



TOWN OF AVON, COLORADO
AVON REGULAR MEETING MINUTES FOR TUESDAY, AUGUST 13, 2013
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Carroll called the meeting to order at 4 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, Senior Planner Matt Pielsticker and Planner II Jared Barnes, Town Engineer Justin Hildreth, as well as other staff members and the public.

2. APPROVAL OF AGENDA

Mayor Carroll requested the addition to the executive session of a personnel matter for the town manager performance review.

3. EXECUTIVE SESSION

Mayor Carroll moved to meet in Executive Session for the purpose of receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) related to settlement matters 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 and personnel matters related to the Town Manager's evaluation pursuant to Colorado Revised Statute §24-6-402(4)(F). Mayor Carroll noted that the discussion would be confined only to the purposes of the executive session as stated above and that if at any time during the executive session anyone believes that the discussion does not concern the topic and purpose of the executive session, to please raise your objection immediately. The following people were present during the executive session: Mayor Rich Carroll, Councilor Dave Dantas, Councilor Chris Evans, Councilor Jennie Fancher, Mayor Pro Tem Todd Goulding, Councilor Buz Reynolds, Councilor Jake Wolf, Town Manager Virginia Egger, Town Attorney Eric Heil, and Assistant Town Manager/Town Clerk Patty McKenny.

The executive session was adjourned at 5:40 pm and Mayor Carroll noted that the meeting now reconvened in regular session. He asked if any Town Council member believed that any discussion in executive session was inappropriate and not related to the topic and purpose of the executive session to please state the objections at this time; there were no objections.

5:30 PM AVON LIQUOR AUTHORITY MEETING (MINUTES COMPLETED SEPARATELY)

5:45 PM REGULAR MEETING RECONVENES

1. PUBLIC COMMENT

There were no comments at this time.

2. ACTION ITEMS

2.1. Amendment 64 Use and Regulation of Marijuana

**2.1.1. Amendment 64: Review of Town Responsibilities and State of Colorado Actions
(Sam Mamet, Executive Director, CML)**

Information was presented about CML services, state topics of concern and federal topics of concern by Sam Mamet. He also presented a number of topics related to the implementation of Amendment 64, including information about the financial and regulatory considerations. Michael Cacioppo, resident, made comments about CML and its endorsements of tax increases.



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2.1.2. First Reading of Ordinance No. 13-11, Series of 2013, Ordinance establishing A Temporary Moratorium on the Operation of Marijuana Cultivation, Product Manufacturing and Testing Facilities, Retail Marijuana Stores and Marijuana Clubs
(Patty McKenny, Assistant Town Manager)

There was information presented regarding Amendment 64 and the constitutional requirement for local jurisdictions to decide about the licensing of retail marijuana centers and related services. After some information was provided per the outline in the council packet memo, Mayor Carroll opened the floor for public input which was provided as follows:

- ✓ Murphy Murray spoke in support of continuing to gather education about Amendment 64 prior to making any final decisions.
- ✓ Gerry Olsen, resident, supported the licensing of marijuana centers and spoke about some of the financial impacts related to medical marijuana centers.
- ✓ Michelle Stecker, Eagle River Youth Coalition, presented information about their position in opposing any licensing of retail marijuana centers.
- ✓ Michael Cacioppo, resident, inquired about the federal conflict with the state on the matter

After some further discussion about the options for either prohibiting the licensing or setting forth a timeframe for the moratorium, several members expressed concern about the licensing of the establishments in Avon. There was recognition that the Avon voters passed the measure by 72%, and thus possibly the need to take the wait and see approach before making any final decisions. It was also suggested that the town consider lessening the moratorium timeframe or taking a more proactive approach to reviewing and licensing the medical marijuana businesses. There were some concerns expressed by Chief Ticer about the public safety aspect of the retail marijuana use and licensing. There were some procedural questions addressed in terms of the ordinance that would prohibit the centers vs the moratorium option with the current ordinance. It was requested that a timeline be presented to Council at the next meeting showing when topics would be presented. Mayor Pro Tem Goulding moved to approve Ordinance No. 13-11, Series of 2013, Ordinance establishing A Temporary Moratorium on the Operation of Marijuana Cultivation, Product Manufacturing and Testing Facilities, Retail Marijuana Stores and Marijuana Clubs. Councilor Dantas seconded the motion and it passed with a six to one with a roll call vote (Mayor Carroll –nay). Councilor Wolf addressed the topic of the edibles noting that it would be very important to educate children about these items. It was noted that a public hearing would be required at second reading of the ordinance on August 27, 2013.

