

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD JANUARY 10, 2012**

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 would include the following changes:

- ✓ Addition of message from Town Manager Larry Brooks
- ✓ Addition of work session items to New Business
- ✓ Addition of "Employment Agreement" to New Business

Councilor Evans noted a conflict of interest for the Unfinished Business item on the "removal of the modular buildings from Lot 5.

COMMUNITY & CITIZEN INPUT

- a. Town Manager Larry Brooks tendered his resignation as of the end of February 2012; he noted that he will continue to assist the organization and council on town matters during the next few months as the transition occurs.
- b. 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

There was consensus that PZC should move forward with the Chairman's request as there was interest on considering further discussion on such matter. Councilor Goulding moved to direct PZC to initiate some review on this matter (*a review of a land use code amendment that would revise the application approval process*); Councilor Evans seconded the motion and it passed unanimously with a roll call vote.

- c. 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

Mayor Carroll presented this item noting that Councilor Evans requested that a complete review of the policy be made in order to consider whether or not some "local purchase preference language" get included in the policy. Vail Honeywagon Owner Matt Donovan addressed the Council at this time. Council requested that a review of the procurement policy be made at the next council meeting.

- d. Ron Wolfe, Stone Creek Charter School Board Member, noted that he wanted to address the Council about the buildings remaining on town owned property. He noted that the school cannot afford to move the buildings, that money is still owed on them, and that they school is still working with Wells Fargo on the loan. It is likely they will need to liquidate the buildings. He requested that the town not proceed with moving the buildings unless it is necessary and that the town leave the

liquidation of the buildings to the Stone Creek Charter School.

CONSENT AGENDA

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

- 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*)

NEW BUSINESS

- a. **PLANNING & ZONING COMMISSION RECOMMENDATION TO AMEND THE TOWN OF AVON RECREATIONAL TRAILS MASTER PLAN** (*Matt Pielsticker, Planner II*) *Review recommended amendments from Commission as initiated by Town Council on September 27, 2011*

Matt Pielsticker, Planner II, reviewed a historical summary of the agenda item. Staff noted that September 2011, the Town Council directed Community Development staff to begin to draft amendments to the Avon Recreational Trails Master Plan; a public hearing was held at the Planning & Zoning Commission meeting on December 6, 2011 at which time PZC approved a resolution that outlined amendments to the plan, i.e. parking recommendations next to the Beaver Point trail system, other planned improvements, and new paved trail alignment labeled as the "Wildridge Community Path". Staff was asked to determine the costs associated with keeping the trails open and would like some options to the current parking lot at Beaver Point. The Town Council supported consideration of the amendments through the public hearing process to be scheduled at the February 14, 2012 Council meeting.

- b. **AVON PEDESTRIAN MALL IMPROVEMENTS – 2012 CONSTRUCTION UPDATE** (*Sally Vecchio, Community Development Director, Justin Hildreth, Town Engineer*)

Sally Vecchio, Community Development Director, provided an update on the proposed improvements that were slated for the mall area in light of some of the conversations occurring with the developers of Lot 61, with a possible application submittal to the town in February. Staff wanted to note that the mall improvements may be delayed another month or so as staff will then have some time to evaluate the Lot 61 implications. The Town Council was supportive of this postponement and most were not supportive of incurring any costs on improvements until the town understands what might happen in that area of town.

- c. **MOBILE VENDOR CARTS UPDATE** (*Sally Vecchio, Community Development Director*) *Update about initiating legislation to allow mobile vendor carts in Avon*

Sally Vecchio, Community Development Director, presented information about a request to operate a vendor cart operation in the town. In light of the fact that there are no regulations in the code on this activity use and licensing, staff wanted Council input on their intent to draft legislation addressing vendor carts. There was some discussion about what the current "temporary use permits" would allow for on private property, and what the solicitor's / peddler's permits allow. There was Town Council consensus to draft legislation that would allow for this use and licensing as well as provide some framework for which the business will operate.

D. EMPLOYEE AGREEMENT FOR TOWN MANAGER LARRY BROOKS

Town Attorney Eric Heil presented an employment agreement that provides for provisions that address some of the following:

- ✓ The effective termination date as of February 28, 2012

- ✓ The role as the “transitional Advisor
- ✓ The Compensation and benefits language
- ✓ Provision related to Termination of the employment agreement
- ✓ it was noted that the agreement would come before the town council again if there were any changes.

There were comments from council members as follows:

Councilor Ferraro stated that she didn’t support changing the manager at this time and named numerous reasons. In light of the four members supporting changing managers, Councilor Ferraro did support the employee agreement.

