

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL  
HELD AUGUST 9, 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 5:40 PM. A roll call was taken and Council members present were: Dave Dantas, Chris Evans, Todd Goulding, Amy Phillips, and Buz Reynolds. Kristi Ferraro absent. 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 CIP discussion that occurred during the work session would be discussed later in the evening as well. Town Attorney Eric Heil noted that there was no conflict of interests to report.

**COMMUNITY & CITIZEN INPUT**

- a. Charles Frey, Ticino Italian Restaurant complained about not having two entrances / exits on the patio space; it was noted that staff would follow up with him.
- b. Open Space Advisory Committee Introduction of Toby Sprunk, new Director (Rich Carroll, Mayor) presented an update as to what types of project were in the pipeline for the committee
- c. Walking Mountain Science School Open House (Markian Feduschak, Executive Director) presented an update on the school's opening and thanked the town for all of its support over the past few years
- d. Special Events Updates were presented by Danita Chirichillo, Special Events Supervisor, on the Dock Dogs event & Adam Lueck on the USA Pro Cycling Challenge

**CONSENT AGENDA**

Mayor Carroll asked for a motion on the Consent Agenda. Councilor Reynolds moved to approve the consent agenda; Councilor Phillips seconded the motion and it passed unanimously by those present (Ferraro absent).

- a. Minutes from July 12, 2011

**ORDINANCES**

**PROPOSED BALLOT QUESTIONS FOR NOVEMBER 1, 2011 ELECTION:**

- a. Ordinance No. 11-11, Series of 2011, First Reading, An Ordinance Referring a Ballot Question to the November 1, 2011 Election Regarding Sales Tax and Accommodations Tax Increases for the Avon Sustainable Transit Project
- b. Ordinance No. 11-12, Series of 2011, First Reading, An Ordinance Referring a Ballot Question to the November 1, 2011 Election Regarding Accommodations Tax Increase for the Avon Special Events Project

Eric Heil, Town Attorney, reviewed the two proposed ballot questions that would increase sales and accommodations taxes in order to fund Avon's Sustainable Transit Project and Special Events Project. He noted that the ordinances were passed on first reading at the July 12, 2011 meeting. There was

explanation about how the language in the questions comply with the Constitution's Tabor Amendment and how they increase both the accommodations and sales taxes. Mayor Carroll opened the public hearing at this time at the following comments were made:

Roger Benedict, representing Avon Business Association, spoke about a survey conducted by the ABA noting the results as split on the lodging tax increase, and 87% against the sales tax increase. The message seems to support connecting Avon to Beaver Creek.

Chris Romer, VVP, noted that they do not take a political stand on candidates or issues, but did point out the work conducted on economic development planning in Eagle County, which does focus on the tourism and recreation industry as being very important. He hoped that the council in their decision making would keep that in mind.

John Evans, East West Resorts and the Westin Hotel, expressed concern about taxing themselves out of the business.

Bob Trotter, General Manager, Westin Riverfront, echoed what Mr. Evans stated noting that the consensus from the lodging community is that there must be good reliable connectivity to the Beaver Creek Village during the day & evening; that is a must for the hotel's success so in light of that they would support a modest sales tax increase to get just that connectivity.

Mike Bennett, Beaver Creek West, noted that he polled the lodging properties and discovered that only a small percentage of rooms are paying the accommodations tax.

There was some Council discussion at this time with some comments as follows:

- ✓ The was support that the transportation connection to Beaver Creek is important
- ✓ There was concern about increasing taxes too high
- ✓ There was concern about it failing if the town council does not sell it in the community
- ✓ There was support to place the questions on the ballot to let the voters decide
- ✓ Some didn't want to burden the taxpayers with more taxes
- ✓ Some wanted to understand exactly "what" transit service the community wants
- ✓ Some inquired about a fare structure
- ✓ Some favored reducing the proposed increase to .25% for sales tax
- ✓ Some supported the special events questions and others did not
- ✓ There was support that the funds generated from an increase would support Avon's transportation system as a whole, and not dedicate the funds to specific routes

Councilor Reynolds moved to continue Ordinance No. 11-11, Series of 2011, Second Reading, An Ordinance Referring a Ballot Question to the November 1, 2011 Election Regarding Sales Tax and Accommodations Tax Increases for the Avon Sustainable Transit Project and Ordinance No. 11-12, Series of 2011, Second Reading, An Ordinance Referring a Ballot Question to the November 1, 2011 Election Regarding Accommodations Tax Increase for the Avon Special Events Project with the a proposed change to the ballot language in Ordinance No. 11-11 as follows:

- Remove the language increasing the accommodations tax
- Reduce the sales tax increase from .4% to .25%.

Councilor Phillips seconded the motion and it passed unanimously by those present (Ferraro absent). The public hearing on both matters was continued as well until August 23<sup>rd</sup>.