2.2. Recreation Center Phase 2 Expansion and Recreational Amenities

2.2.1. Update – Estimated Costs for Construction and O&M; Activity Programming

The Town Manager presented the topic with a review of some highlights from the proposal as follows

- ✓ Summary of Amenities for Phase 2 Expansion of Recreation Center
- ✓ Parking Analysis by Town Engineer
- ✓ Rec Center Expansion Operation & Maintenance (reviewed El Jebel’s proforma for their new facility)
- ✓ Playground Improvements: reviewed Pedro Campos proposal and budget estimate of \$770K
- ✓ Irrigation Ditch Enhancements



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- ✓ Ice Rink Options for upper field; some discussion ensued about lake ice vs. creating an ice rink to support an active programming of the ice
- ✓ Upper Field Upgrade Options with discussion about turf surface for soccer field
- ✓ Restrooms Renovation
- ✓ Programming Opportunities were highlighted
- ✓ Phase II Bond Proceeds; Mill Levy and Monthly Rates

Mayor Carroll asked for Public input at this time:

- ✓ John Dunn, representing Eagle Valley Library District, spoke about some of the important issues for the Library and requested that they be at the table for future planning and discussions.
- ✓ Michael Cacioppo, Avon resident, had further inquiries about the financing
- ✓ Mayor Carroll read resident Kristi Ferraro's letter into the record at this time (8:31 pm).

There was a question presented by Michael Cacioppo about an interaction between Mayor Carroll and Councilor Evans. Council Evans noted that his comment was about not wanting to expose any content discussed in an earlier executive session conversation.

2.2.2. Review of an Unlimited Tax General Obligation Voter Question for the November 5, 2013
Ballot (Scott Wright, Finance Director, and Jonathon Heroux, Piper Jaffray)

Both Jonathan Heroux and John Britz were present to comment on next steps following a ballot question approval, in terms of the financing and related question as well as the campaigning of the ballot proposal by the town and elected officials. There were discussions about numerous topics related to the financing as follows:

- ✓ what can town do to minimize subsidy to rec center ;
- ✓ what would a parking structure cost at rec center location
- ✓ would revs match the expenditure on this expansion
- ✓ Questions the return on investment on the gym space
- ✓ Would prefer a business model approach

There were Council comments pertaining to the proposal details and all agreed that community input would be very helpful on this topic. There was Council support to move the question to the voters in November and to the next agenda for further consideration.

2.2.3. Action on IGA with Eagle County for Participation in November 5, 2013 Coordinated Mail
Ballot Election (Patty McKenny, Assistant Town Manager)

The IGA was presented noting that the November election would be administered as a coordinated mail ballot only election. Councilor Fancher moved to approve the IGA with Eagle County for Participation in November 5, 2013 Coordinated Mail Ballot Election; Councilor Evans seconded the motion and it passed unanimously.

2.3. Resolution 13-22, Series of 2013, Resolution Approving the Execution and Delivery by Kayak
Affordable Housing Corporation of a Mortgage Loan and Subordinate Notes
(Gerry Flynn, Polar Star Properties, Calvin Hanson, Sherman and Howard)

Councilor Chris Evans stepped down at this time due to a conflict of interest. There was a brief presentation by both Gerry Flynn and Calvin Hanson on the refinancing. There was information presented about the project summary, current refunding terms, and financial statements for the



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project. The refinancing details were outlined in the council memo presented by Sherman and Howard. After some discussion, Mayor Pro Tem Goulding moved to approve Resolution number 13-22, Series 2013, and to approve the issuance by EagleBend Dowd Affordable Housing Corporation of a second series of bonds to be titled Multifamily Housing Project Refunding Revenue Bonds, Series 2013A-1. The Series 2013A-1 Bonds shall: (i) not exceed \$150,000 in principal amount, (ii) mature no later than September 1, 2016, (iii) bear interest at a rate of not more than 4.75%, (iv) be purchased by First Bank or one of its affiliates, and (v) be in such form as prescribed in the 2013 Indenture. The blended interest rate between the Series 2013A-1 and 2013A-2 will not exceed 3.2%. Councilor Fancher seconded the motion and it passed unanimously by those voting (Councilor Evans abstained due to conflict of interest). Councilor Wolf joined the meeting by telephone at this time.

