking in which such officer has a substantial financial interest;
- (2) Engage in a substantial financial transaction for his or her private business purposes with a person whom such officer inspects or supervises in the course of his or her official duties;
- (3) Perform an official act which directly and substantially affects to its economic benefit a business or other undertaking in which such officer has a substantial financial interest;
- (4) Perform an official act which directly and substantially affects a business or other undertaking by whom the officer is employed, or by whom such officer is engaged as counsel, consultant, representative or agent;
- (5) Acquire or hold an interest in any business or undertaking which such officer has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the agency over which he or she has substantive authority;
- (6) Perform an official act directly and substantially affecting to its economic detriment any business or other undertaking when such officer has a substantial financial interest in a competing business or undertaking;
- (7) Solicit or accept a present or future gift, favor, loan, service or thing of value from a person under circumstances which would lead a reasonably prudent person to believe that such gift, favor, service or thing of value was made or given primarily for the purpose of influencing or attempting to influence such officer in connection with an official act, or as a reward for official action he or she has previously taken. The provisions of this Subsection shall not apply to those

circumstances described in Subsection 2.30.070(3).

- (8) Perform any official act under circumstances which give rise to appearance of impropriety on the part of the officer;
- (9) Make or accept any ex parte communication or contact concerning a matter which is to be determined after a public hearing without making the contents of such communication or contact a part of the record of such public hearing;
- (10) Appear on behalf of any private person, business or entity, other than himself or herself, his or her spouse, or minor children, before the Town Council, any Town Commission or the Municipal Court. (Ord. 92-15 §1(part))

2.30.070 Exemptions.

The provisions of Section 2.30.060 shall not prohibit an officer from:

- (1) Accepting or receiving a benefit as an indirect consequence of the performance of an official act;
- (2) Taking official action when such officer is similarly situated to other Town residents, such as adopting general land use regulations, owning property within a special or local improvement district, voting for taxes or bonds, adopting ordinances of general applicability or otherwise acting upon matters involving the common public interest;
- (3) Soliciting or accepting gifts or loans which are:
 - a. Campaign contributions reported as required by law;
 - b. An occasional nonpecuniary gift, insignificant in value;
 - c. A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

AVON TOWN CODE OF ETHICS

d. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence or attendance at a convention or other meeting at which such officer is scheduled to participate;

e. Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is not extraordinary when viewed in light of the position held by such officer;

f. Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses or tickets to sporting, recreational, educational, or cultural events;

g. Payment for speeches, debates, or other public events, reported as honorariums to the Town Manager;

h. A loan at a rate of interest which is not substantially lower than the commercial rate then currently prevalent for similar loans within the Town.

(4) Receiving such compensation for his or her services to the Town as may be fixed by ordinance, pay plan, budget or other similar official action. (Ord. 92-15 §1(part))

2.30.080 Disclosure of conflict of interest in legislative action.

Any member of the Town Council who believes he or she has a conflict of interest as defined in Section 2.30.060 on any matter proposed or pending before the Town Council shall disclose such potential interest to the Town Council. Any member of the Council who believes that another member of the Council has a conflict of interest shall bring the matter to the attention of the Council prior to Council consideration of the issue involving the alleged conflict. The Council shall determine whether a conflict of interest exists. If the Council determines that an actual conflict of interest exists, the Council Member

shall not attempt to influence other members of the Town Council in connection with such matter, and, except as provided in Section 2.30.100, the Council Member shall not vote upon such matter. The Council Member shall leave the room during council's discussion and action on the subject, and shall return only when the council has taken up the next agenda item. (Ord. 92-15 §1(part))

2.30.090 Disclosure of conflict of interest in Planning Commission action.

Any member of the Planning Commission who believes he or she has a conflict of interest as defined in Section 2.30.060 on any matter proposed or pending before the Planning Commission shall disclose such potential interest to the Planning Commission. Any member of the Planning Commission who believes that another member of the Planning Commission has a conflict of interest shall bring the matter to the attention of the Planning Commission prior to Planning Commission consideration of the issue involving the alleged conflict. The Planning Commission shall determine whether a conflict of interest exists. If the Planning Commission determines that an actual conflict of interest exists, the member of the Planning Commission shall not attempt to influence other members of the Planning Commission in connection with such matter, and, except as provided in Section 2.30.100, the member of the Planning Commission shall not vote upon such matter. The member of the Planning Commission shall leave the room during the Planning Commission's discussion and action on the subject, and shall return only when the Planning Commission has taken up the next agenda item. (Ord. 92-15 §1(part))

