

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL  
HELD FEBRUARY 8, 2011**

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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 6:05 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 an executive session would be reconvened at the end of the regular meeting and Item 4 (Review Final Council Committee Appointments for 2011 & Compilation of 2011 / 2012 Council Goals and Priorities) from the work session would be added to item # 7 on the regular meeting as item (c). The Town Attorney noted that there were no conflicts of interest.

**COMMUNITY & CITIZEN INPUT**

Event Manager Scott Stoughton gave an update on the "Snowball Music Festival" addressing parking and transportation. He noted that 6,200 tickets have been sold to date. A review of the park layout was made and a map was provided. There were some safety concerns identified, such as access to the lake, it was noted that some fencing consideration would be given. It was noted that consideration would also be given to using a large tent; Councilor Phillips asked if a building permit would be required for use of a tent. Charlie Moore, ERFPD Fire Chief, noted that there would be fire personnel at the event and that they would be monitoring any fire pits in use. Chris Drone, resident around the lake, supported the event but had some concerns regarding families with small children and the noise. Mayor Carroll requested an update be presented at the next council meeting to review security, parking and the transportation plan.

**CONSENT AGENDA**

Mayor Carroll asked for a motion on the consent agenda. Mayor Pro tem Ferraro moved to approve the consent agenda; Councilor Goulding seconded the motion and it passed unanimously.

- a. Minutes from January 25, 2011

**NEW BUSINESS**

Justin Hildreth, Town Engineer presented the revised Contract Approval and Notice to Proceed for Professional Services Agreement on the I-70 Transportation Operations Facility Project. He made another review of the materials and professional services agreement with a focus on the changes made to the contract pertaining to input from council members from the January 25<sup>th</sup> meeting:

- ✓ **5.1 b. Comprehensive General Liability insurance** was increased from \$1 million for each occurrence/ \$1 Million annual aggregate to \$2 Million / \$4 Million
- ✓ **6.0 Ownership of documents** was revised to read that all work products, if paid for by the town, shall be property of the Town

- ✓ **8.0 Remedies:** the following clause was added “ If the Agreement is terminated by the Town for cause based on Contractor’s negligent performance, Contractor shall be liable and responsible for all expenses incurred by the Town in selecting and alternate contractor’s scope of professional services to a similar level of progress to the date of termination of agreement, to the extent such expenses are caused by or result from Contractors negligent performance”
  
- ✓ **Errors and Omissions Section 9.17 Correction:** the contractor shall conform to the industry-accepted standard of care on quality and workmanship. The contractor shall without additional compensation, correct or revise any of the contractor’s negligent errors or omissions in the design, drawings, specifications, reports, and/or omissions are discovered during construction, in addition to correcting the work product at no additional cost to the town, the contractor shall be liable for the difference between what “correct” construction will cost and what it would have cost had the drawings specifications, et al, been correct, including tear-out, demolition and rework. The contractor will not be responsible for correcting errors or omissions caused by Town staff in conjunction with the contractor’s services. The town is obligated to adhere to the FTA’s best practices Procurement Manual per the Grant agreement  
It requires that the Town pay for change orders that should have been included in the plans initially (omissions). CMD is responsible for the difference between the change order cost (rework) and what it should have originally cost
  
- ✓ **“Built Green”** item was removed from the base scope of services, but has been added as “ add Alternate 1” meaning that if funding to pursue LEED or built- green becomes available, it can be added to the Design Services scope of work
  
- ✓ **7 % Design-to Construction Ratio** is believed to be a fair and reasonable ratio given the complex design of the project including the additional federal reporting requirements

Mayor Pro Tem Ferraro moved to approve the “Contract Approval and Notice to Proceed for Professional Services Agreement on the I-70 Transportation Operations Facility Project”. Councilor Goulding seconded the motion and it passed unanimously.