- 2.4. Revised Resolution 13-17, Series of 2013, Resolution Approving the Execution and Delivery By Buffalo Ridge Affordable Housing Corporation of a Mortgage Loan and Subordinate Notes; Authorizing Subordinate Notes Principal in an Amount not to exceed \$850,000 and Authorizing Incidental Action for the Buffalo Ridge Affordable Housing Corporation HUD Refinance (Gerry Flynn, Polar Star Properties)

Councilor Evans remained out of the meeting room for this conversation due to a conflict of interest. Gerry Flynn presented this Resolution noting that the Buffalo Ridge Affordable Housing Corporation refinance closing was postponed and the interest addition required an amendment that addressed a not to exceed amount of \$850K per this resolution. Mayor Pro Tem Goulding moved to approve Resolution 13-17, Series of 2013, Resolution Approving the Execution and Delivery By Buffalo Ridge Affordable Housing Corporation of a Mortgage Loan and Subordinate Notes; Authorizing Subordinate Notes Principal in an Amount not to exceed \$850,000 and Authorizing Incidental Action for the Buffalo Ridge Affordable Housing Corporation HUD Refinance. Councilor Reynolds seconded the motion and it passed unanimously by those voting (Councilor Evans abstained due to conflict of interest).

- 2.5. First Reading for Ordinance No. 13-10, Series of 2013, Ordinance authorizing the execution and Delivery of a State & Municipal Lease/Purchase Agreement dated August 27, 2013 between the Town of Avon and Commerce Bank to purchase a loader, forklift and sander pursuant to the Exhibit A of such Agreement (Scott Wright, Finance Director)

Councilor Chris Evans returned to the meeting at this time. The presentation included a review of the types of purchases that would be made through the capital lease financing program in the amount of \$175,326 to be amortized over a five-year term with semi-annual payments at an interest rate of 1.77%. Councilor Evans moved to approve Ordinance No. 13-10, Series of 2013, Ordinance authorizing the execution and Delivery of a State & Municipal Lease/Purchase Agreement dated August 27, 2013 between the Town of Avon and Commerce Bank to purchase a loader, forklift and sander pursuant to the Exhibit A of such Agreement. Mayor Pro Tem Goulding seconded the motion and it passed unanimously.

- 2.6. Review and Action on Railroad Bridge Trestle, Wings and Columns Refurbishment in the Amount of \$98,107 with Monies being provided from the Capital Projects Fund (Virginia Egger, Town Manager)

Councilor Evans presented a potential conflict of interest on this topic noting that he has had conversations with the developer, the Hoffman group, and that there may be a potential future relationship between his company and theirs. After some discussions, Councilor Evans decided to step



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down at this time. Michael Cacioppo noted that even if there is an appearance, elected officials should step down. Mayor Pro Tem Goulding stepped down at this time to avoid any appearance of conflict of interest. Town Manager Virginia Egger reviewed the town's CIP program and a request to make improvements to the bridge façade along Avon Road which would complement some of the improvements being made on the East Avon properties by new owners Hoffman Properties. After some discussion about the use of the funds for this project, a motion was made by Councilor Dantas to approve the enhancements to the bridge and provide funding in the amount of \$98,107 from the CIP Fund. Councilor Wolf seconded the motion and it passed unanimously by those voting (Mayor Pro Tem Goulding and Councilor Evans abstained due to conflict of interest).

2.7. Public Hearing on Second Reading of Ordinance 13-09, Series of 2013, Ordinance Amending Title 7 of the Avon Municipal Code, including General Procedures, Planned Unit Development Amendments, Natural Resource Protection Standards, and Engineering Improvement Standards (Matt Pielsticker, Senior Planner)

Both Councilor Evans and Mayor Pro Tem Goulding returned to the meeting at this time. There was a review of the revisions made from first reading by Matt Pielsticker, such as 1) the increase to the findings of fact timeframe, 2) changes to requirements in processing PUD Amendments, 3) changes to requirements in processing Minor Subdivisions. Mayor Carroll opened the public hearing, no comments were made, the hearing was closed. Mayor Pro Tem Goulding moved to approve Ordinance 13-09, Series of 2013, Ordinance Amending Title 7 of the Avon Municipal Code, including General Procedures, Planned Unit Development Amendments, Natural Resource Protection Standards, and Engineering Improvement Standards on second reading. Councilor Dantas seconded the motion and it passed unanimously.

3. VILLAGE AT AVON

3.1. Action on Resolution No. 13-23, Series of 2013, a Resolution approving several documents related to the Village (at Avon) Litigation Settlement, including: the Access Easement Agreement; the Amended and Restated Nottingham Dam Easement and Assignment Agreement; the Partial Assignment of Amended and Restated Conveyance of Roadways, Parkland and Easements; and, the Revocable License Agreement for Snow Storage

Councilor Jake Wolf was no longer participating in the meeting. There was a review of the documents included in Resolution No. 13-23 as follows:

- ✓ Access Easement Agreement with some discussion provided about revisions related to the telecommunication lines.
- ✓ Amended & Restated Nottingham Dam Easement Agreement with some discussion about the town's financial maintenance obligations with some discretion allowed through the annual appropriation process.
- ✓ Revocable License Agreement for Snow Storage with discussion about the revised document.
- ✓ Partial Assignment of Amended and Restated Conveyance of Roadways, Parkland and Easements with discussion about