2.30.100 When Council Member or member of the Planning Commission with conflict of interest may vote.

AVON TOWN CODE OF ETHICS

Notwithstanding the provisions of Sections 2.30.080 and 2.30.090, a Council Member or member of the Planning Commission may vote upon a matter as to which he or she has a conflict of interest if:

- (1) His or her participation is necessary to obtain a quorum or to otherwise enable the Council or Planning Commission to act, and
- (2) If he or she complies with the disclosure provisions of Section 2.30.110. (Ord. 92-15 §1(part))

2.30.110 Mandatory disclosure to Secretary of State.

No later than seventy-two (72) hours before voting pursuant to Section 2.30.100, the Council Member or member of the Planning Commission shall give written notice to the Secretary of State and to the Town Council. Such notice shall clearly state the nature of his or her conflict of interest. (Ord. 92-15 §1(part))

2.30.120 Public contracts.

- (a) Except as provided in Subsection (b) of this Section, no officer shall have an interest in any contract made by the Town.
- (b) The provisions of Subsection (a) of this Section shall not apply to:
 - (1) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;
 - (2) Merchandise sold to the highest bidder at public auctions;
 - (3) Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;
 - (4) A contract between the Town and an officer if, because of geographic restrictions, the Town could not otherwise reasonably afford itself of the subject of contract. It shall be presumed that the Town could not

otherwise reasonably afford itself of the subject of a contract if the additional cost to the Town is greater than ten percent (10%) of a contract with an officer or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period;

(5) A contract with respect to which the officer has disclosed his or her personal or financial interest to the Town Council and has not voted thereon, or with respect to which the officer has voted therein in accordance with Section 2.30.100.

(c) No Town officer shall be a purchaser or vendor in connection with any sale or purchase made by him or her in his or her official capacity. The provisions of this Subsection shall not apply to those contracts described in Subsection (b) of this Section. (Ord. 92-15 §1(part))

2.30.130 Limitation on subsequent employment.

A former Town officer may not, within six (6) months following the termination of his or her office with the Town, contract with or become employed by an employer who contracts with the Town involving matters with which such officer was directly involved during the term of office or with the Town. (Ord. 92-15 §1(part))

2.30.140 Enforcement.

(a) The Town Council shall have the primary responsibility for the enforcement of this Chapter. It shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the Town wherein it believes such action is appropriate.

(b) The Town Council may direct the Town Attorney to investigate or prosecute any apparent violation of this Chapter or the

AVON TOWN CODE OF ETHICS

Council may employ or appoint any qualified attorney to investigate or prosecute any violation or series of violations by one (1) or more persons of this Chapter.

(c) Any person who believes that a violation of any portion of this Chapter has occurred may file a complaint with the Town Council, which shall promptly investigate such complaint and take such action thereon as the Council shall deem to be appropriate. However, nothing in this Chapter shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority. (Ord. 92-15 §1(part))

2.30.150 Penalties and remedies.

(a) It is unlawful for any person to violate any provision of, or to fail to comply with any of the requirements of this Chapter. Any person who violates any provisions of this Chapter shall be punished in accordance with the provisions of Section 1.08.010 of this Code. Additionally, upon conviction such person shall be liable to the Town for such damages as may have been suffered or incurred as a result of such violation.

(b) Upon conviction for any violation of this Chapter such officer shall immediately forfeit his or her office or position. Nothing in this Chapter shall be construed to prohibit such public officer from being reelected, reappointed or otherwise rehired to any position forfeited under the provisions of this Chapter.

(c) Any court of competent jurisdiction called upon to enforce the provisions of this Chapter may, with the consent of the Town Council, exempt from the provisions of this Chapter any conduct of a Town officer upon the finding that the enforcement of this Chapter with respect to such officer's conduct would not be in the public interest. (Ord. 04-05 §1)

2.30.160 Distribution of code of ethics.

The Town Clerk shall cause a copy of this code of ethics to be distributed to every public officer of the Town within thirty (30) days after enactment of the ordinance adopting this Chapter. Each public officer elected, appointed, or engaged thereafter shall be furnished a copy before entering upon the duties of his or her office. (Ord. 92-15 §1(part))

STATE CODE OF ETHICS

§ 24-18-101. Legislative Declaration

The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

History. L. 88: Entire article added, p. 899, § 1, effective July 1.

