

# AVON SPECIAL MEETING MINUTES

TUESDAY OCTOBER 20, 2020

SETUP AS A VIRTUAL MEETING VIA ZOOM DUE TO COVID-19



## 1. CALL TO ORDER AND ROLL CALL

The meeting was hosted in a virtual format, using Zoom.us. Mayor Smith Hymes called the special meeting to order at 5:01 p.m. A roll call was taken and Council members present by video/audio were Amy Phillips, Tamra Underwood, Scott Prince, and Jennie Fancher. Councilors Chico Thuon and Jake Wolf were absent. Also present were Town Attorney Paul Wisor, Police Chief Greg Daly, Town Manager Eric Heil, Executive Assistant to the Town Manager Ineke de Jong, and Town Clerk Brenda Torres.

## 2. APPROVAL OF AGENDA

Video Start Time: 00:00:32

Mayor Smith Hymes moved Council comments after public comments so that Council do not have to come back to this Zoom meeting after the Executive Session.

Councilor Thuon joined the meeting right after roll call at 5:02 p.m.

Councilor Underwood moved to approve the agenda as amended. Mayor Pro Tem Phillips seconded the motion and the motion passed by a vote of 6 to 0. Councilor Wolf was absent.

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

Video Start Time: 00:01:58

Councilor Prince asked to be recused from agenda items 5.1 and 6.1 as this is the exact type of work he does and he cannot be involved.

Councilor Fancher and Councilor Thuon also asked to be recused for the same items. Councilor Fancher's husband has a potential buyer and Councilor Thuon also has a potential buyer.

Town Attorney Paul Wisor explained there will be no Council action on these items so moving forward with just three Councilors (no quorum), with three Councilors recused and one Councilor absent is fine.

Councilor Underwood, given the Ethics Code 2.30.060 Subsection 8, whereby a Town officer shall not perform any official act under circumstances which give rise to appearance of impropriety on the part of the officer, moved to allow Councilor Prince to recuse himself from agenda items 5.1 and 6.1. Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 5 to 0. Councilor Wolf was absent and Councilor Prince abstained from the vote.

Councilor Underwood, given the Ethics Code 2.30.060 Subsection 8, whereby a Town officer shall not perform any official act under circumstances which give rise to appearance of impropriety on the part of the officer, moved to allow Councilor Fancher to recuse herself from agenda items 5.1 and 6.1. Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 5 to 0. Councilor Wolf was absent and Councilor Fancher abstained from the vote.

Councilor Underwood, given the Ethics Code 2.30.060 Subsection 8, whereby a Town officer shall not perform any official act under circumstances which give rise to appearance of impropriety on the part of the officer, moved to allow Councilor Thuon to recuse himself from agenda items 5.1 and 6.1. Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 5 to 0. Councilor Wolf was absent and Councilor Thuon abstained from the vote.

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## 4. PUBLIC COMMENT

Video Start Time: 00:17:08

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

Tom Ruemmler commented about the recall petition and stated it is a misdemeanor to suppress a recall petition. There was incorrect information in the paper about Real Estate Transfer Tax and the recall being called a waste of Avon city resources. He expressed that the information to the public is one-sided and that's not ethical.

Michael Bell made a comment saying he has questions about former Colorado World Resorts and asked where can he find more information about the exact situation.

Matthew Abramowitz commented he will continue to advocate for a sidewalk and bus stop on Hwy 6 near Colorado World Resorts as it impacts everybody living there. He expressed that the new developer should work with CDOT.

Michael Cacioppo made a comment that he has three complaints against Mayor Pro Tem Phillips. He said first, she admitted knowing illegal voters in Avon and to do nothing about it. Second, she has attempted to suppress first amendment rights of petitioners. And third, she has abused her power and used Town of Avon stationary to go after someone at Mein Haus, accusing someone of not wearing a mask at their home.

Kim Schlaepfer commented she echoes Matt's statement about walkable/bikeable access on the South side of Hwy 6.

Jennie Fancher made a comment as a citizen. She expressed she is infuriated at the rudeness of Mr. Ruemmler and everyone doing the recall petitions and how they have harassed people going to the post office, including her daughter, who is not even old enough to vote.

