



TOWN OF AVON, COLORADO

TOWN OF AVON MEETINGS FOR TUESDAY, NOVEMBER 18, 2014

LIQUOR LICENSE AUTHORITY MEETING BEGINS AT 5:00 PM - URBAN RENEWAL AUTHORITY MEETING BEGINS AT 5:05 PM

REGULAR MEETING BEGINS AT 5:07 PM

AVON TOWN HALL, ONE LAKE STREET

PRESIDING OFFICIALS

MAYOR RICH CARROLL

MAYOR PRO TEM JENNIE FANCHER

COUNCILORS: DAVE DANTAS, CHRIS EVANS, ALBERT "BUZ" REYNOLDS, JR., JAKE WOLF, MATT GENNETT

COUNCILORS TO BE SWORN IN: MEGAN BURCH, SARAH SMITH HYMES, SCOTT PRINCE

TOWN STAFF

TOWN ATTORNEY: ERIC HEIL

TOWN MANAGER: VIRGINIA EGGER

TOWN CLERK: DEBBIE HOPPE

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SNEAK PEAK OF THE RECREATION CENTER IMPROVEMENTS

4:20 PM – MEET IN THE RECREATION CENTER LOBBY

THREE (3) OR MORE COUNCIL MEMBERS MAY BE PRESENT

LIQUOR LICENSE AUTHORITY MEETING BEGINS AT 5:00 PM (SEE SEPARATE AGENDA PAGE 2)

URBAN RENEWAL AUTHORITY MEETING BEGINS AT 5:05 PM (SEE SEPARATE AGENDA PAGE 3)

REGULAR MEETING BEGINS AT 5:07 PM

1. CALL TO ORDER & ROLL CALL

2. APPROVAL OF AGENDA

3. PUBLIC COMMENT

4. ACTION ITEMS

4.1. APPROVAL OF THE NOVEMBER 11, 2014 MINUTES (TOWN CLERK DEBBIE HOPPE)

5. PROCLAMATIONS

5.1. PROCLAMATIONS IN APPRECIATION OF SERVICE (MAYOR PRO TEM JENNIE FANCHER)

6. NEW COUNCIL SWEARING IN AND ELECTION OF OFFICERS

6.1. READING THE NAMES OF NEWLY ELECTED COUNCIL MEMBERS (TOWN CLERK DEBBIE HOPPE)

6.2. SWEARING IN AND SEATING OF NEW COUNCIL MEMBERS (JUDGE BUCK ALLEN)

6.3. ELECTION OF MAYOR & MAYOR PRO TEM

6.3.1. NOMINATE AND ELECT A TEMPORARY CHAIRPERSON

6.3.2. ROLL CALL OF NEW COUNCIL

6.3.3. NOMINATE AND ELECT MAYOR

6.3.4. NOMINATE AND ELECT MAYOR PRO TEM

7. ACTION ITEMS

7.1. ACTION ON CITIZEN REFERENDUM TO EITHER: (TOWN ATTORNEY ERIC HEIL)

7.1.1. APPROVAL OF RESOLUTION 14-34, RESOLUTION REPEALING ORDINANCE 14-17; OR

APPROVAL OF RESOLUTION 14-35, RESOLUTION REFERRING ORDINANCE 14-17 TO A SPECIAL ELECTION

7.1.2. RESOLUTION 14-31, RESOLUTION APPROVING THE ISSUANCE BY EAGLEBEND DOWD AFFORDABLE HOUSING

CORPORATION OF MULTIFAMILY HOUSING PROJECT REFUNDING REVENUE BONDS

(ASSISTANT TOWN MANAGER SCOTT WRIGHT)

8. WORK SESSION

8.1. ORIENTATION AND MEETING SCHEDULE (TOWN MANAGER VIRGINIA EGGER)

9. COUNCIL COMMENTS

10. ADJOURNMENT

RECEPTION FOR OUTGOING TOWN COUNCIL MEMBERS

ESTIMATED START TIME 7:00 PM - VIN 48 – 48 EAST BEAVER CREEK BOULEVARD, AVON, COLORADO

THREE (3) OR MORE COUNCIL PERSONS ARE EXPECTED TO BE IN ATTENDANCE



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, NOVEMBER 18, 2014
LIQUOR LICENSE AUTHORITY MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET

	PRESIDING OFFICIALS
CHAIRMAN	RICH CARROLL
VICE CHAIRMAN	JENNIE FANCHER
BOARD MEMBERS	DAVE DANTAS, CHRIS EVANS, ALBERT "BUZ" REYNOLDS, JR.,
	JAKE WOLF, MATT GENNETT
	<u>TOWN STAFF</u>

TOWN ATTORNEY: ERIC HEIL

TOWN MANAGER: VIRGINIA EGGER

TOWN CLERK: DEBBIE HOPPE

ALL LIQUOR BOARD MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING PUBLIC HEARINGS
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- 1. CALL TO ORDER AND ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**
- 4. APPROVAL OF MINUTES FROM NOVEMBER 11, 2014**
- 5. ADJOURNMENT**



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, NOVEMBER 18, 2014
URBAN RENEWAL AUTHORITY MEETING BEGINS AT 5:05 PM
AVON TOWN HALL, ONE LAKE STREET

	PRESIDING OFFICIALS
CHAIRMAN	RICH CARROLL
VICE CHAIRMAN	JENNIE FANCHER
BOARD MEMBERS	DAVE DANTAS, CHRIS EVANS, ALBERT "BUZ" REYNOLDS, JR., JAKE WOLF, MATT GENNETT

STAFF

EXECUTIVE DIRECTOR / SECRETARY: VIRGINIA EGGER
TREASURER: SCOTT WRIGHT

ATTORNEY: ERIC HEIL
AUTHORITY CLERK: DEBBIE HOPPE

ALL URBAN RENEWAL MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING PUBLIC HEARINGS
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS
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- 1. CALL TO ORDER AND ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**
- 4. APPROVAL OF MINUTES FROM NOVEMBER 11, 2014**
- 5. ADJOURNMENT**



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

Chairman Carroll called the meeting to order at 5:02 p.m. A roll call was taken and Board members present were Jake Wolf, Buz Reynolds, Matt Gennett, Jennie Fancher and Chris Evans. Dave Dantas arrived late. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager Scott Wright, Director of Economic Initiatives Susan Fairweather, Planning Manager Matt Pielsticker, Executive Assistant Preston Neill and Town Clerk Debbie Hoppe as well as members from the public.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT

4. PUBLIC HEARING SPECIAL EVENTS PERMIT

- 4.1. Applicant Name: Walking Mountains Science Center
- Event Name: Birds of Prey – Après Avon Kickoff
- Event Dates: December 5, 2014; 3:00 p.m. until 8:00 p.m.
- Location: Avon Pedestrian Mall
- Event Manager: Michael Welle

The application was presented with no concerns for the Special Event application. Chairman Carroll opened the Public Hearing; no comments were made. Board member Evans moved to approve the Special Event Permit for Walking Mountains Science Center for the Birds of Prey – Après Avon Kickoff event; and Board member Gennett seconded the motion and it passed unanimously with those present. Board member Dantas abstained due to late arrival.

5. RENEWAL OF LIQUOR LICENSES

- 5.1. Applicant: Blackstar, LLC d/b/a FOOD! by Marc
- Location: 137 Benchmark Road Suite 4W
- Type: Hotel and Restaurant
- Manager: Marc Rouse

The application was presented with no concerns for the renewal application. Board member Wolf moved to approve the Hotel and Restaurant Liquor License for Blackstar, LLC d/b/a FOOD! by Marc; and Board member Evans seconded the motion and it passed unanimously with those present.