Note:

Law reviews: For article, "Conflicts of Interest in Government", see 18 Colo. Law. 595 (1989); for article, "Advising Quasi-Judges: Bias, Conflicts of Interest, Prejudgment, and Ex Parte Contacts", see 33 Colo. Law. 69 (March 2004).

Cross References:

For provisions relating to abuse of public office, see part 4 of article 8 of title 18.

§ 24-18-102. Definitions

As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole

proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

(a) An ownership interest in a business;

(b) A creditor interest in an insolvent business;

(c) An employment or a prospective employment for which negotiations have begun;

(d) An ownership interest in real or personal property;

(e) A loan or any other debtor interest; or

(f) A directorship or officership in a business.

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(7) "Official act" or "official action" means any

STATE CODE OF ETHICS

vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government except the courts.

History. L. 88: Entire article added, p. 899, § 1, effective July 1. L. 90: (1) amended, p. 447, § 10, effective April 18. L. 91: (8) amended, p. 837, § 1, effective March 29.

§ 24-18-103. Public Trust - Breach of Fiduciary Duty

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

History. L. 88: Entire article added, p. 900, § 1, effective July 1.

§ 24-18-104. Rules of Conduct for All Public Officers, Members of the General Assembly, Local Government Officials, and Employees

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

(a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a

STATE CODE OF ETHICS

reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.

(3) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, C.R.S.;

(b) An occasional nonpecuniary gift, insignificant in value;

(c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

(d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;

(e) Reimbursement for or acceptance of an opportunity to participate in a social function or

meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;

(f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;

(g) Payment for speeches, appearances, or publications reported pursuant to section 24-6-203 ;

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office.

(4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, C.R.S., and section 24-6-203, and do not relieve an incumbent in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

History. L. 88: p. 901, § 1. L. 92: (3)(g) and (3)(h) amended, p. 874, § 103, effective January 1, 1993. L. 94: (3) amended and (4) added, p. 1827, § 4, effective January 1, 1995.

§ 24-18-105. Ethical Principles for Public Officers, Local Government Officials, and Employees

(1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or

STATE CODE OF ETHICS

employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

History. L. 88: Entire article added, p. 902, § 1, effective July 1.

§ 24-18-106. Rules of Conduct for Members of the General Assembly

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation,

except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates;

(b) Accept or receive a benefit as an indirect consequence of transacting state business; or

(c) Accept the payment of or reimbursement for actual and necessary expenses for travel, board, and lodging from any organization declared to be a joint governmental agency of this state under section 2-3-211 (2), C.R.S., if:

(I) (A) The expenses are related to the member's attendance at a convention or meeting of the joint governmental agency at which the member is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state of Colorado or for some other legitimate state purpose;

(B) The travel, board, and lodging arrangements are appropriate for purposes of the member's attendance at the convention or meeting;

(C) The duration of the member's stay is no longer than is reasonably necessary for the member to accomplish the purpose of his or her attendance at the convention or meeting;

(D) The member is not currently and will not subsequent to the convention or meeting be in a position to take any official action that will benefit the joint governmental agency; and

STATE CODE OF ETHICS

(E) The attendance at conventions or meetings of the joint governmental agency has been approved by the executive committee of the legislative council or by the leadership of the house of the general assembly to which the member belongs; or

(II) The general assembly pays regular monthly, annual, or other periodic dues to the joint governmental agency that are invoiced expressly to cover travel, board, and lodging expenses for the attendance of members at conventions or meetings of the joint governmental agency.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

History. Amended by 2010 Ch. 184, §4, eff. 8/11/2010.

L. 88: Entire article added, p. 902, § 1, effective July 1. L. 2003: (3) added, p. 1230, § 1, effective July 1.

Note: 2010 Ch. 184, was passed without a safety clause. See Colo. Const. art. V, § 1(3).

§ 24-18-107. Ethical Principles for Members of the General Assembly

(1) The principles in this section are intended only as guides to a member of the general assembly in determining whether or not his conduct is ethical.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

(a) Whether the interest impedes his independence of judgment;

(b) The effect of his participation on public confidence in the integrity of the general assembly; and

(c) Whether his participation is likely to have any significant effect on the disposition of the matter.

(3) An interest situation does not arise from legislation affecting the entire membership of a class.

(4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

History. L. 88: Entire article added, p. 902, § 1, effective July 1.