Amy Phillips wanted to speak as a candidate. She expressed she is running for Council and would like people to be understand what her platforms are, what she has done in the past, and her plans for the future. She provided her email, Amy4avon2020@gmail.com, for people to reach out to her for more information. She expressed she is excited to run and to continue to work for the Town of Avon. She closed her comment saying she understands how government works and that petitioning on the United States Post Office property is in violation of laws above Avon and that is important for everyone to realize.

Alberto Balcazar, an Edwards Resident, said he called in to represent the truckers that moved the dirt from the lot at former Colorado World Resorts and they have not been paid in months.

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## 4B. MOVED ITEM: MAYOR AND COUNCIL COMMENTS

Video Start Time: 00:36:22

Councilor Thuon suggested everyone chooses the high road tonight through the meeting and hold on tight.

Mayor Smith Hymes wanted to raise awareness about tracking the status of your ballot. She encouraged everyone to sign up for Colorado.ballottrax.net. If your ballot gets rejected for any reason, you can go see the Eagle County Clerk in person to get it counted.

Councilor Prince asked about the timeframe of notification if a signature is rejected. Town Attorney Paul Wisor said if a ballot is rejected, the voter gets notified shortly right after so the voter can cure the ballot before election day. Mayor Smith Hymes clarified that if you sign up for Ballottrax, you will get notified on every step of the process.

Councilor Underwood expressed that the Eagle County Clerk Recorder's Office is using the Avon Town Council Chambers as a voter service center and to drop off ballots, in addition to the 24 hours drop off box at the north side of the Annex building. She mentioned that it is not run by the Town of Avon. Town Attorney Paul Wisor clarified that before Monday the polling center at the Annex building was an appropriate location, so ballots dropped off there before Monday will still be counted.

Councilor Thon explained there are 2 ballots to fill out and return this year.

## 5. BUSINESS ITEMS

### 5.1. DISCUSSION REGARDING SITE SECURITY; SITE RESTORATION AND ANTICIPATED NEXT STEPS FOR PROPERTY LOCATED AT 38388 HIGHWAY 6 (FORMERLY COLORADO WORLD RESORTS PROPERTY) (ANDY SHOPNECK, PINETREE FINANCIAL)

Video Start Time: 00:43:37

Councilor Fancher got disconnected for this agenda item at 5:45 p.m.

Councilors Prince and Thuon turned off their audio/video for this agenda item at 5:45 p.m.

Town Manager Eric Heil gave a brief summary and introduced Andy Shopneck with Pine Tree Financial, who joined the virtual meeting to provide an update.

Andy Shopneck said since they foreclosed on the project there have been many challenges to go with this. Right now, the number one priority is security of the site and he said a new fence will be installed tomorrow through a different contractor. He said his small company looked at finishing it or selling it, it is too big to pursue themselves, but the good news is they have received an LOI (Letter of Intent) with a group today on a contract for the site. This group is now doing their due diligence.

Councilor Underwood thanked Andy Shopneck for being a 'present' owner of the site and congratulated him on the LOI. She asked him to speak to schedule/timeline and various safety concerns. Mayor Pro Tem Phillips agreed with these comments. He said that one of their goals is to get rocks and items that were placed above the bus stop removed and go over the wall integrity. Another goal is to close this year and start construction in the spring.

Councilor Wolf joined the meeting at 5:58 p.m.

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Mayor Smith Hymes also expressed concern with the look as we are a resort community and this is at the entrance of Avon and Beaver Creek. She asked Andy Shopneck is they would consider a kind of fence that mitigates the abandoned look issue. He believes the fence to be installed is tennis court like with the green screen to block the sight.

Councilor Underwood asked Andy Shopneck whether the new developer will pay vendors that haven't been paid. He said it's too premature to talk about this issue.

Mayor Smith Hymes asked for public comments.

Ruby Nevarez commented he is also a trucker living in Edwards. He has been digging the hole and hauling dirt and has not been paid for almost a year. He asked who he should reach out to about getting paid. Andy Shopneck explained that the Pine Tree Financial Partners group is dealing with safety and in the info gathering stage right now.