6. MINUTES FROM OCTOBER 28, 2014

Board member Evans moved to approve the Minutes from October 28, 2014; Board member Reynolds seconded the motion and it passed unanimously with those present.

7. Adjournment

There being no further business to come before the Board, the meeting adjourned at 5:10 pm.



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Rich Carroll

Dave Dantas

Chris Evans

Jennie Fancher

Albert "Buz" Reynolds

Jake Wolf

Matt Gennett

TOWN OF AVON, COLORADO
MINUTES FOR THE URBAN RENEWAL AUTHORITY MEETING FOR NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

Chairman Carroll called the meeting to order at 5:12 PM. A roll call was taken and Authority members present were Chris Evans, Jennie Fancher, Buz Reynolds, Matt Gennett, Jake Wolf and Dave Dantas. Also present were Executive Director/Secretary Virginia Egger, Town Attorney Eric Heil, Authority Clerk Debbie Hoppe, Treasurer Scott Wright and Assistant to Town Manager Preston Neill, as well as members of the public.

2. APPROVAL OF AGENDA

Chairman Carroll asked to remove the title of *Consent Agenda* and change it to 4.1. a *Public Hearing for URA Resolution No. 14-02, Resolution to Amend the 2014 Avon Urban Renewal Authority Budget* and add 4.2., a *Public Hearing for URA Resolution No. 14-03, Resolution to Adopt the 2015 Avon urban Renewal Authority Budget*. He further added the approval of the minutes from October 14th URA meeting. Board agreed to add items.

3. PUBLIC COMMENT

There were no public comments made at this time.

4. CONSENT AGENDA

4.1. URA RESOLUTION NO. 14-02, RESOLUTION TO AMEND THE 2014 AVON URBAN RENEWAL AUTHORITY BUDGET (Treasurer Scott Wright)

Chairman Carroll opened the Public Hearing; no comments were made. Board member Wolf moved to approve URA Resolution No. 14-02, Resolution to Amend the 2014 Avon Urban Renewal Authority Budget; Board member Evans seconded the motion and it passes unanimously by those present.

4.2. URA RESOLUTION NO. 14-03, RESOLUTION TO ADOPT THE 2015 AVON URBAN RENEWAL AUTHORITY BUDGET (Treasurer Scott Wright)

Chairman Carroll opened the Public Hearing; no comments were made. Vice Chairman Fancher moved to approve URA Resolution No. 14-03, Resolution to Adopt the 2015 Avon urban Renewal Authority Budget; Board member Wolf seconded the motion and it passes unanimously by those present.

5. MINUTES FROM OCTOBER 14, 2014 URA MEETING (TOWN CLERK DEBBIE HOPPE)

Board member Evans moved to approve the Minutes from October 14, 2014; Board member Wolf seconded the motion and it passed unanimously by those present.

TOWN OF AVON, COLORADO
MINUTES FOR THE URBAN RENEWAL AUTHORITY MEETING FOR NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

5. ADJOURNMENT

There being no further business to come before the Authority, the meeting adjourned at 5:25 PM.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Authority Clerk

APPROVED:

Rich Carroll _____
Dave Dantas _____
Chris Evans _____
Jennie Fancher _____
Matt Gennett _____
Albert "Buz" Reynolds _____
Jake Wolf _____



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Carroll called the meeting to order at 5:25 pm. A roll call was taken and Council members present were Dave Dantas, Chris Evans, Jennie Fancher, Matt Gennett, Buz Reynolds, and Jake Wolf. Also present were Town Manager Virginia Egger, Assistant Town Manager Scott Wright, Town Attorney Eric Heil, Director of Economic Initiatives Susan Fairweather, Planning Manager Matt Pielsticker, Assistant to the Town Manager Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

Mayor Carroll asked to add the potential approval of the Town Attorney and Town Manager contract. Council agreed to add the items.

3. PUBLIC COMMENT

3.1. SAVED BY THE BELT PRESENTATION (POLICE CHIEF BOB TICER)

4. ACTION ITEMS

4.1. RENEWAL/APPROVAL OF EAGLE COUNTY ANIMAL CONTROL IGA (POLICE CHIEF BOB TICER)

Councilor Dantas moved to approve Eagle County Animal Control IGA; Councilor Reynolds seconded the motion and it passed unanimously by those present.

4.2 APPROVAL OF GRAND OPENING OF POSSIBILITY PLAZA, THE MAIN STREET MALL & APRÈS AVON INAUGURAL EVENT (DIRECTOR OF ECONOMIC INITIATIVES SUSAN FAIRWEATHER)

Comments were made by Michael Welle.

Mayor Pro Tem Fancher moved to approve the Grand Opening of Possibility Plaza, The Main Street Mall & Après Avon Inaugural Event, including its concept, production budget and talent proposal; Councilor Wolf seconded the motion and it passed unanimously by those present.

4.3. **PUBLIC HEARING** SECOND READING OF ORDINANCE 14 –19 AMENDING AVON MUNICIPAL CODE TITLE 6:

ANIMALS TO ALLOW FOR DOGS TO BE PERMITTED OFF-LEASH AT ALL TIMES, UNDER VOICE CONTROL, WITH OWNERS REQUIRED TO CARRY LEASHES IN THE WEST AVON PRESERVE (PLANNING MANAGER MATT PIELSTICKER)

Mayor Carroll opened the Public Hearing; no comments were made. Mayor Pro Tem Fancher moved to approve Second Reading of Ordinance 14-19, Amending Avon Municipal Code Title 6: Animals to allow for dogs to be permitted off-leash at all times, under voice control, with owners required to carry leashes in the West Avon Preserve; Councilor Wolf seconded the motion and it passed unanimously by those present.

4.4. ACTION ON A REVOCABLE ENCROACHMENT LICENSE AGREEMENT WITH HOFFMANN COMMERCIAL PROPERTIES FOR THE CONSTRUCTION AND ON-GOING MAINTENANCE OF A MONUMENT SIGN LOCATED ON LOT 65-A, BLOCK 2, BENCHMARK AT BEAVER CREEK (PLANNING MANAGER MATT PIELSTICKER)

Councilor Evans moved to approve a Revocable Encroachment License Agreement with Hoffmann



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

Commercial Properties for the Construction and On-Going Maintenance of a Monument Sign located on Lot 65-A, Block 2, Benchmark at Beaver Creek; Councilor Dantas seconded the motion and it passed unanimously by those present.

4.5. PUBLIC HEARING SECOND READING OF ORDINANCE 14-18 APPROVING ACQUISITION OF TRACT S, BLOCK 3, WILDRIDGE FOR HIKING AND BIKE TRAIL (TOWN ATTORNEY ERIC HEIL)

Mayor Carroll opened the Public Hearing; no comments were made. Councilor Reynolds moved to approve Second Reading of Ordinance 14-18, Approving Acquisition of Tract S, Block 3, Wildridge for Hiking and Bike Trail; Councilor Wolf seconded the motion and it passed unanimously by those present.

4.6. PUBLIC HEARINGS – 2014 AND 2015 FINAL BUDGETS

**4.6.1. RESOLUTION NO. 14-27, RESOLUTION TO AMEND THE 2014 TOWN OF AVON BUDGET
(ASSISTANT TOWN MANAGER SCOTT WRIGHT)**

Mayor Carroll opened the Public Hearing; no comments were made. Councilor Wolf moved to approve Resolution No. 14-27, a Resolution to Amend the 2014 Town of Avon Budget; Councilor Dantas seconded the motion and it passed unanimously by those present.

4.6.2 RESOLUTION NO. 14-28, RESOLUTION TO AMEND THE 2014 TOWN OF AVON CAPITAL PROJECTS FUND BUDGET (ASSISTANT TOWN MANAGER SCOTT WRIGHT)

Mayor Carroll opened the Public Hearing; no comments were made. Mayor Pro Tem Fancher moved to approve Resolution No. 14-28, a Resolution to Amend the 2014 Town of Avon Capital Projects Fund Budget; Councilor Evans seconded the motion and it passed unanimously by those present.

