

AVON REGULAR MEETING MINUTES

TUESDAY AUGUST 25, 2020

SETUP AS A VIRTUAL MEETING VIA ZOOM DUE TO COVID-19 AND TOWN HALL CLOSURE



1. CALL TO ORDER AND ROLL CALL

The meeting was hosted in a virtual format, using Zoom.us. Mayor Smith Hymes called the meeting to order at 5:00 p.m. A roll call was taken, and Council members present by video/audio were Amy Phillips, Tamra Underwood, Jake Wolf, Chico Thuon, Jennie Fancher, and Scott Prince. Also present were Town Manager Eric Heil, Town Attorney Paul Wisor, Police Chief Greg Daly, Public Works Director Gary Padilla, Mobility Director Eva Wilson, Finance Director Scott Wright, Executive Assistant to the Town Manager Ineke de Jong, and Town Clerk Brenda Torres.

2. APPROVAL OF AGENDA

Video Start Time: 00:00:42

Mayor Smith Hymes asked to take off agenda item 5.1, Proclamation for Michael Trujillo, as he cannot be present tonight.

Councilor Underwood moved to approve the agenda as amended. There was not a second as Councilor Wolf then asked item 5.5, Gallagher amendment, to be removed from the agenda. After Council discussion, Councilor Underwood expressed that it should stay on the agenda to be discussed.

Councilor Wolf moved to remove item 5.5, the Gallagher amendment agenda item, from tonight's agenda. Councilor Thuon seconded the motion and the motion failed by a vote of 2 to 5. Councilor Prince requested to have a discussion after roll call to hear why Councilor Wolf has requested this item to be removed from public discussion.

Mayor Smith Hymes suggested to leave this item as it is presented in the agenda and to discuss Councilor Wolf's objection at that time.

Mayor Pro Tem Phillips moved to remove item 5.1 from tonight's agenda and honor Michael Trujillo at a future Council meeting. Councilor Underwood seconded the motion and the motion passed by a vote of 6 to 1. Councilor Wolf voted no.

3. DISCLOSURE OF ANY CONFLICTS OF INTEREST RELATED TO AGENDA ITEMS

Video Start Time: 00:05:56

Councilor Wolf asked if he would have a conflict of interest voting on the Gallagher Ballot question, based on a past disclosure where it was noted by Councilor Prince that he should have had excused himself from that item. Town Attorney Paul Wisor confirmed this is not a conflict of interest as it affects every resident the same way.

Mayor Smith Hymes announced that Town Clerk Brenda Torres has released the names of the six verified candidates to run for the three open Town Council seats on November 3rd, 2020. The qualified candidates are Lindsay L. Hardy, Kevin Hyatt, Russell Andrade, Amy Cramer Phillips, Missy Erickson, and Martin Golembiewski.

4. PUBLIC COMMENT

Video Start Time: 00:09:15

Mayor Smith Hymes explained to the public how to participate via video/audio, via telephone, or via email for public comments.

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Dee Wisor made a public comment about behavior on roads. He observed illegal off-road vehicles in Wildridge this weekend and expressed concern that State and local laws are being violated. He encouraged more enforcement and improvements along Wildridge road.

5. BUSINESS ITEMS

~~5.1. Proclamation honoring Michael Trujillo (Public Works Director Gary Padilla)~~

5.2. Proclamation honoring Mario Medina (Public Works Director Gary Padilla)

Video Start Time: 00:15:15

Public Works Director Gary Padilla read the proclamation honoring Mario Medina. Mayor Smith Hymes congratulated and thanked him for his 18 years of service for the Town of Avon.

5.3. **First Reading of Ordinance 20-13:** Amending the Avon Home Charter (Town Attorney Paul Wisor)

Video Start Time: 00:18:59

Town Attorney Paul Wisor prefaced this item was brought up at the last Council meeting and this Ordinance was drafted per direction from Council. Councilor Underwood asked to amend one sentence on page 8, section 4.8, to read "... the members of the..." instead of "... the Mayor and...".

Mayor Smith Hymes asked for public comment and no comments were made.

Council asked whether "temporarily" in section 4.8 makes it clear that Council pay can be declined and then be reinstated which Town Attorney Paul Wisor confirmed is clear.

Councilor Underwood moved to approve first reading of Ordinance 20-13 Referring a Proposed Amendment to the Avon Home Rule Charter Regarding Compensation of Members of Town Council to an Election of the Registered Electors of the Town of Avon, and set a public hearing for second reading on September 8, 2020 with the change in section 4.8 as requested. Mayor Pro Tem Phillips seconded that motion and the motion passed unanimously.