§ 24-18-108. Rules of Conduct for Public Officers and State Employees

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A public officer or a state employee shall not:

STATE CODE OF ETHICS

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;

(b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) Repealed.

History. L. 88: Entire article added, p. 903, § 1, effective July 1. L. 91: (4) repealed, p. 837, § 2, effective March 29.

§ 24-18-108.5. Rules of Conduct for Members of Boards and Commissions

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

History. L. 91: Entire section added, p. 837, § 3, effective March 29.

§ 24-18-109. Rules of Conduct for Local Government Officials and Employees

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

STATE CODE OF ETHICS

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

History. L. 88: Entire article added, p. 903, § 1, effective July 1.

§ 24-18-110. Voluntary Disclosure

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to

describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

History. L. 88: Entire article added, p. 904, § 1, effective July 1. L. 91: Entire section amended, p. 838, § 4, effective March 29.

§ 24-18-111. *[Repealed]*

History. Repealed by 2010 Ch. 405, §2, eff. 6/10/2010.

Prior History: (L. 88: Entire article added, p. 904, § 1, effective July 1.)

§ 24-18-112. Board of Ethics for the Executive Branch - Created - Duties

(1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.

(2) The board of ethics for the executive branch shall:

(a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;

(b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;

STATE CODE OF ETHICS

(c) Make written recommendations to the governor concerning his requests; and

(d) Review appeals brought before the board of ethics pursuant to section 24-30-1003(4).

History. L. 88: Entire article added, p. 905, § 1, effective July 1. L. 94: (2) amended, p. 1249, § 2, effective July 1.

§ 24-18-113. Board of Ethics for the General Assembly - Created - Duties

(1) (a) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(b) The terms of the members appointed by the majority and minority leaders of the house of representatives and the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the majority and minority leaders of the house of representatives and the senate shall each appoint or reappoint members in the same manner as provided in paragraph (a) of this subsection (1). Thereafter, the terms of members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall expire on the convening date of the first regular session

of each general assembly, and all subsequent appointments and reappointments by the majority and minority leaders of the house of representatives and the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall continue in office until the member's successor is appointed.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

History. L. 88: Entire article added, p. 905, § 1, effective July 1. L. 2007: (1) amended, p. 181, § 13, effective March 22.

COLORADO CONSTITUTION, ARTICLE XXIX ETHICS IN GOVERNMENT

COLORADO CONSTITUTION

ARTICLE XXIX

§ 1. Purposes and findings

(1) The people of the state of Colorado hereby find and declare that:

(a) The conduct of public officers, members of the general assembly, local government officials, and government employees must hold the respect and confidence of the people;

(b) They shall carry out their duties for the benefit of the people of the state;

(c) They shall, therefore, avoid conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated;

(d) Any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust; and

(e) To ensure propriety and to preserve public confidence, they must have the benefit of specific standards to guide their conduct, and of a penalty mechanism to enforce those standards.

(2) The people of the state of Colorado also find and declare that there are certain costs associated with holding public office and that to ensure the integrity of the office, such costs of a reasonable and necessary nature should be born by the state or local government.

§ 2. Definitions

As used in this article, unless the context otherwise requires:

(1) "Government employee" means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or any local government, except a member of the general assembly or a public officer.

(2) "Local government" means county or municipality.

(3) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(4) "Person" means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.

(5) "Professional lobbyist" means any individual who engages himself or herself or is engaged by any other person for pay or for any consideration for lobbying. "Professional lobbyist" does not include any volunteer lobbyist, any state official or employee acting in his or her official capacity, except those designated as lobbyists as provided by law, any elected public official acting in his or her official capacity, or any individual who appears as counsel or advisor in an adjudicatory proceeding.

(6) "Public officer" means any elected officer, including all statewide elected officeholders, the head of any department of the executive branch, and elected and appointed members of state boards and commissions. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

§ 3. Gift ban

(1) No public officer, member of the general assembly, local government official, or government employee shall accept or receive any money, forbearance, or forgiveness of indebtedness from any person, without such person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who accepted or received the money,

COLORADO CONSTITUTION, ARTICLE XXIX ETHICS IN GOVERNMENT

forbearance or forgiveness of indebtedness.

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

(a) A campaign contribution as defined by law;

(b) An unsolicited item of trivial value less than fifty dollars (\$50), such as a pen, calendar, plant, book, note pad or other similar item;

(c) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a

presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities;

(g) Given by an individual who is a relative or personal friend of the recipient on a special occasion.