#### **ORDINANCES**

Sally Vecchio, Assistant Town Manager Community Development, presented Ordinance No. 11-02, Series of 2011, Second Reading, Ordinance Amending the Zoning Classifications of Certain Properties Owned by the Town of Avon and Approval of Other Updates to the Official Zone District Map of the Town of Avon. She noted that this follow-up legislation was a result of the adoption of the Avon Development Code last fall as well as an account for zoning amendments that have been adopted since March 2008. The Zoning map has been updated to reflect the following previously adopted zoning amendments as well as the new zone district classifications approved with the adoption of the Avon Development Code:

- Ordinance 09-07 establishing a PUD zone district for the property known as “The Red House”
- Ordinance 09-14 establishing a PUD zone district of the property known as “Gandorf”
- Ordinance 09-12 establishing the Short-Term Rental Overlay Zone District
- RH-C (Residential High Density) and SC (Shopping Center) is identified as “retired zone district classifications
- The Government parks, and Employee Housing (GPEH) zone district has been eliminated and properties have been changed to either Parks or Public Facilities
- All PUD zoning amendments have been individually identified on the map

Mayor Carroll opened the public hearing, and a representative from the Avon Business Association commented, the hearing was then closed. Councilor Evans moved to approve Ordinance No. 11-02, Series of 2011, Second Reading, Ordinance Amending the Zoning Classifications of Certain Properties Owned by the Town of Avon and Approval of Other Updates to the Official Zone District Map of the Town of Avon with the inclusion of the short-term rental properties. Councilor Phillips seconded the motion and it passed unanimously.

Jenny Strehler, Director PW&T presented Ordinance No. 11-03, Series of 2011, Second Reading, Ordinance Amending Local Designation of Noxious Weed. She noted that this legislation that would amend the noxious weed plan with one additional weed called the absinth wormwood. Mayor Carroll opened the public hearing, no comments were made, and the hearing was closed. Councilor Evans moved to approve Ordinance No. 11-03, Series of 2011, Second Reading, Ordinance Amending Local Designation of Noxious Weed. Councilor Phillips seconded the motion and it passed unanimously.

Rich Carroll, Mayor gave a review of the following items:

- a. Final Council Committee Appointments for 2011
- b. Compilation of 2011 / 2012 Council Goals and Priorities

After some discussion, Council agreed that both Economic Development and Transit would be their most important priorities. Council requested that the transit topic return for discussion in March; they would like a recap of the town's transit services and funding. Councilor Goulding provided an update on their recent meeting with Beaver Creek officials. He noted that Councilor Reynolds and he met with Doug Russell, Beaver Creek Ski Company, and Tim Baker, Beaver Creek Resort Company, regarding the need to re-establish good relationships between each of the groups.

Sally Vecchio, Asst Town Manager Community Development, provided an overview and update on the status of Beaver Creek's request to use Lot 61 for a parking lot. She was working within the code posting requirements and the need to issue a permit prior to the February holiday weekend.

#### **MAYORS REPORT**

Mayor Carroll reported on the following topics:

- Vail Board of Realtors Meeting
- Eagle Valley Land Exchange Public Input Letter
- Eagle County Mayor and Manager's Meeting, topics included Eagle County care retirement community, ECO transit Sub Committee, and the Governor's request for economic development plans from Colorado counties

#### **EXECUTIVE SESSION**

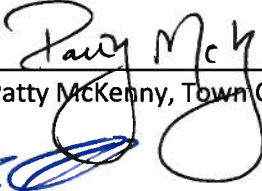
Mayor Pro Tem Ferraro moved to reconvene the Executive Session at 7:30 PM; Councilor Phillips seconded the motion and it passed unanimously. The following reason was noted for the discussion:

- a. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) related to pending litigation regarding Town of Avon v Traer Creek Metropolitan District, 2008 CV 0385 and Traer Creek, LLC, et.al. v Town of Avon 2010 CV 316
- b. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) related to Colorado Open Records Act request submitted on behalf of Traer Creek, LLC

The Executive Session adjourned at 8:30 PM and convened to the regular meeting.




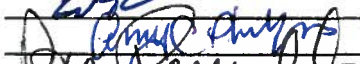



There being no further business to come before the Council, the meeting adjourned at 8:30 PM.

**RESPECTFULLY SUBMITTED:**

  
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Patty McKenny, Town Clerk

**APPROVED:**

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

  
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