Councilors Phillips noted that she was saddened by the decision and finds it so very unfortunate. She wants to remind everyone to reflect on all that had been accomplished since Larry Brooks has been serving as the town manager. Mayor Pro Tem Ferraro moved to approve the Employment agreement between the Town of Avon and Larry Brooks. Councilor Dantas seconded the motion and it passed with a six to one vote (Carroll nay). Mayor Carroll noted his dissatisfaction with the departure of Mr. Brooks, and stated that he did support the employment agreement. Mr. Brooks made some final comments about trying to move forward. Councilor Evans commented that Larry Brooks had a lot of class.

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*

Town Attorney Eric Heil noted that the infraction on the public ways becomes a civil infraction and is no longer a criminal infraction, as recommended by the town’s prosecuting attorney. Mayor Carroll opened the public hearing, no comments were heard, and the hearing was closed. Councilor Goulding moved to approve 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; Councilor Evans seconded the motion and it passed unanimously with a roll call vote.

- 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

Town Attorney Eric Heil presented this ordinance that revised the Avon Municipal Code language with proposed amendments that 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. Some of the specific revisions include the following:

Confidential Information: Avon Municipal Code 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 Section 230.110 revised to track the language in the State Code of Ethics.

Enforcement: Avon Municipal Code Section 2.30.140 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© 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: Avon Municipal Code Section 2.30.150 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. The provision significantly expands the potential liability of a town official for violations of the Town Code of Ethics.

Gift Reporting: Avon Municipal Code Section 2.30.170 as 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
3. Establishes guidelines for the Town Council to review whether gifts constitute a conflict of interest under the Town Code of Ethics

Some discussion ensued about how to satisfy both Sections 2.30.080 and 2.30.100 related to the restriction of not being able to be part of any discussion and then having to serve on the topic when a quorum is required. There were four members who did not agree that council members, if conflicted on a topic, would be allowed to remain in the council room. It was also noted that anyone with a conflict must submit the disclosure with the Secretary of State's office, and then if need be must vote when participating because a quorum was needed. Councilor Phillips moved to approve Ordinance No. 12-01, Series of 2012, First Reading, Ordinance Amending Chapter 2.30 Town Code of Ethics of the Avon Municipal Code. Councilor Dantas seconded the motion and it passed with a five to two vote (Evans and Goulding – nay; Carroll, Dantas, Ferraro, Phillips, Reynolds – aye).

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*

Councilor Chris Evans stepped out of the room at this time due to a conflict of interest. Jeff Schneider, Project Engineer, provided an update on the this matter noting that staff would like to be initiating an advertisement for removal of the abandoned buildings on January 12, 2012 in hopes of obtaining proposals from interested parties by February 3, 2012. This effort is timed accordingly with the plans to begin the Swift Gulch construction project. There was some discussion about whether or not to place the advertisement and associated costs. It was explained that there are opportunities to delay the removal of the buildings at any time, that proceeding with advertising doesn't mean removal of the buildings.

RESOLUTIONS

Councilor Evans returned to the Council room at this time. Mayor Carroll presented Resolution No. 12-01, Series of 2012, A Resolution supporting the Eagle County School District (the "District") and requesting to keep Avon Elementary School ("AES") open for the education of the children of Avon and Eagle County, Colorado, and Setting Forth Details in Regard Thereto. Mayor Pro Tem Ferraro read the resolution; School District Finance Director Phil Onofrio spoke about the challenging budget issues the school district is facing. After some discussion on the matter, a motion was made by Councilor Phillips to approve Resolution No. 12-01 and seconded by Mayor Pro Tem Ferraro; the motion passed with a six to one vote (Goulding nay). Councilor Goulding spoke that his vote represented his position to support the school board members in whatever decision they made related to budget cuts.

TOWN ATTORNEY REPORT

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

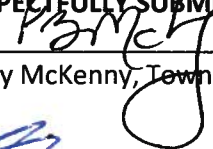
Town Attorney Eric Heil noted that staff would be reviewing the status of this unit that is currently in foreclosure in light of the fact that the unit will no longer be considered "affordable" and "deed restricted" if the town does not get involved in its purchase.

EXECUTIVE SESSION:

Councilors Evans and Goulding left the room at 7:55 PM due to a conflict of interest. Mayor Carroll then moved to meet with the 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. Councilor Phillips seconded the motion and it passed unanimously.

The Executive Session adjourned and there being no further business to come before the Council, the meeting adjourned at 8:20 pm.

RESPECTFULLY SUBMITTED:



Patty McKenny, Town Clerk

APPROVED:

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

