



TOWN OF AVON, COLORADO
AVON SPECIAL MEETING MINUTES FOR TUESDAY, AUGUST 28, 2013
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Carroll called the meeting to order at 6:10 PM. A roll call was taken and Council members present were Dave Dantas, Jennie Fancher, and Jake Wolf (via telephone). Councilor Chris Evans and Mayor Pro Tem Todd Goulding were absent. Councilor Reynolds arrived at 6:15 PM. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, and Assistant Town Manager/Town Clerk Patty McKenny.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. EXECUTIVE SESSION (THIS MEETING IS NOT OPEN TO THE PUBLIC)

Mayor Carroll moved to meet in Executive Session for the purpose of receiving legal advice pursuant to the following:

- 1) Meet with Town Attorney for the purpose of receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) and to meet pursuant to Colorado Revised Statute §24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators related to discussion about retaining independent legal counsel for the investigation of alleged violations of Code of Ethics

Councilor Dantas seconded the motion and it passed unanimously by those present (Councilor Evans and Mayor Pro Tem Goulding absent).

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 Jennie Fancher, Councilor Buz Reynolds, Councilor Jake Wolf, Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager/Town Clerk Patty McKenny.

The executive session was adjourned at 6:40 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.

6:45 PM REGULAR MEETING RECONVENES

4. PUBLIC COMMENT

The following community members spoke:

1. Amy Phillips, Avon resident, voter and former town council member, requested that the scope of the investigation be broader in nature in response to the press release. She proceeded to express her concerns with the actions of both town council members.
2. Amy Phillips spoke on behalf of homeowner Betty Todd noting Ms. Todd's support that the scope of the investigation is broad as all angles must be investigated.



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3. Amy Phillips also read into the record a letter dated August 28, 2013 names from 20 individuals included on it in support of the investigation and describing their concerns.

5. WORK SESSION

5.1. Interview Qualified Colorado Attorneys to Conduct an Investigation in Regards to Residency and Claims of Impropriety

The following attorneys were investigated:

1. D.J. Himstedt, Legal Investigations, Inc.
2. Ken Fellman, Kissinger & Fellman, P.C.
3. Larry Berkowitz, Spencer, Fane & Grimshaw, LLP
4. Scott Krob, Krob Law Office, LLC

The interviews concluded at 8:15 pm. There was Council discussion at this time about summarizing the scope of the investigation to include the following:

- 1) Review appearance of any impropriety or conflicts with the Walgreens project
- 2) Review appearance of any impropriety or conflicts with the Wyndham Project
- 3) Review residency requirements and interpretation of the Avon Municipal Code
- 4) Review Employment relationships of the two members that would reflect any appearance of impropriety or conflicts
- 5) Review the voting records for the two members; there was not as much support to include this item in the scope of the investigation
- 6) Investigate relationship between council members and Mauriello Planning Group, LLC

Kristi Ferraro, Avon resident and former Avon Council Member expressed support for investigation the employment relationship in light of the August 28th written letter requesting this be included in the scope.

Mayor Carroll moved to meet in Executive Session at 8:35 pm for the purpose of receiving legal advice pursuant to the following:

- 1) Meet with Town Attorney for the purpose of receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) and pursuant to Colorado Revised Statute §24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators related to discussion about retaining independent legal counsel for the investigation of alleged violations of Code of Ethics

Councilor Dantas seconded the motion and it passed unanimously by those present (Councilor Evans and Mayor Pro Tem Goulding absent).

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 Jennie Fancher, Mayor Pro Tem Todd Goulding, Councilor Buz Reynolds, Councilor Jake Wolf, Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager/Town Clerk Patty McKenny.



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AVON SPECIAL MEETING MINUTES FOR TUESDAY, AUGUST 28, 2013
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The executive session was adjourned 9:03 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.

6. ACTION ITEMS

6.1. Discussion and Action to Retain Firm to Conduct an Investigation in Regards to Residency and Claims of Impropriety

After some discussion, Councilor Dantas moved to hire Scott Krob, Krob Law Office LLC, as legal counsel to provide the investigative services; Councilor Reynolds seconded the motion and it passed unanimously by those present (Councilor Evans and Mayor Pro Tem Goulding absent).

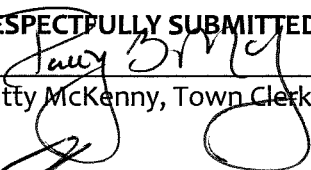
Mayor Carroll then moved to approve the "Agreement for Independent Legal Investigation Services" with Krob Law Office LLC, with the insertion of a new paragraph as follows:

"provision of legal opinion as to whether Council members Chris Evans and Todd Goulding are in compliance with Avon Municipal Code Chapter 2.32 Determining Residency Qualifications of Council Members"

And also allow the Mayor to execute the document if further input is received and non-substantive changes in nature are required, and finally allow for minor modifications that do not include changes in scope of services or costs. Councilor Dantas seconded the motion and it passed unanimously by those present (Councilor Evans and Mayor Pro Tem Goulding absent).

There being no further business to come before the Council, the regular meeting adjourned at 9:10 PM.

RESPECTFULLY SUBMITTED:



Patty McKenny, Town Clerk

APPROVED:

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

