

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD DECEMBER 11, 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 5:30 PM. A roll call was taken and Council members Present were Dave Dantas, Chris Evans, Jennie Fancher, Todd Goulding, Buz Reynolds and Jake Wolf. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager/Town Clerk Patty McKenny, Finance Director Scott Wright, Town Engineer Justin Hildreth, Community Relations Officer Jaime Walker, Town Advisor Larry Brooks, as well as other staff members and the public.

CONSENT AGENDA

- a. MTRiP 2013 Destination Client Agreement (*Kelly Huitt, Budget Analyst*) 2013 MTRiP Contract that provides arrangement for receiving various lodging reports

There was some discussion about the 2013 agreement and some suggestions were made for clarity as follows:

- ✓ Title the document Contract for Services (See Attachment A, which refers to the contract as a Contract for Services);
- ✓ Paragraph 1 and thereafter when cited: "and its member participating properties (Client-Properties) be deleted
- ✓ Page 1, #2 under Client Responsibilities: Kelly Huitt be changed to "Town Manager or designee"

There was consensus to continue participating with the program, but continue to fine tune how the town utilizes the data. Councilor Evans moved to approve the Consent agenda which included the MTRiP 2013 Destination Client Agreement. Mayor Pro Tem Goulding seconded the motion and it passed unanimously.

ACTION ITEMS

- a. Notice of Appeal with respect to the Partial Real Estate Transfer Tax Exemption Decision by Town of Avon (*Eric Heil, Town Attorney*) Review RETT appeal application submitted by Mr. Eustaquio Cortina

Town Attorney Eric Heil presented the information submitted by Mr. Eustauio Cortina related to a Real Property Transfer Tax Exemption Application, seeking an exemption under Avon Municipal Code 3.12.060(5) for the transfer of 3000 Eaglebend Drive, #14 ("Property") FROM 9 Vail Road 2A LLC ("LLC") to himself. Town Staff approved a 50% RETT exemption on 10/23/12 based upon documentation received which indicated that Mr. Cortina was the 50% owner of the Property. Mr. Cortina submitted an appeal pursuant to the AMC on November 5, 2012. The town did not have sufficient documentation to verify that Mr. Cortina was a 100% owner of the Property and the documents show the LLC was dissolved in 2010. The applicant submitted additional documentation in response to the town's request, including a signed statement from the other member owner of the LLC that Mr. Cortina owned 100% of the LLC as of 2008. Wendel Porterfield, attorney representing Mr. Cortina, provided an overview of the application since he submitted documents on behalf of the appellate. Mr. Cortina addressed the Town Council admitting that the timing of changing the LLC did not meet requirements, however he stated that is 100% owner of the unit. There was adequate demonstration of the application showing that there should be an exemption granted. Mayor Pro Tem Goulding moved to approve the appeal to grant the exemption at 100%; Councilor Reynolds seconded the motion and it passed unanimously.

b. *EagleBend Dowd Affordable Housing Corporation Request (Scott Wright, Finance Director) Request to defer payment of a bond issuance fee due the Town in 2011*

Councilor Chris Evans announced a conflict of interest at this time since his wife serves as a board member on the EagleBend Affordable Housing Board; Councilor left the council chambers. Scott Wright, Finance Director, presented the request on behalf of Gerry Flynn, Polar Star Properties. The Board was requesting to defer payment of a bond issuance fee due the town in 2011 in the total amount of \$10,697. There was some historical information provide about the town's role with this affordable housing group. Gerry Flynn, Polar Star Properties and property manager, addressed the Council regarding the matter providing additional details about the status of the Kayak property. Mayor Pro Tem Goulding moved to approve the request by EagleBend Dowd Affordable Housing Corporation to continue deferral of payment of the 2011 bond issuance fee in the amount of \$10,697 for an additional one year, and approve new request to defer payment of the 2012 bond issuance fee in the amount of \$10,472 for one year, and authorize Town Manager and Town Attorney to review and execute the necessary documentation to effectuate the requested deferral. Councilor Wolf seconded the motion and it passed unanimously by those present (Evans did not vote nor present due to conflict of interest).

