

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL  
HELD JANUARY 24, 2012**

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

**APPROVAL OF AGENDA AND DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST**

Mayor Carroll noted the following changes to the agenda:

- ✓ Councilor Reynolds would provide an update on the Beaver Creek meeting
- ✓ Move the Proclamation the first item under New Business
- ✓ Resolution No. 12-02, Series of 2012, Resolution Approving the Intergovernmental Agreement between the Town of Avon and the State of Colorado Department of Transportation Division of Transit and Rail for CDOT FASTER Project # STL R 300-180 (18519) Avon Transit Op Facility Phase 1D, SAP PO#271001618 CMA# 12 HA 3 would be removed from the agenda and scheduled at the next meeting

Councilor Evans moved to approve the modified agenda, all members agreed.

**COMMUNITY & CITIZEN INPUT**

- ✓ Tom Hix, part time resident of Avon, gave input on behalf of he and his wife of their support of how the Town has been run, and he thanked Larry Brooks for all his efforts in that regard. He indicated his surprise that there would be a change in management
- ✓ Tamra Nottingham Underwood, resident Hurd Lane, council member from 2004 – 2008, also spoke about her disappointment that Town Manager Larry Brooks was leaving his position, both in light of his long tenure and loyalty to the town, and under the circumstances in which it happened.

Mayor Carroll noted that is a sad decision especially when they are made without all council involved.

**COUNCIL COMMITTEE AND STAFF UPDATE**

- a. Beaver Creek Meeting Update (*Buz Reynolds, Councilor*) discussed transit, and ideas about future transit funding opportunities, it was noted that the transit customer service this year is excellent, and the service is acceptable although some of the connections have been difficult to achieve
- b. Public Access Television (Channel 5) Meeting Update (*Amy Phillips, Councilor*) It was noted that the "live video streaming" was up and running at this time
- c. ECO Transit Meeting Update (*Amy Phillips, Councilor*) the 2011 year end ECO review was presented
- d. Community Development: Update on Development Code Fee Structure  
Sally Vecchio, Community Development Director, presented an update on this topic, and it was suggested that if "flat rates" were desired on the smaller projects, a code amendment would need to happen as well as a fee schedule change. There was consensus from the council members present to direct staff to bring back some language that changes the fee structure.

- e. *Salute to USA Sponsorship Update (Danita Chirichillo, Special Events Supervisor) Review status of sponsorships for event / Memo only*

Mayor Carroll noted his conversation with Town of Vail Mayor about creating an environment of more valley wide cooperation.

- f. *Financial Matters (Kelly Huitt, Budget Analyst) Report only*

#### **CONSENT AGENDA**

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

- a. Minutes from January 10, 2012
- b. McMahan and Associates Audit Engagement Letter for 2011 (*Scott Wright, Finance Director*) Letter that engages auditors for services

#### **NEW BUSINESS**

- a. Proclamation Supporting One Book, One Valley Program Hosted by Town of Vail Public Library, Eagle Valley Library District (which includes Avon Library), Colorado Mountain College and the Bookworm of Edwards (*Rich Carroll, Mayor*) *Recognizing Town of Avon support of this Program in the Community*

Laurie Barnes, Vail Librarian, presented information about this initiative and thanked Mayor Carroll for his time giving this effort county wide recognition. Councilor Evans moved to approve the Proclamation Supporting One Book, One Valley Program Hosted by Town of Vail Public Library, Eagle Valley Library District; Councilor Phillips seconded the motion and it passed unanimously by those present (Ferraro and Goulding absent).

- b. Mountain Travel Trip Program ("MTRiP") Client Agreement (*Kelly Huitt, Budget Analyst, Todd Goulding, Councilor*) *Review agreement that outlines participation in the MTRiP Program which provides lodging performance benchmarking to mountain resorts*

Town Attorney Eric Heil noted that there were some basic governmental revisions provided the MTRiP representatives. The council memo highlighted the types of reports that would be provided. There was some concern about whether or not the hotels would participate; it was noted that that arrangement was already made. It was noted the town budgeted almost \$8K in funds that the town would receive from the hotels to participate in this program. There was consensus to wait on executing the agreement until it is confirmed by the hotels that they are participating. No action was taken, and the item would be scheduled again for consideration on 2/14/12.

- c. Town Manager Recruitment Process and Discussion about the Role of Acting Town Manager (*Eric Heil, Town Attorney, Rich Carroll, Mayor*)

Town Attorney Eric Heil noted that the council packet memo provided a snapshot regarding a general recruitment process; he noted that there are several executive search firms that assist municipalities with town manager recruitment. There was some discussion about some of the following:

- Using a "request for proposal" process to recruit a town manager.
- The idea of creating a town manager "profile"
- How the timeline might work
- The use of a facilitator who could conduct an organizational and community assessment
- Whether or not to use separate consultants for the assessment vs. recruiting.