**4.6.3. RESOLUTION NO. 14-29, RESOLUTION TO ADOPT THE 2015 TOWN OF AVON BUDGET
(ASSISTANT TOWN MANAGER SCOTT WRIGHT)**

Mayor Carroll opened the Public Hearing; no comments were made. Councilor Evans moved to approve Resolution No. 14-29, a Resolution to Adopt the 2015 Town of Avon Budget; Councilor Wolf seconded the motion and it passed unanimously by those present.

**4.6.4. RESOLUTION NO. 14-30, RESOLUTION TO ADOPT THE TOWN OF AVON LONG-RANGE CAPITAL PROGRAM AND SIMULTANEOUSLY ADOPT THE 2015 CAPITAL PROJECTS FUND BUDGET
(ASSISTANT TOWN MANAGER SCOTT WRIGHT)**

Mayor Carroll opened the Public Hearing; no comments were made. Councilor Wolf moved to approve Resolution No. 14-30, a Resolution to Adopt the Town of Avon long-range Capital Program and simultaneously adopt the 2015 Capital Projects Fund Budget; Councilor Gennett seconded the motion and it passed unanimously by those present.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

4.7. RESOLUTION NO. 14-19, RESOLUTION APPROVING THE EXPENDITURE OF COMMUNITY ENHANCEMENT FUNDS FROM HOLY CROSS ENERGY (ASSISTANT TOWN MANAGER SCOTT WRIGHT)

Councilor Dantas moved to approve Resolution No. 14-19, a Resolution Approving the Expenditure of Community Enhancement Funds from Holy Cross Energy; Councilor Wolf seconded the motion and it passed unanimously by those present.

4.8. MINUTES FROM OCTOBER 28, 2014 MEETING (TOWN CLERK DEBBIE HOPPE)

Mayor Pro Tem Fancher moved to approve the Minutes from October 28, 2014; Councilor Evans seconded the motion and it passed unanimously by those present.

5. WORK SESSION

5.1. FINAL REVIEW OF SKIER BUILDING INTERIOR FINISH PROCESS (MAYOR RICH CARROLL)

6. WRITTEN REPORTS

6.1. 2014 END OF YEAR FORFEITURE REPORT – REPORT ONLY (POLICE CHIEF BOB TICER)

7. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

8. COUNCIL COMMENTS

Councilor Evans expressed thanks for the defibrillator class.

9. MAYOR REPORT AND FUTURE AGENDA ITEMS

10. EXECUTIVE SESSION, IF CALLED (THIS MEETING IS NOT OPEN TO THE PUBLIC)

10.1. Meet Pursuant to Colorado Revised Statute §24-6-402(4) (f) for the Purpose of Discussing Personnel Matters related to the annual performance review of the Town Attorney & Town Manager.

Mayor Pro Tem Fancher moved to meet in Executive Session pursuant to Colorado Revised Statute §24-6-402(4) (f) for the purpose of discussing personnel matters related to the annual performance review of the Town Attorney & Town Manager; Councilor Evans seconded the motion and it passed unanimously.

The time was 6:35 pm.

Councilor Jake Wolf made a motion to end the Executive Session, seconded by Buz Reynolds. A roll call vote was taken and it was approved unanimously.

Executive Session ended at 9:03 pm and Council reconvened into Regular Session.

Council reconvened into regular session at 9:03 p.m.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY NOVEMBER 11, 2014
AVON TOWN HALL, ONE LAKE STREET

Mayor Rich Carroll made a motion to increase the Town Attorney’s hourly rate to \$190.00 per hour and to sign the Town Attorney’s performance review, Councilor Matt Gennett seconded the motion and on a roll call vote it was approved unanimously.

Mayor Rich Carroll made a motion to approve a Third Amendment to the Town Manager Employment Agreement with Virginia Egger, to increase the base pay by 6%, Councilor Chris Evans seconded the motion and on a roll call vote it passed with Jennie Fancher, Buz Reynolds, Chris Evans and Dave Dantas voting yes, and Rich Carroll, Matt Gennett and Jake Wolf voting no.

Mayor Rich Carroll made a motion that the current Mayor (Rich Carroll) is authorized to sign the Town Manager’s performance review, and that the new Council will set goals for the Town Manager, Councilor Matt Gennett seconded the motion and on a roll call vote it was approved unanimously.

11. ADJOURNMENT

There being no further business to come before the Council, the regular meeting adjourned at 9:05 pm.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Rich Carroll _____
Dave Dantas _____
Chris Evans _____
Jennie Fancher _____
Albert “Buz” Reynolds _____
Jake Wolf _____
Matt Gennett _____



TOWN COUNCIL REPORT

To: Honorable Avon Town Council
From: Debbie Hoppe, Town Clerk
Date: November 18, 2014
Agenda Topic: Proclamations Honoring the Service of Mayor Rich Carroll, Councilor Dave Dantas and Councilor Chris Evans

Proclamations will be presented at the meeting.



TOWN COUNCIL REPORT

To: Honorable Avon Town Council
From: Debbie Hoppe, Town Clerk
Date: November 18, 2014
Agenda Topic: Appointment of Mayor and Mayor Pro Tem

SUMMARY:

This memorandum describes the process for appointing the Mayor and Mayor Pro-Tem positions. In November 2012, during the process to nominate and elect a Mayor and Mayor Pro-Tem, Town Attorney Eric Heil explained that either verbal votes or secret ballots were legal means of conducting the appointment process. He further explained that the most common process in recent years has been public voting.

The 2012 Council agreed that public voting would be most favorable. Nominations were taken for the position of Mayor, including the opportunity for self-nomination. Each candidate then spoke about his interest in being Mayor. After these remarks were concluded, time was given for a question and answer session for each of the nominees by the entire Council, including the nominees asking questions of each other. The members then voted on a paper ballot provided by the Town Clerk, which indicated the name of the person voting and his/her vote. The ballots were collected and read out loud by the Clerk, announcing the name of the person voting and his/her selection. The same process was utilized for the appointment of the Mayor Pro-Tem position.

MAYOR AND MAYOR PRO-TEM:

The *Avon Home Rule Charter* sets forth the election of the Mayor and Mayor Pro-Tem and duties as follows:

Section 4.3 Election of Mayor and Mayor Pro-Tem - The Mayor and Mayor Pro-Tem shall be elected from amongst the duly elected Council members by the concurring vote of four (4) Council members at its first organizational meeting held after final certification of the election results after each regular municipal election or as soon as practical after a vacancy of the position of Mayor or Mayor Pro-Tem occurs. Any vacancy of the position of Mayor or Mayor Pro-Tem shall be filled in accordance with the procedures in this Section. (Ord. 11-13 §3)

Section 4.4 Mayor and Mayor Pro-Tem - Powers and Duties - The Mayor shall preside at meetings of Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon him by this Charter or the ordinances of the Town. The Mayor shall have the power to vote on all matters in accordance with procedures adopted by Council by motion or resolution. The Mayor shall be recognized as the head of the Town government for all ceremonial, dignitary and legal purposes and he shall execute and authenticate legal instruments requiring his signing as such official. In the absence or disability of the Mayor, the Mayor Pro-Tem shall preside at meetings of Council and shall have all powers and duties of the Mayor. (Ord. 11-13 §3) C-9

Section 4.5 Acting Mayor - In the absence or disability of the Mayor and Mayor Pro-Tem, the Council may appoint by motion a Council member to serve as the Acting Mayor at such meeting who shall preside at the meeting and shall have all powers and duties of the Mayor as regards final actions taken by Council at such meeting.