THE VILLAGE (AT AVON) SETTLEMENT IMPLEMENTATION ACTION ITEMS

Councilor Evans returned to the meeting at this time. An update on the implementation of the Settlement Term Sheet was provided by Eric Heil, Town Attorney with a review of progress and status of implementation, noting the following:

- ✓ Judge vacated the trial in January
- ✓ Water authority continues to work with parties to fine tune the water tank agreement
- ✓ Next status report to be filed on January 11, 2012
- ✓ Status conference set for late January
- ✓ Status of other documents was reviewed, ie. Service plan amendments conveyance documents, title insurance commitments
- ✓ Passed the deadline to file any legal actions on the council's action on ordinance 12-10

a. **Public Hearing** on Ordinance No. 12- 11, Series of 2012, Second Reading, Ordinance Amending Chapter 3.12 of the Avon Municipal Code Regarding Real Property Transfer Tax *(Eric Heil, Town Attorney) Help implement the settlement term sheet by revising certain regulations in town's real estate transfer tax related to the applicability of the tax to long term leases*

This ordinance was presented by Town Attorney Eric Heil who noted that the ordinance was approved on 1st reading on 11/27/12 and the legislation would amend Chapter 3.12 of the Code regarding Real Property Estate Transfer Tax. It was noted that the town's real property transfer tax applies to leases with terms in excess of 25 years and that Traer Creek parties brought to the Town's attention that it had not collected this tax from them nor other parties with long term leases. The ordinance addresses some of the following:

- ✓ Addition of definition of consideration to allow for the payment of the applicable real property transfer tax when lease payments are paid
- ✓ Addition of new section 3.12.055 named "Required Reporting of Leases" so that reporting is now a requirement for long term leases and enhances enforceability.
- ✓ Language that does not allow for retroactive application to leases entered into before January 10, 2012.
- ✓ Attention in the ordinance that does not provide an conflict with the Tax Payers Bill of Rights

He noted that there would be additional research done by staff to compile information about other communities experience with administration, enforcement and impact to commercial leases. The public hearing was opened, no comments were made, the hearing was closed. Councilor Evans moved to approve Ordinance Amending Chapter 3.12 of the Avon Municipal Code Regarding Real Property Transfer Tax; Mayor Pro Tem Goulding seconded the motion and it passed unanimously.

- b. **Public Hearing** on Resolution No. 12-28, Series of 2012, Resolution Approving the Final Plat, The Village (at Avon) Subdivision Filing 4 (*Justin Hildreth, Town Engineer*) *A minor subdivision application that will create two lots, one of which will be transferred to the Upper Eagle Regional Water Authority for the water storage tank*

Town Attorney Eric Heil noted a couple of revisions to the resolution, removal of the signature block and dedication language. Town Engineer Justin Hildreth reviewed the minor subdivision application for the final plat the village at Avon filing 4 by the applicant Traer Creek-RAP LLC. It was noted that the application accompanies the resolution approving the Traer Creek Water Storage Tank Agreement, one of the requirements of that agreement which was contemplated as part of the global settlement agreement with Traer creek parties. It was noted that the final plat was in conformance with the Avon Municipal Code, and in conformance with the Village (at Avon) amended and restated PUD guide. The purpose of the plat is to create two new lots, Tract I and Tract J. The public hearing was opened, no comments were made, the hearing was closed as required by the Code. Councilor Dantas moved to approve Resolution No. 12-28, Series of 2012, Resolution Approving the Final Plat, The Village (at Avon) Subdivision Filing 4; Councilor Evans seconded the motion and it passed unanimously.

- c. Resolution No. 12-29, Series of 2012, Resolution Approving the Traer Creek Water Storage Tank Agreement (*Eric Heil, Town Attorney*) *An agreement that partially implements the settlement term sheet by setting forth the terms of financial commitments by Traer Creek Metro District to the Upper Eagle River Water Authority to finance the construction of a water storage tank*

Town attorney Eric Heil presented the resolution and topic about the parties involved in the water storage tank agreement. It was noted that the Town Council previously approved the form of the Traer Creek Water Storage Tank agreement last spring. He noted the attached agreement partially implements the settlement term sheet by setting forth the terms of financial commitments by TCMD & UERWA to finance the construction of a water storage tank and by defining obligations of UERWA to construct the tank. The current water storage tank will resolve the current moratorium on additional development in the village. There was some discussion to authorize the Town Manager and Town Attorney to review the final documents since all parties continue to review them for accuracy. Mayor Pro Tem Goulding moved to approve Resolution No. 12-29, Series of 2012, Resolution Approving the Traer Creek Water Storage Tank Agreement; Councilor Goulding seconded the motion and it passed unanimously.