- Which process would happen first, second or simultaneously

There was also some discussion about the role and expectations of an interim acting manager, and how to proceed in naming an interim manager. After some discussion, Councilor Reynolds moved to appoint Patty McKenny as the Interim Acting Manager effective March 1, 2012 subject to determining appropriate compensation and job duties; Councilor Evans seconded the motion and it passed unanimously by those members present (Ferraro and Goulding absent). It was noted that it would be appropriate to hold an executive session at a later date with her to discuss compensation. There was also direction to draft a "request for proposal" for both an organizational assessment as well as for executive search recruiting services. These items would be reviewed at a possible special meeting prior to the February 14, 2012, next regularly scheduled meeting.

#### **ORDINANCES**

- a. Ordinance No. 12-01, Series of 2012, Second 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 on second reading 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 additions and revisions addressed the following topics (see memo for details):

- ✓ Definition of Confidential Information
- ✓ Definition of Officer
- ✓ Definition of Substantial Financial Interest (additional amendment)
- ✓ Exemptions
- ✓ Disclosure of Conflict
- ✓ Voting when Conflict Exists
- ✓ Enforcement

After some discussion, it was decided to hold off on final approval of this ordinance until all members were able to deliberate on the topic and there was ample opportunity for the public to see the suggested revisions. Councilor Phillips moved to continue Ordinance No. 12-01, Series of 2012, Second Reading, Ordinance Amending Chapter 2.30 Town Code of Ethics of the Avon Municipal Code to the February 14, 2012 meeting. Councilor Dantas seconded the motion and it passed unanimously (Ferraro and Goulding absent).

- b. Ordinance No. 12-02, Series of 2012, First Reading, Ordinance Approving Amendments to Title 7, Avon Development Code, To Allow Childcare Centers as Special Review Uses in the Industrial Commercial (IC), and Public Facilities (PF) Zone Districts; and Adding Use-Specific Regulations (*Sally Vecchio, Community Development Director*) Proposed recommendations from Planning & Zoning Commission regarding amendment to the Code to include Child Care Centers as special review uses in certain zone districts

Sally Vecchio, Community Development Director, presented the ordinance noting that the Council did approve initiating this amendment. She reviewed some of the following elements of the topic:

- ✓ Definition of child care
- ✓ Definitions of zone districts & review of the Zone District Map
- ✓ The addition of "Use Specific Regulations" for Child Care related to safety issues, recommendations that were building code and planning related principles

- ✓ Summarized the review criteria

There was discussion about whether or not to include the regulations that the State already oversees as well as even including this type of use in an industrial zone.

Councilor Evans moved to approve Ordinance No. 12-02, Series of 2012, First Reading, Ordinance Approving Amendments to Title 7, Avon Development Code, To Allow Childcare Centers as Special Review Uses in the Industrial Commercial (IC), and Public Facilities (PF) Zone Districts; and Adding Use-Specific Regulations with the removal of Section 3 (2), (4), and (5) and the addition of “Preschool and Nursery schools, and Child Care in home” as special review uses to Section 2. Councilor Phillips seconded the motion and it failed with a three to two vote (Carroll, Dantas, Reynolds – nay; Evans and Phillips – aye; Ferraro and Goulding absent).

A second motion was made by Mayor Carroll to approve Ordinance No. 12-02, Series of 2012, First Reading, Ordinance Approving Amendments to Title 7, Avon Development Code, To Allow Childcare Centers as Special Review Uses in the Industrial Commercial (IC), and Public Facilities (PF) Zone Districts; and Adding Use-Specific Regulations with the addition of the “Preschool and Nursery schools, and Child Care in home” to Section 2. Councilor Phillips seconded the motion and it failed with a three to two vote (Dantas, Evans, Reynolds – nay; Carroll and Phillips – aye; Ferraro and Goulding absent).

A third motion was made by Councilor Reynolds to continue the item until the February 14, 2012 meeting; Councilor Phillips seconded the motion and it passed with a four to one vote (Carroll, Dantas, Phillips, Reynolds – yea; Evans – nay; Ferraro and Goulding absent).

#### **MAYOR REPORT**

Mayor Carroll thanked Sally Vecchio for her services to the town for the past two years.

#### **TOWN MANAGER REPORT**

Larry Brooks, Town Manager, recognized Sally Vecchio’s efforts along with her staff’s efforts, on finishing the development code for the town; he was thankful for her abilities to complete the task that the consultant’s left unfinished.

#### **TOWN ATTORNEY REPORT**

The Town Attorney reported on potential state house legislation.

#### **EXECUTIVE SESSION**

Councilor Phillips moved to convene to an Executive Session at 7:20 pm; Councilor Evans seconded the motion and it passed unanimously by those present (Ferraro and Goulding 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) and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations; and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(e) related to town’s water rights and water agreements
- b. Meet with Town Attorney for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of a real property interest pursuant to Colorado Revised Statute §24-6-402(4)(a), for the purpose of receiving legal advice to specific legal questions pursuant to Colorado Revised Statute §24-6-402(4)(b), determining positions relative to matters that may be subject to negotiations,

developing strategy for negotiations; and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(e) related to a deed restricted unit at Chapel Square

- c. 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 and pending settlement negotiations 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


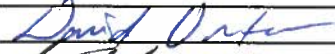

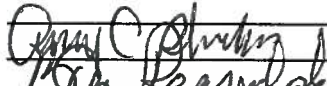

The Executive Session adjourned and there being no further business to come before the Council, the meeting adjourned at 9:30 pm.

**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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