TOWN COUNCIL REPORT

To: Honorable Avon Town Council
From: Virginia C. Egger, Town Manager
Date: November 18, 2014
Agenda Topic: Update on Referendum Status and Potential Actions

Town Clerk Debbie Hoppe received a referendum petition with 233 signatures on Wednesday, November 12, 2014, at 3:25 pm. The referendum petition was delivered by proponent David Strandjord and citizen Peter Buckley. The deadline for submittal of the referendum was November 13, 2014, 5:00 pm.

The referendum included this summary to those considering signature:

On October 14, 2014, the Avon Town Council approved Ordinance No. 14-17 which authorized the use of certificate of participation financing for the acquisition and interior finishing of Lot 4, Mountain Vista Resort Subdivision, Avon, Colorado (aka "Skier Building") for a Town Hall facility. This petition for referendum would require the Avon Town Council to either repeal Ordinance No. 14-17 or refer Ordinance No. 14-17 to a special municipal election for consideration by the Avon electorate.

Debbie has ten (10) days to review and validate the signatures, and she is in that process, expecting to finish the review by Monday, November 17th or at the latest November 21st.

If the petition is found to have an insufficient number of signatures, Council will be updated by Town Attorney Eric Heil on the next steps which will be taken to issue certificates of participation for the acquisition and interior finishing of the Skier Building as well as final closing of the purchase.

If the petition is found to have a sufficient number of signatures:

- Council will be required to either rescind Ordinance No. 14-17 or set a date for a voter election.
- In addition, Council will be asked to consider a resolution which will provide the Eaglebend Dowd Affordable Housing Corporation the approval required, from the Town of Avon, for completing a refunding of its revenue bonds for the Kayak Crossing Multi-Family Housing Project in this 2014 fiscal year. This approval will be recommended so that sufficient Bank Qualified* tax exempt monies are available to the Town in 2015 for both the road certificates of participation (\$3,800,000) and, if approved, the Skier Building certificates of participation (\$5,700,000).
- Staff will immediately provide you the needed actions and resolutions should the petition be found sufficient, including the possibility that two actions listed above are ready for the November 11th meeting.

* Each year, the Town qualifies for up to \$10,000,000 of tax-exempt obligations, which are referred to as "Bank Qualified" or BQ issues. The Kayak refunding would be included in this annual qualified amount. At this time, the Kayak refunding has been approved for a 2015 issue and the Town's combined issues of Skier Building and roads (\$9,500,000) are scheduled for closing this year. Should the petition have sufficient signatures, the Town will switch fiscal years with the Kayak refunding.

TO: Honorable Mayor Carroll and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Referendum on Ordinance No. 14-17
DATE: November 17, 2014

Summary: This memorandum provides an overview of the Town Council's legal obligations and obligations related to the petition for referendum submitted for Ordinance No. 14-17.

Referendum Procedure: The Colorado constitution provides a citizens right of referendum for municipalities which is set forth in Colorado Revised Statutes §31-11-101. Home Rule municipalities may supplement or modify the statutory process. Avon's Home Rule Charter sets forth referendum rights and procedures in **Chapter VII Initiative and Referendum** which is reprinted below your convenience. Generally, statutory and constitutional law applies where the Town's home rule charter and ordinances do not define or set forth a specific procedure or requirement.

Section 7.2(b) states that a petition for referendum on an ordinance signed by at least 10% of the total voters at the last general municipal election may be submitted within 30 days after final passage of an ordinance. The petition proponents did prepare a form of a petition for the Town Clerk's review prior to circulating in the petitions for signatures in accordance with the statutory requirements.

Petition packets were submitted on November 12, 2014 (one day before the November 13, 2014 deadline) and contained approximately 230 total signatures. The Town Clerk reviewed the petition signatures several times and utilized the resources and experience of the County Clerk and Recorder and myself as the Town attorney. There were a variety of issues presented when reviewing signatures. In general, Colorado case law holds that "substantial compliance" is required for valid signatures and recognizes the important citizens right of referendum is a fundamental right analogous to the right to vote and also recognizes the importance of avoiding voter fraud and validating that registered voters are in fact signing the petition. With these guiding principles, certain minor discrepancies like printing a name in the signature box or using a short name rather than full name (e.g. "Tim" rather than "Timothy") was found to be in substantial compliance, while discrepancies like a failure to include a signature, a signature that appeared different than the signature on file, an address that did not match the voter registration address and the use of a ditto mark for an address rather than writing address, were found to not meet the statutory requirements for a valid petition signature. Also, there were a number of names and signatures which could not be found in the voter registration rolls and verified as a registered voter.

The Town Clerk has approved a Certificate of Sufficiency finding that the total number of valid signatures to be 180.

Required Signatures: The required number of valid signatures is 10% of the voters in the last general municipal election. At the time that Ordinance No. 14-17 was adopted on final reading and at the time that form of the petition for a referendum was submitted to the Town, the last general municipal election was November 6, 2012. The total number of votes cast in the November 6, 2012 election was approximately 1960, therefore, the required number of signatures was 196. By the time that the petition was submitted to the Town the last general municipal election was November 4, 2014. The total number of votes cast in

Avon were 1505, therefore, the required number of valid signatures is 150. In accordance with the Town Clerk's Certificate of Sufficiency the petition has the required number of signatures for a referendum.

Council Options: Pursuant to Section 7.2(b) of the Avon Home Rule Charter, the Council must reconsider the ordinance and has the option of (1) repealing Ordinance No. 14-17 or (2) referring Ordinance No. 14-17 to an election. Council's actions are by a simple majority vote of the quorum present.

Referral to Special Election: The statutory process sets forth that a special election may not be called sooner than 60 days and not more than 150 days from the date of the resolution. Tuesday, January 20, 2015, is proposed for the date of the special election.

Citizen's Right to Protest Petition: The statutory referendum process has a Citizen's right to protest a referendum petition for 40 days after the finding of sufficiency. The Council may wait until the 40 day period expires or may simply refer the question of a referendum on Ordinance No. 14-17 to a special election under Section 7.2(c) of the Avon Home Rule Charter. Great attention was given to the form of the petition for referendum and to review of the signatures; therefore, I do not believe there is any public benefit to the 40 citizen's right to protest the petition. Resolution No. 14-35 is presented as referring the referendum question to a special election without waiting 40 days for the citizen's right to protest the petition to expire.

Mail Ballot Election: The Town has the option to designating the election as a mail ballot election rather than a polling place election. Mail ballot elections are generally considered to be easier to administer (especially on election day) and generally result in a higher number of voters.

Fair Campaign Practices Act: Once a ballot issues is referred to an election, the Town may not spend more than \$50 advocating for or against the passage of the ballot issue. The Town may provide a factual statement to the public provided that the factual statement is objective and does not advocate for or against the ballot issue.

Impact on Purchase and Sale Agreement: The Purchase and Sale Agreement for the Skier Building contemplated the possibility of a citizen's petition for referendum. The current Closing Date is scheduled for February 12, 2015 or sooner if possible. A special election date of January 20, 2015 would allow for completion of the bond printing and marketing process and closing on or before February 12, 2015. Points of the Colorado, as the Seller, has indicated that it will agree to a Closing date extension until the end of March, 2015 to allow for any other unforeseen contingencies or circumstances that may cause additional delay to the closing.

Impact on Kayak Crossing Bond Re-Financing: Council previously approved Resolution No. 14-26 to coordinate a 2014 Town of Avon bond closing for the streets bonds and Skier Building bonds with a 2015 bond closing on the Eaglebend housing project. Due to the timing of a referendum special election and closing on the Skier Building after the special election, Eaglebend is proceeding to close on its bond refinancing in 2014 and the Town will plan its bond financing closings for 2015. Please see the memorandum and replacement resolution provided by Dee Wisor.