EXECUTIVE SESSION CONVENED AT 10:35 PM UNTIL 10:40 PM

Mayor Carroll moved to meet with Town Attorney for the purpose of receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) related to settlement matters regarding Town of Avon v Traer



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Creek Metropolitan District, 2008 CV 0385 and Traer Creek, LLC, et.al. v Town of Avon 2010 CV 316. Mayor Pro Tem Goulding seconded the motion and it passed unanimously by those present (Councilor Wolf absent). Mayor Carroll noted that the discussion was confined only to the purposes of the executive session as stated above and that if at any time during the executive session anyone believes that the discussion does not concern the topic and purpose of the executive session, to please raise your objection immediately. The following people were present during the executive session: Mayor Rich Carroll, Councilor Dave Dantas, Councilor Chris Evans, Councilor Jennie Fancher, Mayor Pro Tem Todd Goulding, Councilor Buz Reynolds, Town Manager Virginia Egger, Town Attorney Eric Heil, and Assistant Town Manager/Town Clerk Patty McKenny. Councilor Jake Wolf was absent.

The executive session was adjourned 10:40 pm and Mayor Carroll noted that the meeting now reconvened in regular session. He asked if any Town Council member believed that any discussion in executive session was inappropriate and not related to the topic and purpose of the executive session to please state the objections at this time; there were no objections.

Councilor Evans moved to approve Resolution No. 13-23, Series of 2013, a Resolution approving several documents related to the Village (at Avon) Litigation Settlement, including: the Access Easement Agreement with the addition of 2 words “telephone lines and cable lines; the Amended and Restated Nottingham Dam Easement and Assignment Agreement; the Partial Assignment of Amended and Restated Conveyance of Roadways, Parkland and Easements; and, the Revocable License Agreement for Snow Storage with the substantive change in section 3.3 deleting the newly inserted language starting with the word “for clarification, etc” and other grammatical corrections as discussed. Councilor Fancher seconded the motion and it passed unanimously by those present (Councilor Wolf absent).

3.2. Settlement Update (Eric Heil, Town Attorney)

There was an update presented by the Town Attorney related to the Water Tank Project with a draft of a letter reviewed that would address a funding gap proposal for the project. The draft document was read into the record by the Town Attorney. After some discussion, Councilor Dantas moved to approve and send the letter dated August 14, 2013 from the Town Attorney to all parties involved in the Village (at Avon) settlement process regarding the Water Storage Tank Funding with the addition of language 1) a reference in #3 to “respectfully request, and 2) the addition of #5 to include the notation for Eric Jorgensen’s email dated August 13, 2013. Councilor Evans seconded the motion and it passed unanimously by those present (Councilor Wolf absent).

3.3. Review of Utility Road (or Haul Access Road) Alignment for Grading Permit and Possible Retaining Wall Permit

It was noted that a grading permit is approved at a staff level; the code doesn’t require council approval. Some discussion ensued about how to process such permit so that the town council would be aware of what would be built.

3.4. Review of Taxable Bond Structure through 2030 and Status of Bond Documents

There was nothing further to add to this item as there is continued analysis going on and another update would be included at the next meeting.



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**4. Town Appointment to the Colorado Municipal League's Policy Committee
(Virginia Egger, Town Manager)**

After some discussion, Councilor Evans moved to appoint Councilor Jake Wolf to the CML Police Committee and Town Manager Virginia Egger as the alternate. Councilor Fancher seconded the motion and it passed unanimously by those present (Councilor Wolf absent).

5. MINUTES FROM JULY 17, 2013

Councilor Dantas moved to approve the July 17, 2013 minutes; Mayor Pro Tem Goulding seconded the motion and it passed unanimously by those present (Councilor Wolfe absent).

6. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR AS FOLLOWS:

- 6.1. ECO Board Meeting (Buz Reynolds, Councilor)
- 6.2. UERWA Board Meeting (Todd Goulding, Mayor Pro Tem)
- 6.3. Channel 5 Meeting Update (Jake Wolf, Councilor)
- 6.4. 2015 Championship Meeting Update (Jennie Fancher, Councilor)
- 6.5. EGE Air Alliance Meeting (Rich Carroll, Mayor)

7. COUNCIL COMMENTS

There were updates about the West Avon Trail and the USA Pro Cycling Challenge.

There being no further business to come before the Council, the regular meeting adjourned at 11:15 PM.

RESPECTFULLY SUBMITTED:



Patty McKenny, Town Clerk

APPROVED:

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