(h) A component of the compensation paid or other incentive given to the recipient in the normal course of employment.

(4) Notwithstanding any provisions of this section to the contrary, and excepting campaign contributions as defined by law, no professional lobbyist, personally or on behalf of any other person or entity, shall knowingly offer, give, or arrange to give, to any public officer, member of the general assembly, local government official, or government employee, or to a member of such person's immediate family, any gift or thing of value, of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such public officer, member of the general assembly, local government official or government employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such lobbyist's business or in connection with a personal or social event; provided, however, that a professional lobbyist shall not be prohibited from offering or giving to a public officer, member of the general assembly, local government official or government employee who is a member of his or her immediate family any such gift, thing of value, meal, beverage or other item.

(5) The general assembly shall make any conforming amendments to the reporting and disclosure requirements for public officers, members of the general assembly and professional lobbyists, as provided by law, to comply with the requirements set forth in this section.

COLORADO CONSTITUTION, ARTICLE XXIX ETHICS IN GOVERNMENT

(6) The fifty-dollar (\$50) limit set forth in subsection (2) of this section shall be adjusted by an amount based upon the percentage change over a four-year period in the United States bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest dollar. The first adjustment shall be done in the first quarter of 2011 and then every four years thereafter.

§ 4. Restrictions on

No statewide elected officeholder or member of the general assembly shall personally represent another person or entity for compensation before any other statewide elected officeholder or member of the general assembly, for a period of two years following vacation of office. Further restrictions on public officers or members of the general assembly and similar restrictions on other public officers, local government officials or government employees may be established by law.

§ 5. Independent ethics commission

(1) There is hereby created an independent ethics commission to be composed of five members. The purpose of the independent ethics commission shall be to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions, on ethics issues arising under this article and under any other standards of conduct and reporting requirements as provided by law. The independent ethics commission shall have authority to adopt such reasonable rules as may be necessary for the purpose of administering and enforcing the provisions of this article and any other standards of conduct and reporting requirements as provided by law. The general assembly shall appropriate reasonable and necessary funds to cover staff and administrative expenses to allow the independent ethics commission to carry out its duties pursuant to this article. Members of the commission shall receive no compensation for

their services on the commission.

(2) (a) Members of the independent ethics commission shall be appointed in the following manner and order:

(I) One member shall be appointed by the Colorado senate;

(II) One member shall be appointed by the Colorado house of representatives;

(III) One member shall be appointed by the governor of the state of Colorado;

(IV) One member shall be appointed by the chief justice of the Colorado supreme court; and

(V) One member shall be either a local government official or a local government employee appointed by the affirmative vote of at least three of the four members appointed pursuant to subparagraphs (I) to (IV) of this paragraph (a).

(b) No more than two members shall be affiliated with the same political party.

(c) Each of the five members shall be registered Colorado voters and shall have been continuously registered with the same political party, or continuously unaffiliated with any political party, for at least two years prior to appointment to the commission.

(d) Members of the independent ethics commission shall be appointed to terms of four years; except that, the first member appointed by the Colorado senate and the first member appointed by the governor of the state of Colorado shall initially serve two year terms to achieve staggered ending dates.

(e) If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.

(f) Each member shall continue to serve until a successor has been appointed, except that if a member is unable or unwilling to continue to serve until a successor has been appointed, the

COLORADO CONSTITUTION, ARTICLE XXIX ETHICS IN GOVERNMENT

original appointing authority as described in this subsection shall fill the vacancy promptly.

(3) (a) Any person may file a written complaint with the independent ethics commission asking whether a public officer, member of the general assembly, local government official, or government employee has failed to comply with this article or any other standards of conduct or reporting requirements as provided by law within the preceding twelve months.

(b) The commission may dismiss frivolous complaints without conducting a public hearing. Complaints dismissed as frivolous shall be maintained confidential by the commission.

(c) The commission shall conduct an investigation, hold a public hearing, and render findings on each non-frivolous complaint pursuant to written rules adopted by the commission.

(d) The commission may assess penalties for violations as prescribed by this article and provided by law.

(e) There is hereby established a presumption that the findings shall be based on a preponderance of evidence unless the commission determines that the circumstances warrant a heightened standard.

(4) Members of the independent ethics commission shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents.