Thank you, Eric

[AVON CHARTER CHAPTER VII REPRINTED]

CHAPTER VII

INITIATIVE AND REFERENDUM

Section 7.1 Initiative.

(a) Any proposed ordinance, except an ordinance pertaining to the Town budget, setting of rates, fees, and charges for any purposes, appropriation of funds, levy of taxes, salaries and tenure of Town officials or employees, zoning or rezoning of property and acquisition or disposition of municipal properties, may be submitted to the Council by petition signed by qualified electors of the Town equal in number to the percentage hereinafter required.

(b) An initiative petition accompanying the proposed ordinance signed by qualified electors of the Town equal in number to 15 per cent of the total vote cast in the last general municipal election, shall be filed with the Town Clerk at least sixty days prior to any general or special municipal election, and shall contain a request that said proposed ordinance be submitted to a vote of the people if not passed by the Council. The Council shall within thirty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition either (a) pass said ordinance without alteration, or (b) call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, said proposed ordinance shall be submitted without alteration to the vote of the qualified electors of the Town.

(c) An initiated ordinance shall be published in like manner as other proposed ordinances. The ballot upon which such proposed ordinance is submitted shall state briefly the nature and it shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." If a majority of the qualified electors voting thereon shall vote in favor thereof, the same shall thereupon without further publication become an ordinance of the Town.

(d) The provisions of this Section shall in no way affect nor preclude the procedures for recall of any elected official or officer in this Charter.

Section 7.2 Referendum.

(a) The referendum shall apply to all ordinances passed by the Council, except ordinances relating to or levying municipal taxes, Town budget, appropriation of funds, calling a special election, authorizing the issuance of local improvement district bonds payable primarily from special assessments, levying special assessments, emergency ordinances, ordinances to meet contractual obligations of the Town salaries and tenure of Town officials or employees, acquisition or disposition of municipal properties.

(b) If, at any time within thirty days after the final passage of an ordinance to which the referendum is applicable, a petition signed by qualified electors equal in amount to at least ten per cent of the total vote cast in the last general municipal election be presented to the Council protesting against the going into effect of any ordinance, the same shall thereupon be suspended and the Council shall reconsider such ordinances; and if the same be not entirely repealed shall submit the same to a vote of the qualified electors of the Town in a manner as provided in respect to the initiative at the next regular municipal election, or at a special election called therefor. If a majority of the qualified electors vote in favor of such ordinance, it shall go into effect without further publication.

(c) The Council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this Charter provided.

(d) If provisions of two or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

Section 7.3 Certificate of Clerk, Amendment of Petition.

Within ten days from the filing of any initiative or referendum petition, the Town Clerk shall ascertain whether the petition is signed by the requisite number of qualified electors, and if sufficient shall attach thereto a certificate of sufficiency showing the result of such examination. If the petition is insufficient, the

Clerk shall forthwith in writing notify one or more of the persons designated as filing the same on the petition. The petition may then be amended within ten days from the filing of the certificate. The Town Clerk, within five working days after such amendment, shall make the examination of the amended petition and attach thereto a certificate of the result. If still insufficient, the Clerk shall return the petition to one of the persons designated thereon at filing it, without prejudice to the filing of a new petition for the same purposes, but such petition shall not be refiled within one year after return by the Clerk.

Section 7.4 Prohibition of Amendment or Re-enactment.

An ordinance adopted by the electorate may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six (6) months after the date of the election at which it was repealed provided however, that ordinances may be adopted, amended, or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the Council on its own motion.

Section 7.5 Implementation

The Council may adopt such additional rules and regulations as are deemed necessary to implement this Chapter.

**RESOLUTION NO. 14-34
SERIES OF 2014**

A RESOLUTION REPEALING ORDINANCE NO. 14-17

WHEREAS, the Avon Town Council adopted Ordinance No. 14-17 AN ORDINANCE AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE AND IMPROVEMENT LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2014A; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO on second and final reading on October 14, 2014; and

WHEREAS, Section 7.2 of the Avon Home Rule Charter sets forth the citizens rights of referendum in the Town of Avon; and

WHEREAS, a petition for referendum (“Petition”) protesting the adoption of Ordinance No. 14-17 was submitted on November 12, 2014 and the Avon Town Clerk determined that the Petition has a sufficient amount of valid signatures and referred Ordinance No. 14-17 to the Avon Town Council for reconsideration; and

WHEREAS, the Avon Town Council reconsidered Ordinance No. 14-17 at a special meeting held on November 18, 2014, and determined to repeal Ordinance No. 14-17; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO that Ordinance No. 14-17 is hereby entirely repealed in accordance with Section 7.2(b) of the Avon Home Rule Charter.

RESOLUTION INTRODUCED, READ, APPROVED AND ADOPTED ON NOVEMBER 18, 2014.

By: _____
Rich Carroll, Mayor

Attest: _____
Debbie Hoppe

**RESOLUTION NO. 14-35
SERIES OF 2014**

A RESOLUTION REFERRING ORDINANCE NO. 14-17 TO A SPECIAL ELECTION

WHEREAS, the Avon Town Council adopted Ordinance No. 14-17 AN ORDINANCE AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE AND IMPROVEMENT LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2014A; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO on second and final reading on October 14, 2014; and

WHEREAS, Section 7.2 of the Avon Home Rule Charter sets forth the citizens rights of referendum in the Town of Avon; and

WHEREAS, a petition for referendum (“Petition”) protesting the adoption of Ordinance No. 14-17 was submitted on November 12, 2014 and the Avon Town Clerk determined that the Petition has a sufficient amount of valid signatures and referred Ordinance No. 14-17 to the Avon Town Council for reconsideration; and

WHEREAS, the Avon Town Council reconsidered Ordinance No. 14-17 at a special meeting held on November 18, 2014, and determined not to repeal Ordinance No. 14-17 and is thereby required to refer Ordinance No. 14-17 to an election in accordance with Section 7.2(b); and

WHEREAS, the Avon Town Council has the right to refer any ordinance or question on its own motion to a special election; and

WHEREAS, the Avon Town Council has the right to determine the title and ballot question; and

WHEREAS, Colorado Revised Statute §1-7.5-104 authorizes the governing board of a political subdivision other than a county to determine to conduct an election as a mail ballot election.

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

Section 1. Special Election, Title and Ballot Question. A special election is hereby called to be held on Tuesday, January 20, 2015 for consideration of the following ballot question:

Referendum on Ordinance No. 14-17

Shall Ordinance No. 14-17 be approved and thereby authorize the Town of Avon to utilize certificate of participation financing to acquire the Skier Building and complete interior finishing?

YES _____

NO _____

Section 2. Mail Ballot Election. Special election on January 20, 2014 shall be conducted as a mail ballot election subject to rules promulgated in accordance with Article 4 of Title 24 of the Colorado Revised Statutes.

Section 3. Town Clerk. The Town Clerk is authorized and directed to take all actions as necessary and appropriate to conduct a mail ballot election on January 20, 2015, in accordance with the law.

RESOLUTION INTRODUCED, READ, APPROVED AND ADOPTED ON NOVEMBER 18, 2014.

By: _____
Rich Carroll, Mayor

Attest: _____
Debbie Hoppe



Town Council Report

To: Honorable Avon Town Council
From: Virginia C. Egger, Town Manager
Date: November 13, 2014
Agenda Topic: Resolution 14 –31- Kayak Crossing Bond Refinance

REQUESTED ACTION

Eaglebend Dowd Affordable Housing Corporation will seek Council's approval at Tuesday's meeting to change the previously authorized date, by Town Council, for the refunding of revenue bonds in 2015 for the Kayak Crossing Multi-Family Housing Project to a closing yet this year in 2014. The refunding takes advantage of lower tax exempt interest rates which remain in the market today, and, therefore, is a beneficial outcome for the affordable housing project.