5.4. **Resolution 20-22** Referring a Charter Amendment Ballot Issue to the November 3, 2020 Election (Town Attorney Paul Wisor)

Video Start Time: 00:30:57

Town Attorney Paul Wisor explained this resolution is a follow up to first reading of Ordinance 20-13 and places the ballot language on the ballot. There were no Council questions.

Mayor Smith Hymes asked for public comment and no comments were made.

Councilor Underwood moved to approve Resolution 20-22 Referring a Proposed Amendment to the Avon Home Rule Charter Regarding Compensation of Members of Town Council to an Election of the Registered Electors of the Town of Avon and having the Charter language to be identical to Ordinance 20-13 just approved on first reading. Mayor Pro Tem Phillips seconded the motion and the motion passed unanimously.

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5.5. Resolution 20-21 Gallagher Stabilization Question (Town Attorney Paul Wisor)

Video Start Time: 00:33:40

Town Attorney Paul Wisor allowed Councilor Prince and Councilor Fancher to ask questions prior to his presentation on the background of the Gallagher Laws. Councilor Prince asked Councilor Wolf about his objection during the approval of the agenda to have this agenda item presented tonight. Councilor Wolf said he would answer as the item gets discussed.

Town Attorney Paul Wisor explained several other municipalities are considering adding the same stabilization question to this year's ballot. The Town could follow the lead of other special districts and ask Avon residents to essentially freeze the RAR at its current level of 7.15%, which would require a ballot question be placed before voters at the November 2020 election. Question set forth in Resolution 20-21:

WITHOUT RAISING THE MILL LEVY FOR THE 2021 TAX COLLECTION YEAR, SHALL THE AVON TOWN COUNCIL HAVE THE AUTHORITY TO ADJUST THE TOWN OF AVON'S MILL LEVY RATE THEREAFTER AS NEEDED FOR THE SOLE PURPOSE OF MAINTAINING REVENUES THAT MAY OTHERWISE BE LOST AS A RESULT OF STATE IMPOSED REDUCTIONS IN THE RATIO OF ASSESSED PROPERTY TAX VALUATIONS SO THAT THE ACTUAL TAX REVENUES GENERATED BY THE TOWN'S MILL LEVIES ARE THE SAME AS THE REVENUES THAT WOULD HAVE BEEN GENERATED HAD THE STATE NOT IMPOSED SUCH REDUCTIONS, IN ORDER TO ALLOW THE TOWN TO SUSTAIN SERVICES TO THE AVON COMMUNITY?

Mayor Smith Hymes asked for public comments and Michael Cacioppo commented. He asked whether this Gallagher amendment is a constitutional amendment and whether this is allowed. Also, if this language of Gallagher allows local government level exemption. He also asked if there are any lawsuit rulings against local jurisdictions.

Town Attorney Paul Wisor mentioned the Eagle County Clerk and Recorder will synthesize comments and put them in the Blue Book, which would be available in the next 2-3 weeks approximately. He clarified the Town cannot comment, but individual voters do. Council members agreed it is important to educate voters and let them decide.

Councilor Fancher moved to approve Resolution 20-21 Referring a Gallagher Stabilization Ballot Question to the Voters of the Town of Avon. Mayor Pro Tem Phillips seconded the motion and the motion passed by a vote of 6 to 1. Councilor Wolf voted no.

5.6. Resolution 20-20 RETT Application Fee Increase (Town Attorney Paul Wisor)

Video Start Time: 01:18:41

Town Attorney Paul Wisor explained the \$4.00 increase in RETT exemption application fees will cover the Town's actual cost in filing the required lien and subsequently releasing the lien. Mayor Smith Hymes polled Council on whether they want to discuss leaving fee increases to staff discretion as a separate issue on a future agenda and the majority of Council did not support discussing this and thought it was best to leave it as is.

Mayor Smith Hymes asked for public comment and no comments were made.

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Councilor Prince moved to approve Resolution 20-20 Increasing Application Fees for Primary Residence Exemptions from the Real Estate Transfer Tax from \$26.00 to \$30.00. Mayor Pro Team Phillips seconded the motion and the motion passed by a vote of 6 to 1. Councilor Wolf voted no.

5.7. First Reading of Ordinance 20-12: Code Updates to the Town's Liquor Code (Town Attorney Paul Wisor)

Video Start Time: 01:26:34

Town Attorney Paul Wisor presented the Ordinance 20-12.

Mayor Smith Hymes asked for public comment and no comments were made.

Councilor Wolf why Council must approve this instead of the Liquor Authority. Town Attorney Paul Wisor explained because it is a Code Amendment.

