

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD SEPTEMBER 25, 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 Carroll called the meeting to order at 5:40 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, Acting Town Manager Patty McKenny, Town Advisor Larry Brooks, Finance Director Scott Wright, Director PW&T Jenny Strehler, Deputy Town Clerk Catherine Mythen, as well as other staff members and the public.

APPROVAL OF AGENDA

COMMUNITY & CITIZEN INPUT

- a. Commission on Accreditation for Law Enforcement Agencies (*Grayson Robinson, CALEA Commissioner & Arapahoe County Sheriff*) Present Certificate of Accreditation to Avon Police Department

Grayson Robinson, CALEA Commissioner & Arapahoe County Sheriff presented the Certificate of Accreditation award to the Avon Police Department. He noted that this was a very difficult award to achieve and congratulated the Police Department for doing such a great job.

- b. Metcalf Road Drainage Project Emergency Plan Update (*Jaime Pappas, Engineer I*) Provide emergency services plan update / **Memo only**
- c. Financial Matters (*Finance Department*) **Memo only**
- d. Budget Retreat Agenda Update for October 9, 2012 (*Scott Wright, Finance Director*) There was consensus to change the budget retreat date from October 9th to October 18th beginning at 10 am until 4 pm at town hall.

CONSENT AGENDA

- a. Minutes from September 11, 2012

Mayor Carroll asked for a motion on the Consent Agenda. Councilor Dantas moved to approve the minutes from September 11, 2012; Mayor Pro Tem Ferraro seconded the motion and it passed unanimously.

RECOMMENDATIONS OF PLANNING & ZONING COMMISSION

- a. **Public Hearing** on a Preliminary PUD Application for the Brookside Park PUD (*Jared Barnes, Planner I*) Owner Riverview Park Associates application submittal for a request to modify the list of permitted uses for Lot 1, Brookside Park PUD, to permit up to twenty-four (24) residential dwelling units in place of existing office uses. This hearing is continued from 9/11/12 meeting

Jared Barnes, Planner I, presented the preliminary PUD application for the Brookside Park PUD. The applicant requested to modify the list of permitted uses for Lot 1, Brookside Park PUD, to permit up to twenty-four (24) residential dwelling units in place of existing office uses. He noted that staff requested a continuation of the public hearing in order to provide direction to the applicant regarding including public benefits in their application. Mayor Carroll opened the public hearing, no comments were heard and the hearing was closed. Councilor Reynolds moved to continue the Preliminary PUD Application for the Brookside Park PUD to the October 9th regular meeting; Councilor Phillips seconded the motion and it passed unanimously.

- a. **Public Hearing** on Ordinance No. 12-10, Series of 2012, First Reading, Ordinance Implementing Settlement Term Sheet to Resolve Pending Litigation on 2008 CV 385 and 2010 CV 316; Approving the Consolidated and Restated Annexation and Development Agreement; Approving Acceptance of Real Property and Equipment; Approving the Acceptance and Conveyance of Water Rights; Approving an Amendment to Village (at Avon) PUD; Approving a Re plat of Lot 1; Approving Amendments to Chapter 18 of the Avon Municipal Code; and Taking such other Actions as Set Forth Herein to Implement the Settlement Term Sheet

Applicant Representatives:

*Michael Lindholm, Magnus Lindholm & Marcus Lindholm TCMD & Traer Creek LLC
 Dan Leary, President Traer Creek Metro District
 Munsey Ayers, Otten Johnson Robinson Neff & Ragonetti, representing Traer Creek LLC
 Mary Jo Dougherty, McGeady Sisneros representing Traer Creek Metro District
 Brandi Caswell, Faegre Baker Daniels, representing BNP Paribas Bank
 Barbara Eppolito, Director in Value Preservation Group of BNP Paribas
 Harvey Robertson, RMT Architects and consultant to Traer Creek LLC
 Pat Peeples, Peeples Ink*

Village (at Avon) Topics & Presentations include:

1. *Executive Summary & Financial Modeling : Town of Avon Cash Flow Based on Settlement Term Sheet (Stan Bernstein)*
2. *Traer Creek LLC & Traer Creek Metropolitan District "Development Plan Application" including the following items (Developer & Metro District Representatives):*
 - a. *Consolidated, Amended and Restated Annexation & Development Agreement for the Village (at Avon) v 15*
 - b. *The Village (at Avon) Amended and Restated PUD Guide v 16 and Map v 11*
 - c. *Minor Subdivision Application for the Purpose of Resubdividing Lot 1, Amended Final Plat, The Village (at Avon) Filing 1 Avon Colorado, Eagle County*
3. *Review PUD Amendment Application in accordance with Review Criteria and compile Report of Findings (Town Council)*
4. *Public Input*
5. *Review Ordinance No. 12-10 referenced above (Town Council)*

Rich Carroll, Mayor gave a brief overview of the process noting that there would be a presentation from Town staff, discussion with regarding the outstanding issues and then a public hearing. Mayor Carroll noted that the financial questions received before the meeting from Avon resident Bette Todd would be addressed at the next council meeting.