With the submittal and validation of signatures for a referendum on the use of Certificates of Participation (COP) for paying for the Skier Building/New Town Hall, the closing of that debt for Skier Building cannot go forward this fiscal year as previously planned.

BACKGROUND

Each year, the Town qualifies for up to \$10,000,000 of tax-exempt obligations, which are referred to as "Bank Qualified" or BQ issues. Town approval is required for the Kayak refunding, and prior to pursuing the refunding, Gerry Flynn, on behalf of the Housing Corporation, inquired about using this tax-exempt financing in 2014. Because of Avon's new debt issues being considered in October of this year, for roads (\$3,800,000) and the Skier Building (\$5,700,000), and a recent small issue for a snowplow (\$170,246) in 2014, BQ tax exempt money was not available for the Kayak Crossing project in 2014. Council, therefore, upon review of the Town's needs for BQ financing in 2015, concluded that no new issues were anticipated and the Kayak refunding could be approved for closing in 2015. Council approved Resolution No. 14-26, on October 14, 2014 for a 2015 closing.

BQ USES IN 2014 & 2015

The scenario described above in October of 2014 has changed with the filing of the Skier Building/New Town Hall COP referendum.

The Town staff has worked with Eaglebend Dowd Affordable Housing Corporation and has found that the Kayak debt issue can proceed in 2014 and the Town's approved COPs for the roads can close in early January. Should the Skier Building referendum pass as written allowing the Town to use COPs for the purchase, those bonds will close as soon as possible after the vote in early 2015.

The BQ issues are summarized on the next page.

FISCAL YEAR 2014	
Total BQ Available in 2014	\$10,000,000
Minus BQ Approved Snowplow	\$170,246
Balance Available	\$9,829,754
Kayak Issue	\$8,850,000
2014 Balance, for other uses, if any	\$979,754

FISCAL YEAR 2015	
Total BQ Available in 2014	\$10,000,000
COPs Roads (no citizen referendum filed) January 2015 closing	\$3,800,000
Balance Available	\$6,200,000
COPs Skier Building if referendum approved Early 2015 closing	\$5,700,000
2015 Balance, for other uses, if any	\$500,000

Motion

Should Council wish to approve the refunding request, the motion would be:

I move to approve Resolution 14-xx, Series, 2014, A Resolution Approving the Issuance By Eaglebend Dowd Affordable Housing Corporation of Multifamily Housing Project Refunding Revenue Bonds, Series 2014a, in an Aggregate Principal Amount not to exceed \$8,850,000; Approving the Form of a Third Amended and Restated Trust Indenture; and Authorizing Incidental Action

MEMORANDUM

To: Virginal Egger – Town Manager
Scott Wright, Assistant Town Manager – Finance
Eric Heil – Town Attorney
Town Council
Town of Avon, Colorado

From: Dee Wisor

Date: November 13, 2014

Re: Refinancing of Kayak Crossing Project

In 1998, EagleBend Dowd Affordable Housing Corporation (the “Corporation”) issued its Multifamily Housing Project Revenue Bonds, Series 1998 (the “1998 Bonds”) in order to finance the multifamily rental project known as Kayak Crossing (the “Project”). The 1998 Bonds were issued pursuant to a Trust Indenture dated as of July 1, 1998 (the “1998 Indenture”). The 1998 Bonds were refunded in October 2003 when the Corporation issued its Multifamily Housing Project Refunding Revenue Bonds, Series 2003A in the aggregate principal amount of \$9,520,000 (the “2003A Bonds”). The 2003A Bonds were issued pursuant to an Amended and Restated Trust Indenture dated as of October 1, 2003. The 2003A Bonds were refunded in August 2013 when the Corporation issued its Multifamily Housing Project Refunding Revenue Bonds, Series 2013A-1 (Taxable) and Series 2013A-2 (Tax-Exempt) (collectively, the “2013A Bonds”) in the aggregate principal amount of \$8,450,000. The 2013A Bonds were issued pursuant to a Second Amended and Restated Trust Indenture dated as of August 1, 2013 (the “2013 Indenture”). Each series of bonds was approved by the Town for purposes of qualifying the bonds (other than the Series 2013A-1) as tax-exempt obligations.

The Corporation now desires to refinance the Project by issuing \$8,850,000 (maximum principal amount) of its Multifamily Housing Project Refunding Revenue Bonds, Series 2014A (the “Series 2014A Bonds”). The Series 2014A Bonds will be issued pursuant to a Third Amended and Restated Trust Indenture (the “2014 Indenture”). The proceeds of the Series 2014A Bonds will be applied to (i) the current refunding of the Series 2013A-2 Bonds, (ii) the payment of accrued and unpaid interest on the Series 1998B Subordinate Bonds and the Series 1998C Subordinate Bonds, and (iii) the payment of the costs of issuance of the Series 2014A Bonds. In order for interest on the Series 2014A Bonds to be tax-exempt, the 2014 Indenture must be approved by the Town prior to the refunding.

The 2014A Bonds will be sold to FirstBank. The Series 2014A Bonds will (a) be in the aggregate principal amount of not more than \$8,850,000, (b) mature no later than December 1, 2024, and (c) bear interest at a per annum interest rate not to exceed 3.70%. The resolution

Virginal Egger – Town Manager
Scott Wright, Assistant Town Manager – Finance
Eric Heil – Town Attorney
Town Council
Town of Avon, Colorado
November 13, 2014
Page 2

presented to the Town Council for consideration on October 14, 2014, approves the issuance of the 2014A Bonds by the Corporation and designates the 2014A Bonds as “qualified tax-exempt obligations”. “Qualified tax-exempt obligations” (sometimes referred to as “bank-qualified obligations”) are a special category of tax-exempt bonds which provide tax advantages to banks which purchase such obligations which usually results in a lower rate of interest. “Qualified tax-exempt obligations” may only be issued by small issuers. The Town qualifies as a small issuer if it issues less than \$10,000,000 of tax-exempt obligations (excluding most private activity bonds) in a calendar year. Included in the \$10,000,000 limit are obligations (including bonds, loan agreements, and lease purchase agreements) of the Town, the affordable housing corporations which issue bonds on behalf of the Town and entities which are subordinate to the Town, like the urban renewal authority or a general improvement district. In the resolution, the Town is designating the 2014A Bonds as “qualified tax-exempt obligations” and representing that it does not expect that more than \$10,000,000 in tax-exempt obligations will be issued by the Town and its subordinate entities in 2014.

The Council previously adopted Resolution No. 14-26 which assumed that the bonds would be issued in 2015. Since the Town now will issue tax-exempt obligations in 2015 rather than 2014, it is necessary to repeal Resolution No. 14-26 to be replaced with Resolution No. 14-31 to provide for the issuance of the 2014A Bonds..