Matthew Abramowitz echoed that saying he is hopeful that contractors will get paid. He asked if the East side of the property will get secured and not only the bus stop. He thanked Andy Shopneck and congratulate him about the LOI. He mentioned the sidewalk once again.

Town Attorney Paul Wisor told Rudy Nevarez that he can reach out to him if he has any more questions.

Councilor Underwood said Happy Birthday to Mrs. Hix who made a big impact on the community.

Councilor Wolf asked what we have learned and how we can prevent this from happening again. Mayor Smith Hymes said she shares this concern and it should be a topic for a future agenda. Town Manager Eric Heil said staff is working on a list of tasks/goals for 2021 and revisiting grating permits to avoid something like this and look at the development standards for grating. Town Attorney Paul Wisor explained staff takes this situation seriously and is looking at solutions for the future.

Councilor Underwood expressed she brought up these exact issues eighteen months ago and she is very upset about the situation at hand. She informed the public that the Town does hold a \$209,000 security deposit that can be used for particular things, but not all. Councilor Wolf agreed with her comments.

## 6. EXECUTIVE SESSION ROUND

**6.1.** FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND INSTRUCTING NEGOTIATORS, WITH RESPECT TO 38388 HWY 6 DEFAULT PURSUANT TO § 24-6-402(4)(B) AND (E) (TOWN ATTORNEY PAUL WISOR)

**6.2.** FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND INSTRUCTING NEGOTIATORS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND INSTRUCTING NEGOTIATORS WITH RESPECT TO PROPOSED AFFORDABLE HOUSING TRANSACTION PURSUANT TO § 24-6-402(4)(E) (TOWN ATTORNEY PAUL WISOR)

Video Start Time: 01:20:57

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Mayor Smith Hymes announced this is the end of the public meeting. The time was 6:22 p.m.

Mayor Smith Hymes made a motion to move into Executive Session.

There was a short pause to bring back Councilors Prince, Fancher and Thuon. They rejoined the meeting at 6:23 p.m.

Mayor Smith Hymes made another motion to move into Executive Session for the purpose of receiving legal advice and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, with respect to 38388 Hwy 6 default pursuant to § 24-6-402(4)(b) and (e) AND for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, developing strategy for negotiations, and instructing negotiators with respect to proposed affordable housing transaction pursuant to § 24-6-402(4)(e). Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 6 to 0. Councilor Wolf did not vote. The time was 6:26 p.m.

The Executive Session was hosted in a virtual format, using Zoom.us. Council members present for agenda item 6.1 were Mayor Smith Hymes, Amy Phillips, and Tamra Underwood. Councilor Jake Wolf was absent. Councilors Jennie Fancher, Scott Prince, and Chico Thuon were recused from this item. Also present were Town Manager Eric Heil, Town Attorney Paul Wisor, and Executive Assistant to the Town Manager Ineke de Jong.

Executive Session item 6.1 started at 6:33 p.m.

Executive Session item 6.1 ended at 7:09 p.m.

There was a short pause to wait for Councilors Prince, Fancher and Thuon to join the Zoom meeting. Councilor Wolf also joined at that moment.

Council members present for agenda item 6.2 were Mayor Smith Hymes, Amy Phillips, Tamra Underwood, Chico Thuon, Jennie Fancher, Scott Prince, and Jake Wolf. Also present were Town Manager Eric Heil, Town Attorney Paul Wisor, and Executive Assistant to the Town Manager Ineke de Jong.

Executive Session item 6.2 started at 7:13 p.m.

Executive Session item 6.2 ended at 7:50 p.m.

## 7. ADJOURN

There being no further business before Council, Mayor Smith Hymes moved to adjourn the special Council meeting. The time was 7:50 p.m.

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*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](http://www.highfivemedia.org).*

**RESPECTFULLY SUBMITTED:**

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

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Brenda Torres, Town Clerk

**APPROVED:**

Sarah Smith Hymes

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

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Amy Phillips

Jake Wolf

Chico Thun

Jennie Fancher

Scott Prince

Tamra Underwood