Stan Bernstein from Bernstein and Associates gave a review of the financial modeling. He reviewed the following items:

- Projected Cost to provide services to Village at Avon
- Funding Sources to provide services to Village at Avon
- Traer Creek Metro District Analysis of what year the 87 M bonds might be retired

Eric Heil, Town Attorney noted that Ordinance 12-10 would approve certain actions to implement the Settlement term sheet related to litigation with Traer Creek LLC, Traer Creek Metro Politian District and BNP Paribas. The following items were discussed:

- PUD Guide version 16
- Condominium Plat
- School Site Dedication

- Closing Escrow Agreement
- CARADA version 15
- Conveyance Documents

Munsey Ayers, Otten Johnson Robinson Neff & Ragonetti, representing Traer Creek LLC was available for comment on these items.

Dee Wiser, Sherman and Howard Special Counsel to the town and the water Authority was available for comments.

Mayor Carroll opened the public hearing

The following people commented:

- ✓ Michael Cassioppo commented on cost of the legal fees to the town and Avon residents and all the benefits the Developer brought to the town.
- ✓ Paul Mulrone noted that the application was very vague
- ✓ Nancy Nottingham thanked the council and Planning and Zoning for the time that they have all spent reviewing the documents provided. She also commented on the original agreement and the school site
- ✓ Bette Todd read into the record a letter from Avon residents that are concerned with the development
- ✓ Walter Dandy commented that he was pleased that the Developer was willing to provide a "trees screen" on Eaglebend Drive
- ✓ Ron Wolfe commented on the litigation and the length of time it was taking to come to an agreement; he noted that the parties should continue to work through the agreement and was not in favor of going to trial. He also commented on the dedicated school site.
- ✓ Bette Todd also agreed with Ron Wolfe's comments about the agreement
- ✓ Mark Shelby commented on developing in Avon
- ✓ Carol Kruger was not in favor of the settlement agreement
- ✓ Tamra Underwood was not in favor of the settlement term sheet
- ✓ Bette Todd read into the record information regarding the modification of district services
- ✓ Brandi Caswell, Faegre Baker Daniels representing BNP Paribas Bank, made general comments about the community involvement

The public hearing was closed.

Mayor Carroll asked when the deadline was to extend the letter of credit to the applicant. Brandi Caswell, Faegre Baker Daniels representing BNP Paribas Bank, noted the bank would need to notify the applicant by October 12th. The council members made some comments and reiterated the need to have a complete package of final documents. Councilor Dantas, Evans and Goulding supported the settlement agreement based on the terms and conditions of the agreement but needed to see a complete application before they would consider approving the ordinance. Councilor Phillips, Reynolds, Mayor Pro tem Ferraro & Mayor Carroll did not support the settlement and also noted that they need to see a complete application.

Mayor Carroll moved to convene into Executive Session at 11:30 PM; Councilor Dantas seconded the motion and the town council moved to another office for confidential discussions.

The Regular meeting reconvened at 11:45 pm with the Mayor who thanked the public for input. The schedule was also reviewed for the next few meetings. Councilor Evans moved to approve continuing the **Public Hearing** on Ordinance No. 12-10, Series of 2012, First Reading, Ordinance Implementing Settlement Term Sheet to Resolve Pending Litigation on 2008 CV 385 and 2010 CV 316; Approving the

Consolidated and Restated Annexation and Development Agreement; Approving an Amendment to Village (at Avon) PUD; Approving Amendments to Chapter 18 of Avon Municipal Code; and Taking such other Actions as Set Forth Herein to Implement the Settlement Term Sheet to the October 9th Town Council meeting. Councilor Reynolds seconded the motion and it passed unanimously. The public hearing was continued until the October 9th regular meeting. Mayor Carroll noted that the applicant had until Friday September 29th at 5:00 PM to submit a completed application to Staff.

There being no further business to come before the Council, the regular meeting adjourned at 12:10 AM.

RESPECTFULLY SUBMITTED:

Catherine Mythen
Catherine Mythen, Deputy Town Clerk

APPROVED:

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

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