\$8,850,000
EAGLEBEND DOWD AFFORDABLE HOUSING CORPORATION
MULTIFAMILY HOUSING PROJECT REFUNDING REVENUE BONDS
SERIES 2014A (TAX-EXEMPT)

TOWN OF AVON, COLORADO
GENERAL AND NO-LITIGATION CERTIFICATE

This General and No-Litigation Certificate is delivered by the Town of Avon, Colorado (the “**Town**”) in connection with the issuance by EagleBend Dowd Affordable Housing Corporation, a Colorado non-profit corporation (the “**Corporation**”) of its \$8,850,000 Multifamily Housing Project Refunding Revenue Bonds Series 2014A (Tax-Exempt) (the “**Bonds**”), pursuant to the terms of a Trust Indenture dated as of July 1, 1998 (“**1998 Indenture**”), as amended and supplemented by an Amended and Restated Trust Indenture dated as of October 1, 2003 (the “**2003 Indenture**”) by and between the Corporation and U.S. Bank National Association, as Trustee (the “**2003 Trustee**”), as amended and supplemented by a Second Amended and Restated Trust Indenture (the “**2013 Indenture**”), and as amended and supplemented by a Third Amended and Restated Trust Indenture dated as of November 1, 2014 (the “**2014 Indenture**” and together with the 1998 Indenture, the 2003 Indenture, and the 2013 Indenture, the “**Indenture**”) by and between the Corporation and UMB Bank, n.a., as successor to the 2003 Trustee (the “**Trustee**”). The proceeds of the Bonds will be used to refund, redeem and defease the Corporation’s outstanding \$8,318,747.48 Multifamily Housing Project Refunding Revenue Bonds, Series 2013A-2 (Tax-Exempt), the proceeds of which were used to refund, redeem and defease the Corporation’s \$9,520,000 Multifamily Housing Project Refunding Revenue Bonds, Series 2003A, previously issued by the Corporation to refund the \$9,000,000 Multifamily Housing Project Revenue Bonds, Series 1998A, the proceeds of which were used by the Corporation to partially fund the acquisition and construction of a 50-unit multifamily rental housing project (the “**Project**”) known as the Kayak Crossing Project, located in Eagle County, Colorado.

All initially-capitalized terms used in this Certificate and not otherwise defined herein shall have the meanings given such terms in the Indenture.

WE, THE UNDERSIGNED OFFICIALS OF THE TOWN, HEREBY CERTIFY THAT:

1. The Town is a political subdivision of the State of Colorado with full power and authority to carry out the transactions contemplated by the Resolution (as defined below) to be carried out by it and has taken all proceedings and obtained all approvals required in connection therewith by applicable law.

2. Attached as **Exhibit A** hereto is a true, correct and complete copy of a Resolution, as amended by oral motion of the Town Council, finally approved by the Town Council on November 18, 2014 (the “**Resolution**”), approving the issuance of the Bonds by the Corporation. Said Resolution was duly adopted by a majority of the members of the Town Council of the Town at a duly noticed regular public meeting of the Town Council, the convening of such

meeting and the adoption of such Resolution being in accordance with all requirements of law, the Home Rule Charter of the Town and procedural rules of the Town Council. Such Resolution has not been repealed, amended or modified since its adoption and is in full force and effect on the date hereof. Attached hereto as **Exhibit B** is a true, correct and complete copy of the minutes of the November 18, 2014 meeting of the Town Council.

3. In accordance with the terms of the Project Agreement dated as of July, 1998, between the Town and the Corporation, the Town has approved and consented to the amendment and modification of the 1998 Indenture, the 2003 Indenture, and the 2013 Indenture as provided in the Indenture.

4. The Town has designated the Bonds as “qualified tax-exempt obligations” pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, and represents that the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds) which will be issued by the Town during the calendar year 2014, including obligations issued by subordinate entities of the Town and by entities issuing obligations on behalf of the Town, does not exceed \$10,000,000.

5. To the best of the knowledge of the undersigned officers, there is no action, suit, proceeding or investigation at law or in equity, before or by any court or any federal, state or local governmental authority or agency, pending or, to the knowledge of the Town, threatened against the Town (a) wherein an unfavorable decision, finding or ruling would contest or adversely affect the Corporation, the Project or the existence or powers of the Town or its governing body or officials, or (b) to contest, restrain or enjoin the issuance or sale of the Bonds, or the adoption of the Resolution approving the Bonds.

6. The Corporation has no taxing power. The Corporation does not receive any support from any Town fund, and the Town expects the Corporation to continue operating as a business on a self-supporting basis and without reliance on grants or subsidies from the Town, the State of Colorado or other local governments, whether in the form of cash, services, construction, repair or maintenance of Corporation assets, or any other thing of value.

[Signature page follows.]

IN WITNESS WHEREOF, we hereunto set our respective signatures as such officials of the Town and have affixed the seal of the Town as of the _____ day of November, 2014.

TOWN OF AVON, COLORADO

By: _____
Mayor

Attest:

By: _____
Clerk

[Signature Page to Town General and No Litigation Certificate]

EXHIBIT A
SEE BOND CLOSING TRANSCRIPT DOCUMENT NO. 7

EXHIBIT B
MINUTES OF NOVEMBER 14, 2014 TOWN COUNCIL MEETING

CERTIFIED RECORD OF PROCEEDINGS
OF THE TOWN COUNCIL
OF THE TOWN OF AVON, COLORADO
APPROVING THE ISSUANCE BY
EAGLEBEND DOWD AFFORDABLE HOUSING CORPORATION OF ITS
MULTIFAMILY HOUSING PROJECT REFUNDING REVENUE BONDS,
SERIES 2014A

STATE OF COLORADO)
)
COUNTY OF EAGLE) ss.
)
TOWN OF AVON)

The Town Council of the Town of Avon, Colorado, met in special session at the Town Hall in Avon, Colorado, on Tuesday, the 18th day of November, 2014, at the hour of 5:30 p.m.

The Mayor and the following members of the Council were present:

Mayor _____
Councilor _____
Councilor _____
Councilor _____
Councilor _____
Councilor _____
Councilor _____

The following members were absent:

The following persons were also present:

Thereupon, _____ introduced the Resolution and Councilor _____ moved the adoption of the following Resolution, which was read by title, copies thereof having been made available to the Council and the public prior thereto:

TOWN OF AVON, COLORADO

**RESOLUTION NO. 14-31
SERIES OF 2014A**

RESOLUTION APPROVING THE ISSUANCE BY EAGLEBEND DOWD AFFORDABLE HOUSING CORPORATION OF MULTIFAMILY HOUSING PROJECT REFUNDING REVENUE BONDS, SERIES 2014A, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$8,850,000; APPROVING THE FORM OF A THIRD AMENDED AND RESTATED TRUST INDENTURE; AND AUTHORIZING INCIDENTAL ACTION.

WHEREAS, EagleBend Dowd Affordable Housing Corporation (the “**Corporation**”) has been duly organized under the provisions of Colorado law governing nonprofit corporations, for the purpose of acquiring interests in real property and to construct, install and operate certain improvements in or near the Town of Avon (the “**Town**”); and

WHEREAS, the Corporation has previously entered into a Trust Indenture dated as of July 1, 1998 (the “**1998 Indenture**”) and has issued its Multifamily Housing Project Revenue Bonds, Series 1998A in an original aggregate principal amount of \$9,000,000 (the “**Series 1998A Bonds**”), its Multifamily Housing Project Subordinate Revenue Bonds, Series 1998B in an original aggregate principal amount of \$600,000 (the “**Subordinate Series 1998B Bonds**”), and its Multifamily Housing Project Subordinate Revenue Bonds, Series 1998C in an original aggregate principal amount of \$1,000,000 (the “**Subordinate Series 1998C Bonds**” and, together with the Series 1998A Bonds and the Subordinate Series 1998B Bonds, the “**Series 1998 Bonds**”) to acquire and construct real and personal property, buildings and improvements, to provide dwelling accommodations at rentals within the means of individuals or families of low or moderate income (the “**Project**”), known as “**Kayak Crossing**” on a site of approximately 4.73 acres in unincorporated Eagle County, Colorado, near the Town; and

WHEREAS, the Town and the Corporation have previously executed and delivered a Project Agreement dated as of July 1, 1998 (the “**Project Agreement**”), under the terms of which the Corporation agrees to operate the Project for the benefit of among others “Qualified Renters” as defined in the 1998 Indenture until all obligations and Bonds issued under the 1998 Indenture are retired; and

