



**TOWN OF AVON, COLORADO**  
**SPECIAL TOWN COUNCIL MEETING MINUTES FOR TUESDAY, SEPTEMBER 17, 2013**  
AVON TOWN HALL, ONE LAKE STREET

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**1. CALL TO ORDER & ROLL CALL**

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, and Jake Wolf. Buz Reynolds arrived at 4:10 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 topic; Councilor Evans seconded the motion and it passed unanimously.

- 3.1. 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 Creek Metropolitan District, 2008 CV 0385 and Traer Creek, LLC, et.al. v Town of Avon 2010 CV316

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, 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 7:08 pm and Mayor Carroll noted that the meeting now reconvened in regular session at 7:15 pm. 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.

**4. PUBLIC COMMENT**

There were no comments from the public. Mayor Carroll acknowledged the hardship communities are facing on the Front Range from the rain and flooding this past week.

**5. WORK SESSION ESTIMATED TO BEGIN AT 7 PM**

- 5.1. Village at Avon Update (Eric Heil, Town Attorney)

Town Attorney Eric Heil provided some historical information and noted the documents that were approved in Ord. No. 12-10 approving the Consolidated, Amended and Restated Annexation and Development Agreement for the Village (at Avon). An update on documents was provided, noting that Traer Creek would be providing a proposal for constructing the water tank which the Authority has agreed to review. The Council's packet included an "addendum to the water tank agreement" that would be considered after the development agreement. He explained that the terms were summarized in the council packet memo with an outline of the proposal and that Section 5-5 was revised in order to implement the new construction of the water tank responsibilities with a detailed review of the language proposed.



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**6. ACTION ITEMS**

**6.1. First Reading of Ordinance 13-13, Series 2013, an Ordinance Amending the Consolidated and Amended and Restated Annexation and Development Agreement for The Village at Avon (Eric Heil, Town Attorney)**

There was a discussion and review of CARADA 5.5: Obligation of TC-RP section of the agreement. Councilor Dantas moved to approve on first reading Ordinance Amending the Consolidated and Amended and Restated Annexation and Development Agreement for The Village at Avon with the following changes:

- ✓ Strike Section 5.5 (b)(iii)(B)
- ✓ Revise the \$7 M to \$7.2 M
- ✓ Add that Traer Creek Metro District begin to collect the retail sales fee to be collected beginning November 1, 2013 in an amount of .75 and include that language as a condition to the ordinance.

Councilor Wolf seconded the motion. It was noted by the Town Attorney that in order for the ordinance to pass five votes would be required because it is an IGA with another governmental agency (TCMD) with a longer than 10 year term. A roll call vote was taken and the motion failed with a four to three vote (Councilors Evans, Mayor Pro Tem Goulding, Councilor Fancher, and Councilor Wolf – yea; Mayor Carroll, Councilor Reynolds, and Councilor Dantas – nay).

After further discussion about the matter, a recap of the financial obligations throughout the settlement process, and comments about what would be needed in order to move the agreement to unanimous approval, another motion was made. Councilor Dantas moved to approve on first reading Ordinance Amending the Consolidated and Amended and Restated Annexation and Development Agreement for The Village at Avon with the following changes:

- ✓ Strike Section 5.5 (b)(iii)(B)
- ✓ Revise the \$7 M to \$7.2 M
- ✓ Add that Traer Creek Metro District begin to collect the retail sales fee to be collected beginning November 1, 2013 in an amount of .75 and include that language as a condition to the ordinance.

Councilor Wolf seconded the motion. Councilor Evans suggested adding to the language a deadline of collecting the RSF by November 1<sup>st</sup> with notice to businesses to collect sent by September 1<sup>st</sup> and if those dates were not met the ordinance would become null and void. The Town Attorney requested further time to consider that condition in light of some technical concerns. A roll call vote was taken and the motion passed with a six to one vote (Councilor Evans, Mayor Pro Tem Goulding, Councilor Fancher, Councilor Reynolds, and Councilor Wolf – yea; Mayor Carroll – nay).

**6.2. Approval of Addendum to the Water Tank Agreement (Eric Heil, Town Attorney)**

Town Attorney Eric Heil presented the agenda item, with a brief review that the agreement format had been revised and that this new format was not acceptable to him or other parties. He also noted that the Addendum to the Tank Agreement changes the responsible party for constructing the water tank, addresses required escrow amounts and stated the conditions for which the Authority would rescind the moratorium on water service. Councilor Wolf moved to table action on the Addendum to the Water Tank Agreement; Councilor Reynolds seconded the motion and it passed unanimously.



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There being no further business to come before the Council, the special meeting adjourned at 8:10 PM.

**RESPECTFULLY SUBMITTED:**

*Debra Nappa Acting Town Clerk*  
 Patty McKenny, Town Clerk

**APPROVED:**

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

*[Handwritten signatures on lines]*