Councilor Fancher moved to approve Ordinance 20-12 Reflecting Changes to References to Recodified State Provisions Addressing Colorado's Beer, Liquor, and Special Event Rules, and Set a Public Hearing for Second Reading on September 8, 2020. Mayor Pro Tem Phillips seconded the motion and the motion passed unanimously.

5.8. Work Session regarding ClearGov Budget Software (Assistant Town Manager Scott Wright)

Video Start Time: 01:29:07

Assistant Town Manager and Finance Director Scott Wright explained this software is in line with the Town's 2020 strategic plan of community engagement. Mayor Smith Hymes said it is a big enhancement and was highly recommended by the Finance Committee when presented in the August Finance Meeting. Assistant Town Manager and Finance Director Scott Wright said the current budget book is very time consuming and linear, and this new software will make the information available to the public in a tabular format that is extremely user friendly and can be changed and narrowed down based on what information someone wants to look at. Councilor Underwood expressed enthusiasm about this clear effort for public transparency and thanked staff for these efforts.

5.9. Discussion and Approval of UMB Purchase Card Agreement (Assistant Town Manager Scott Wright)

Video Start Time: 01:41:33

Assistant Town Manager and Finance Director Scott Wright explained the change of the current debit card system to the new UMB Purchase card system. He said this will be big efficiency enhancement with no cost to the town and the Town will be getting 1% rebates for volume transactions. He mentioned current Petty Checks and First Bank cards will be discontinued. Town Manager Eric Heil explained that the bank requires that the Governing Body approves the agreement.

Councilor Fancher moved to approve the UMB Operation Resolution and Agreement for Credit Card Program. Mayor Pro Tem Phillips seconded the motion and the motion passed by a vote of 6 to 0. Councilor Prince's video was off and he did not vote.

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5.10. Work Session: Zagster Bike Share Program (Mobility Director Eva Wilson)

Video Start Time: 01:46:03

Town Attorney Paul Wisor explained that Attorney Haley Carmer will be the stand-in attorney starting at 7:00 p.m. when he has to leave the virtual meeting for a short period of time. Attorney Carmer joined at 6:50 p.m. and Attorney Wisor left at 6:54 p.m.

Mobility Director Eva Wilson presented. Councilor Fancher expressed she agrees with the staff recommendation to survey local bike shops, visitors, and accommodations businesses to determine user groups that would benefit from a bike share program prior to any further investment in a bike share program. However, she would like the Town to keep the conversation with the County open to see if any future bike program participation could be consistent with other communities in the Valley. Mobility Director mentioned the County is not doing any bike share program at the moment, but the Town is currently watching Vail's 10-week e-bike pilot program. Councilor Wolf brought up a suggestion for scooters and e-bikes.

Mayor Smith Hymes asked for public comment and no comments were made.

Mayor Smith Hymes thanked Mobility Director Eva Wilson for her efforts and said that the Zagster program has brought us valuable information to use in future.

5.11. Public Hearing for Outdoor Use of Amplified Sound Permits (CASE Manager Danita Dempsey)

Video Start Time: 01:55:18

Town Manager Eric Heil introduced the 2 sound permit applications. CASE Manager Danita Dempsey joined to answer questions from Council. The first applicant, Emogene Bedrosian, joined the virtual meeting and explained the setup and logistics of her private "classical piano concert amplified to deck, driveway, yard". Councilor Underwood expressed she feels like the application and this public hearing for a sound permit and the public marketing that the applicant is doing makes this a public event which means the applicant needs to comply with the Public Health Orders requirement of a maximum of 175 people. Councilor Prince asked if the applicant would report back after the first event with feedback on attendance levels, parking logistics, etc. The applicant agreed.

Mayor Smith Hymes asked for public comment and no comments were made.

Councilor Wolf moved to approve the Outdoor Use of Amplified Sound Systems for Thursday, August 27th and Thursday, September 3rd between the hours of 6:00 p.m. and 9:00 p.m. as requested by the applicant, Emogene Bedrosian. Mayor Pro Tem Phillips seconded the motion.

The motion was amended to reflect change of dates to September 3rd and September 10th. Mayor Pro Tem seconded the amended motion and the motion passed unanimously.

Mayor Smith Hymes requested to amend the motion to include suggestion from Attorney Haley Carmer, to include the following condition, that approval is subject to comply with the Public Health Orders requirements.

Councilor Wolf amended the motion and Mayor Pro Tem Phillips seconded the amended motion. The motion passed unanimously.