WHEREAS, the Project Agreement provides that title to the Project shall vest in the Town at such time as all obligations under the 1998 Indenture (including the Bonds as defined therein) are discharged; and

WHEREAS, the Corporation issued its Multifamily Housing Project Refunding Revenue Bonds, Series 2003A in the original aggregate principal amount of \$9,520,000 (the “**Series 2003A Bonds**”) pursuant to an Amended and Restated Trust Indenture dated as of October

1, 2003 (the “**2003 Indenture**”) with U.S. Bank National Association, as trustee, and used the proceeds of the Series 2003A Bonds to refund, redeem and defease the outstanding Series 1998A Bonds; and

WHEREAS, the Corporation issued its Multifamily Housing Project Refunding Revenue Bonds, Series 2013A (“**Series 2013A Bonds**”) pursuant to a Second Amended and Restated Trust Indenture dated as of August 1, 2013 (the “**2013 Indenture**”) with UMB Bank, n.a. (“**Trustee**”) and used the proceeds to refund, redeem and defease the outstanding Series 2003A Bonds, and to pay the costs of issuance thereof; and

WHEREAS, the Corporation now desires to refund the Series 2013A Bonds and, in order to provide funds therefor, the Corporation intends to amend and restate the 2013 Indenture by entering into a Third Amended and Restated Trust Indenture (the “**2014 Indenture**”) with the Trustee, and intends to issue pursuant to such 2014 Indenture its Multifamily Housing Project Refunding Revenue Bonds, Series 2014A, in an aggregate principal amount not to exceed \$8,850,000 (the “**Series 2014A Bonds**”); and

WHEREAS, the Series 2013 Indenture requires the consent of the Town to the refunding of the Series 2013A Bonds; and

WHEREAS, the Corporation has indemnified the Town pursuant to a Supplemental Indemnification Agreement dated as of August 1, 2013 (the “**Supplemental Indemnification Agreement**”); and

WHEREAS, the proposed form of the 2014 Indenture (including the forms of the Series 2014A Bonds contained therein), has been presented before the Town Council (the “**Council**”) at this meeting; and

WHEREAS, the Council adopted Resolution No. 14-26 (“**Prior Resolution**”) on October 14, 2014, with respect to the issuance of bonds to refund the Series 2013A Bonds, which it now desires to repeal in its entirety.

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

1. Issuance of the Series 2014A Bonds. The Series 2014A Bonds and the issuance thereof by the Corporation for the purpose of refunding the Series 2013A Bonds are, in all respects, hereby approved. The Series 2014A Bonds shall be issued solely as fully registered bonds without coupons in the denominations as provided in the 2014 Indenture. The Series 2014A Bonds shall bear interest payable at the rates and times and will mature in the amounts and on the dates set forth in the 2014 Indenture, as finally executed.

The Series 2014A Bonds shall be issued and secured as set forth in the 2014 Indenture, and the form, terms and provisions of the Series 2014A Bonds and the provisions for their execution, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the 2014 Indenture. The Series 2014A Bonds shall (a) not exceed the aggregate principal amount of \$8,850,000, (b) mature no later than December 1, 2024, (c) bear

interest at a per annum interest rate not to exceed 3.50% per annum, and (d) be purchased by FirstBank.

The Town hereby designates the Series 2014A Bonds as “qualified tax-exempt obligations” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and represents that the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds) which will be issued by the Town during the calendar year 2014, including obligations issued by subordinate entities of the Town and by entities issuing obligations on behalf of the Town, does not exceed \$10,000,000.

2. Approval of 2014 Indenture. The form, terms and provisions of the 2014 Indenture be and they are hereby approved in the form of such document presented to the Council at this meeting with only such changes therein as are not inconsistent herewith.

3. Town Action. The Mayor of the Town, or the Mayor pro tem in his absence, and the Town Clerk are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby.

4. No Indebtedness of the Town. **No provision of this Resolution or of the Project Agreement, the 2014 Indenture, the Series 2014A Bonds, the Supplemental Indemnification Agreement or any other instrument executed in connection therewith, shall be construed as creating an obligation on the part of the Town to pay the principal of, premium, if any, or interest on the Series 2014A Bonds, nor as creating an indebtedness or financial obligation on the part of the Town within the provisions or limitations of any statutory or constitutional provision of the laws of the State of Colorado or any provision of the home rule charter of the Town.**

5. Title to Project. In accordance with Revenue Procedure 63-20 of the Internal Revenue Service and its implementation regulations, as such may be amended, the Town hereby determines that it will accept title to the Project, including any additions thereto, when all the obligations issued under the Indenture (including the 2014A Bonds) are fully paid and discharged.

6. Severability. If any provision of this Resolution should be held invalid, the invalidity of such provision shall not affect any of the other provisions of this Resolution, the intention being that the various provisions hereof are severable.

7. Other Actions. The appropriate officers of the Town are hereby authorized to execute and deliver for and on behalf of the Town, any or all additional certificates, documents and other papers and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and in any resolution of the Corporation.

8. Effective Date Repealer. This Resolution shall take effect immediately upon its passage, and all acts, orders, resolutions, or parts thereof taken by the Town in conflict with this Resolution are hereby repealed or modified to the extent of such conflict, including the Prior Resolution which is repealed in its entirety.

ADOPTED AND APPROVED this 18th day of November, 2014.

[SEAL]

TOWN OF AVON, COLORADO

By: _____
Mayor

Attest:

Town Clerk

The motion to adopt the foregoing Resolution was duly seconded by Council Member _____, put to a vote and carried upon the following vote:

Those voting YES:

Those voting NO:

Those absent:

Thereupon the Mayor declared the motion had carried and the Resolution duly passed and adopted. After consideration of other business to come before the Council, the meeting was adjourned.

[SEAL]

Mayor

Attest:

Town Clerk



TOWN COUNCIL REPORT

To: Honorable Avon Town Council
From: Virginia C. Egger, Town Manager
Date: November 18, 2014
Agenda Topic: Council Orientation and Meeting Schedule

Congratulations to each new member of the Avon Town Council and, by this time on Tuesday's agenda, your new leadership selections for Mayor and Mayor Pro-Tem. Town Attorney Eric Heil and I look forward to working with you and, foremost at this time, in helping you gain the information you need to govern effectively.

ORIENTATION

A comprehensive orientation is commonly the first step to ensuring all Councilors have the background information needed to assist in your leadership and decision-making roles. For your consideration, I have listed below a series of orientation sessions to begin the conversation with you of how best to help you carry out your duties and responsibilities. Thinking about setting longer work sessions at regular meetings, or special work session meeting times, or a longer retreat type day is helpful in determining how to accomplish this important work.

At Tuesday's meeting, an in-depth discussion of these items, and those you may wish to add, is not requested. A general discussion about scheduling orientation meetings is recommended.

SESSION 1

Leadership and Decision-making: Two Distinct Roles
Review of the Town Charter
Roles and Responsibilities: Council – Town Manager – Town Attorney
Ethics Code
Open and Transparent Governance
Simplified Rules and Procedures

SESSION 2

Town Organization
Strategic Plan & Annual Work Plans
Town Department Functions & Operations
Boards, Commissions & Committees
2015-16 Budget & Five Year Capital Projects

MEETING SCHEDULE

The Town Council traditionally meets on the 2nd and 4th Tuesday's of the month, which is the best schedule for coverage by Channel 5. The start time is usually 5:00 p.m., but earlier starts have been set for retreats and/or for agendas with numerous action items. The agenda may include work sessions and action items.

December 9th is, therefore, the next scheduled meeting of the Town Council. At this meeting, it can be anticipated that Council will set its 2015 regular meeting schedule and make appointments to boards, commissions and committees.

No meeting has been planned for December 23rd due to the holiday week.

Thank you!