Eric Heil, Town Attorney, presented Ordinance No. 11-13, Series of 2011, First Reading, An Ordinance of the Town Council of the Town of Avon Referring for Referendum an Amendment to the Avon Home Rule Charter. He explained what the proposed housekeeping charter amendments include that would hopefully clean up the charter and help align some of the language with State Statutes. He highlighted the proposed changes and why the language was revised. There was support to include this question to the voters on the November ballot. Councilor Evans moved to approve Ordinance No. 11-13, Series of 2011, First Reading, An Ordinance of the Town Council of the Town of Avon Referring for Referendum an Amendment to the Avon Home Rule Charter. Councilor Goulding seconded the motion and it passed unanimously by those present (Ferraro absent). It was noted that a public hearing would be held on the matter on August 23, 2011.

Sally Vecchio, Assistant Town Manager Community Development, presented Ordinance No. 11-10, Series of 2011, First Reading, Ordinance Amending Title 7 of the Avon Municipal Code for the Purpose of Clarifying the Duration and Expiration Requirements of Section 7.16.100 Special Review Use. She noted that the proposed legislation addresses the purpose of clarifying the duration and expiration requirements of the Avon Development Code, Section 7.16.100(f). The Council was asked to decide upon language that would designate “who” would assign the time limits to this type of approvals. She described that in the old code the PZC made that decision; and the new code gave the applicant an opportunity to ask the town council for more than a two year timeframe for the permit. It was noted that PZC then added some language to the section as outlined in the memo in the council packet. Some discussion ensued on whether or not to include the types of uses allowed for into perpetuity. There was consensus to require only PZC approval of the SRU applications, and to allow, but not require a time limit on the duration, if they find that conditions warrant a limited time frame. Dominic Mauriello, Mauriello Planning, asked how this decision might apply to existing approvals; and requested that they include language that would clarify uses that have recently been approved. Councilor Phillips moved to table Ordinance No. 11-10, Series of 2011, First Reading, Ordinance Amending Title 7 of the Avon Municipal Code for the Purpose of Clarifying the Duration and Expiration Requirements of Section 7.16.100 Special Review Use with some suggested revisions to the ordinance language as follows:

Section 7.16.100(f) Expiration and Preliminary Review.

All special review use approvals *“expire pursuant to this section. The PZC may approve a SRU permit in perpetuity but may assign a shorter timeframe as deemed necessary”*.

Councilor Reynolds seconded the motion and it passed unanimously (Ferraro absent).

Eric Heil, Town Attorney, presented Ordinance No. 11-14, Series of 2011, First Reading. An Ordinance Amending Section 2.08.040 (a) of the Avon Municipal Code to Increase Municipal Court Fees. He noted that this Proposed legislation that increases court fee from \$15 to \$25 which is consistent with statewide fee amount. Councilor Reynolds moved to approve Ordinance No. 11-14, Series of 2011, First Reading. An Ordinance Amending Section 2.08.040 (a) of the Avon Municipal Code to Increase Municipal Court Fees. Councilor Dantas seconded the motion and it passed unanimously by those present (Ferraro absent).

#### **NEW BUSINESS**

Patty McKenny, Assistant Town Manager Management Services, presented the Intergovernmental Agreement between Eagle County Clerk & Recorder’s Office and Town of Avon. She noted that the IGA provide for the administration of the Coordinated Mail Ballot Election on November 1, 2011. Councilor Evans moved to approve the Election IGA; Councilor Phillips seconded the motion and it passed unanimously by those present (Ferraro absent).

**UNFINISHED WORK SESSION BUSINESS / MALL IMPROVEMENTS PLAN SCENARIOS**

At the earlier work session, Chris Green, Chairman PZC, Pedro Campos, Zehren & Associates, Sally Vecchio, ATM, Community Development, presented the mall improvements designs created by Zehren & Associates as well as a review of the PZC recommendations for improving the mall area. There was some further discussion about this topic at this time. Staff was asked to rescope the Metcalf project phase II (bike path extension) to see if some of those monies could be redirected to the mall improvements. The discussion would be scheduled for the next meeting.

**TOWN MANAGER REPORT**

Town Manager Larry Brooks and staff spoke about the following topics:

- ✓ Scott Wright, ATM Finance, provided an update about an effort underway by CAST communities to more aggressively collect sales & accommodations taxes. He asked about engaging some services that would help the town seek out properties that are not collecting tax on short term rentals. There was support of this request. He also noted that the Town of Breckenridge had filed a class action suit against online companies that are selling lodging at wholesale; and not remitting sales tax. He noted that staff would be researching further this complaint to determine if the town should become actively involved in this suit as well.

**MAYORS REPORT**

Reminder that there is a community meeting to talk about West Avon Beaver Point trailhead on August 10, 2011.

**EXECUTIVE SESSION**

Councilor Phillips moved to convene into Executive Session at 8:50 for the following reasons; Councilor Goulding seconded the motion and it passed unanimously by those present (Ferraro absent).

- 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) 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. Meet with Town Attorney for the purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations, and instructing negotiators, as related to Swift Gulch Project Funding



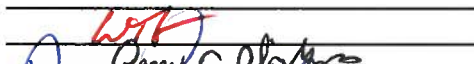


There being no further business to come before the Council, the meeting adjourned at 10 pm.

**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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