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The second applicant, Darren Skanson with CCM Events, joined the virtual meeting. He expressed that this is a request for lightly amplified sound to enhance the experience at the weekly art markets and give it more of an event atmosphere and ambiance. Council showed enthusiasm and support for this idea and the art market. Councilor Underwood asked how this event will be complying to Public Health Orders.

Mayor Smith Hymes asked for public comment and no comments were made.

Councilor Underwood made a motion to approve the Outdoor Use of Amplified Sound Application for the Possibilities in Avon: Weekly Art Expo in the Main Street Mall on August 27th, September 3rd and September 9th from 11:00 a.m. to 6:00 p.m. Mayor Pro Tem Phillips seconded the motion and the motion passed unanimously.

Town Attorney Paul Wisor returned to the meeting at 7:24 p.m. Stand-in Attorney Haley Carmer left the meeting at 7:25 p.m.

6. MINUTES

6.1. Approval of Minutes for August 11, 2020 Council Meeting (Town Clerk Brenda Torres)

Video Start Time: 02:26:58

Councilor Wolf said his comments about the proposed Charter amendments were not clear in the minutes, he wants people to have a choice this coming election to choose their Mayor. Town Attorney Paul Wisor suggested to make a motion to table approval of the minutes until September 8 and come back with suggested edits then.

Councilor Wolf moved to table the approval of the minutes for August 11, 2020 until September 8th. Mayor Pro Tem Phillips seconded the motion and the motion passed unanimously.

7. WRITTEN REPORTS

7.1. Upper Eagle Regional Water Authority July 23, 2020 Meeting Summary (Mayor Smith Hymes)

7.2. ECO Transit Update (Mayor Pro Tem Amy Phillips)

7.3. Monthly Financial Report (Senior Accountant Nelly Burns)

8. MAYOR AND COUNCIL COMMENTS & MEETING UPDATES

Video Start Time: 02:31:27

Councilor Wolf expressed he has issues with perceived hypocrisy and wishes he was heard more about giving people a choice to choose what they want. He praised CASE Manager Danita Dempsey for the SunsetLIVE! series on Sundays and said those events are great and people are having a great time.

Councilor Thuon asked Council to also add Old Trail Road to the discussion about traffic violations as brought up during public comments by Dee Wisor.

Councilor Fancher stated she went to the music in Vail and she thought it was great. She highly recommends other Councilors, Town Manager Eric Heil and CASE Manager Danita Dempsey go see it for themselves. She said the event was very well set up and managed. Councilor Wolf agreed the setup in Vail

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works well using squares marked with ropes. He also mentioned mental health issues and that Council needs to serve our community and do something to this respect. Several Councilors felt that staff should consider reinstating AvonLIVE! and see if what Vail does can be replicated in Avon. Town Manager Eric Heil explained we cannot put on AvonLIVE! without going over the 175-person maximum.

Mayor Pro Tem Phillips expressed that the technicalities of the two venues are very different. She asked Town Manager Eric Heil to look into the work at the Piedmont construction project as it has been starting prior to 7:00 a.m. in the morning. He confirmed he already informed the buildings department.

Mayor Smith Hymes announced the Wildridge Community Survey is done and the results are being analyzed; there was a great participation. Town Manager Eric Heil said the results will be out soon and before the next Council packet. She reminded Council to sign the CC4CA letter thanking Governor Polis for his actions on climate change and asking to keep up the momentum. She also reminded everyone to sign following the links sent, if Councilors are interested in supporting this effort. The deadline is September 9th.

Mayor Smith Hymes said a couple of people have inquired why there have not been water restrictions put in place yet. She spoke with Linn Brooks from the Eagle River Water & Sanitation District and read her message about water restrictions. Water production is actually less than in 2018 and the District is monitoring the balance of water use versus fire danger. The Eagle River Water & Sanitation District will roll out a message about cutting back on irrigation soon.

9. ADJOURN

There being no further business before Council, Mayor Smith Hymes moved to adjourn the regular meeting. The time was 7:53 p.m.

These minutes are only a summary of the proceedings of the meeting. They are not intended to be comprehensive or to include each statement, person speaking or to portray with complete accuracy. The most accurate records of the meeting are the audio of the meeting, which is housed in the Town Clerk's office, and the video of the meeting, which is available at www.highfivemedia.org.

RESPECTFULLY SUBMITTED:

A handwritten signature in blue ink that reads "Brenda Torres".

Brenda Torres, Town Clerk

APPROVED:

Sarah Smith Hymes

A handwritten signature in blue ink that reads "Sarah Smith Hymes".

Amy Phillips

Jake Wolf

Chico Thunon

Jennie Fancher

Scott Prince

Tamra Underwood