- d. Resolution No. 12-30, Series of 2012, Resolution Approving the Asphalt Overlay Escrow Agreement (*Eric Heil, Town Attorney*) *Agreement that establishes the rights and obligations of the town, Traer Creek Metro District and Traer Creek LLC to deposit funds into escrow account and establishes procedures for release of such funds for the purpose of conducting asphalt overlays on road in the Village (at Avon)*

Town Attorney noted that there were no changes to the agreement. Mayor Pro Tem Goulding moved to approve Resolution No. 12-30, Series of 2012, Resolution Approving the Asphalt Overlay Escrow Agreement; Councilor Dantas seconded the motion and it passed unanimously.

RESOLUTIONS

Scott Wright, Finance Director, presented two resolutions that would levy the property taxes for the Town of Avon general operating, debt service and the Avon General Improvement District No. 1.

- a. Resolution No. 12-26, Series of 2012, Resolution Levying General Property Taxes for the Year 2012, to help defray the costs of government for the Town of Avon, Colorado, for the 2013 Budget Year
(Scott Wright, Finance Director)

Councilor Evans moved to approve Resolution No. 12-26, Series of 2012, Resolution Levying General Property Taxes for the Year 2012, to help defray the costs of government for the Town of Avon, Colorado, for the 2013 Budget Year. Mayor Pro Tem Goulding seconded the motion and it passed unanimously

- b. Resolution No. 12-27, Series of 2012, Resolution Levying General Property Taxes for the Year 2012, to help defray the Costs of government for the Town of Avon General Improvement District No. 1, Avon, Colorado, for the 2013 Budget Year
(Scott Wright, Finance Director)

Councilor Dantas moved to approve Resolution No. 12-27, Series of 2012, Resolution Levying General Property Taxes for the Year 2012, to help defray the Costs of government for the Town of Avon General Improvement District No. 1, Avon, Colorado, for the 2013 Budget Year. Councilor Evans seconded the motion and it passed unanimously.

STAFF UPDATES

- a. Capital Projects Update *(Justin Hildreth, Town Engineer) Review current capital projects*

- 1) Harry A. Nottingham Park Lake Liner Design Update

Staff reported on the status of work being done on the lake liner replacement project. It was noted that they are currently procuring a design team and requested input from Council on some possible improvements. Some discussion ensued, and another presentation would be made with the final list of improvements recommended.

- 2) I-70 Transit Facility Construction Project Update

Staff reported on the status of the construction of the I-70 Transportation Operations Facility Project. They identified some completed items, status of funding, and project scope related to the buildout of the mezzanine. It was agreed that staff would continue to update the Council with regard to the mezzanine as costs and uses are determined.

- 3) Metcalf Drainage Improvements Project Update

Staff reported on the completion of this project noting that it was done timely & within budget.

TOWN MANAGER REPORT

New Town Manager Virginia Egger presented updates on some of the activity that she has been engaged in the past week.

MAYOR REPORT

- a. Discuss Future Agenda Items

Mayor Carroll provided information on some of the following topics:

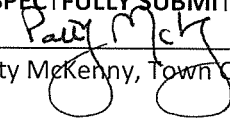
- ✓ Recent meeting with Mayor Pro Tem, Mayor, Town Attorney, Town Manager, Asst. Town Manager regarding email communications, how to present updates, agenda revisions, longer term look at agendas, start times for meetings, how to work more efficiently.
- ✓ Avon Elementary School Update
- ✓ Eagle Air Alliance Meeting attended by Finance Director
- ✓ Suggested that a Joint meeting w/ Planning & Zoning Commission happen two times per year
- ✓ Recognition to the Vail Valley Foundation for a spectacular Birds of Prey event.

- ✓ Austrian contingency follow up on researching a "Sister City in Austria"; (Mayor Carroll & Councilor Reynolds expressed interest in compiling information on this idea)

EXECUTIVE SESSION

Councilor Wolf moved to convene into executive session at 8:05 pm to meet with Town Attorney for the purpose of considering purchase, acquisition and sale of real property pursuant to Colorado Revised Statute §24-6-402(4)(a) and for the purpose of determining positions relative to matters that may be subject to negotiations pursuant to Colorado Revised Statute §24-6-402(4)(e) concerning prospective economic development. The motion was seconded and it passed unanimously. A motion was made to adjourn from the Executive Session and There being no further business to come before the Council, the regular meeting adjourned at 8:55 PM.

RESPECTFULLY SUBMITTED:



Patty McKenny, Town Clerk

APPROVED:

Rich Carroll
Dave Dantas
Chris Evans
Jennie Fancher
Todd Goulding
Albert "Buz" Reynolds
Jake Wolf