(5) Any public officer, member of the general assembly, local government official, or government employee may submit a written request to the independent ethics commission for an advisory opinion on whether any conduct by that person would constitute a violation of this article, or any other standards of conduct or reporting requirements as provided by law. The commission shall render an advisory opinion pursuant to written rules adopted by the commission.

§ 6. Penalty

Any public officer, member of the general assembly, local government official or government employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state or local jurisdiction for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law.

§ 7. Counties and municipalities

Any county or municipality may adopt ordinances or charter provisions with respect to ethics matters that are more stringent than any of the provisions contained in this article. The requirements of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.

Source:

Initiated 2006: Entire article added, effective upon proclamation of the Governor, L. 2007, p. 2960, December 31, 2006.

§ 8. Conflicting provisions declared inapplicable

Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be preempted by this article and inapplicable to the matters covered by and provided for in this article.

§ 9. Legislation to facilitate article

Legislation may be enacted to facilitate the operation of this article, but in no way shall such legislation limit or restrict the provisions of this article or the powers herein granted.

Memo

To: Honorable Mayor and Town Council
Thru: Larry Brooks, Town Manager
Approved: Sally Vecchio, Community Development Director
From: Justin Hildreth, P.E., Town Engineer
Jeffrey Schneider, P.E., Project Engineer
Date: January 4, 2012
Re: Update on Removal of Abandoned Buildings on Lot 5, Village (at Avon) Filing 1

BLR
PSK SV
JH H
JD

Summary: In 2006, the Avon Town Council entered into a one-year lease agreement with Stone Creek Charter School (SCCS) to occupy Lot 5, Village (at Avon) Filing 1. The school mobilized modular school buildings onto the site and operated a charter school at this location until their lease expired on June 30, 2011. SCCS has since moved their operations from the site, leaving 18,000 square feet of abandoned modular school buildings behind. The Town notified SCCS and Wells Fargo Bank (holder of the note on the buildings) that its property was abandoned and must be removed from the site. Town Staff has been directed to proceed with removal of the modular buildings, in order to accommodate the planned improvements at Swift Gulch. Town Staff is planning on awarding a contract for removal of the abandoned property at the February 14 Town Council meeting and the abandoned buildings will be removed from the site by April 1, 2012.

Discussion: The current strategy for the Swift Gulch project involves relocating Public Works operations, with the exception of the transit and the fleet maintenance divisions, to Lot 5. This reflects a shift from the original 2007 Swift Gulch master plan, which involved a temporary relocation to Lot 5 during construction of permanent public works facilities at Swift Gulch. That property is currently occupied by the abandoned modular buildings from SCCS. Town Council declined to renew the SCCS lease last year and agreed to commence relocation of Public Works to Lot 5. The Town entered into a design review process with the Village at Avon, and approval to relocate was granted by the Village Design Review Board (DRB) on September 27, 2011. Following DRB approval, the Town sent a Notice to Vacate letter to SCCS and Wells Fargo Bank on September 29, 2011. SCCS responded on October 2, 2011 stating that they did not have an alternate site available onto which the modulares could be relocated, and requesting that the Town allow the modulares to remain on Lot 5. Town Council was updated on the situation on October 25, 2011 and directed Staff to proceed with removal of the modular buildings from the site in order to avoid delays and associated costs to the Swift Gulch project. Wells Fargo has failed to initiate any removal activities. The Town Attorney will issue a final Notice to Vacate concurrently with the solicitation of proposals for removal.

The Town is advertising for removal of the abandoned property on January 12, 2012; with proposals from interested firms due on February 3, 2012. The contract for the removal of the abandoned property is expected to be awarded on the February 14 Town Council meeting. As soon as weather permits, the selected contractor will remove the abandoned

property from the site so that the site is ready to receive Public Works materials and equipment starting on April 1, 2012.

Town Manager Comments:



MEMORANDUM

TO: Honorable Mayor Carroll and Town Council Members
CC: Larry Brooks , Town Manager
FROM: Eric Heil, Town Attorney
RE: Notice of Foreclosure for Chapel Square Deed Restricted Unit
DATE: January 6, 2012

Summary: The Town received a notice of foreclosure for a deed restricted unit in Chapel Square. The Town has an option to purchase the unit prior to foreclosure. If the unit is foreclosed, the Town's housing deed restriction would be extinguished. I am reviewing the Town's legal rights and timeframe with staff. The amount of the deed of trust is \$128,124.75.

Thanks, Eric