

AVON REGULAR MEETING MINUTES

TUESDAY NOVEMBER 10, 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 meeting to order at 5:20 p.m. A roll call was taken, and Council members present by video/audio were Amy Phillips, Chico Thuon, Jennie Fancher, Tamra Underwood, and Scott Prince. Councilor Jake Wolf was absent. Also present were Town Manager Eric Heil, Town Attorney Paul Wisor, Police Chief Greg Daly, Planning Director Matt Pielsticker, Executive Assistant to the Town Manager Ineke de Jong, and Town Clerk Brenda Torres.

2. APPROVAL OF AGENDA

Video Start Time: 00:09:51

Mayor Pro Tem Phillips pulled off item 7.3 Highway 6 Pedestrian Crossing Update and asked to discuss it as agenda item 5.5.

Town Manager Eric Heil expressed there was interest to have an Executive Session for legal advice about the recall. Town Attorney Paul Wisor expressed this item would present a conflict of interest for Mayor Smith Hymes, Councilor Underwood, and Councilor Wolf and it would be appropriate for the three of them to step out when this topic is discussed. Councilor Fancher suggested to put this Executive Session at the end of the agenda as item 8B.

Councilor Fancher moved to approve the agenda as amended. Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 4 to 0. Mayor Smith Hymes and Councilor Underwood abstained from the vote and Councilor Wolf was absent.

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

Video Start Time: 00:13:15

Councilor Underwood expressed that, per the Town Attorney, she has a conflict of interest with the Executive Session for legal advice regarding the recall election and she will not be attending. Mayor Smith Hymes recused herself for the same reason. Councilor Underwood said that Councilor Wolf was both a signer and a circulator and has a conflict as well.

Councilor Prince moved to approve that Mayor Smith Hymes, Councilor Underwood, and Councilor Wolf not attend the Executive Session as referenced. Councilor Fancher seconded the motion and the motion passed with a vote of 4 to 0. Mayor Smith Hymes and Councilor Underwood abstained from the vote. Councilor Wolf was absent.

Mayor Smith Hymes thanked Missy Erickson, Martin Golembiewski, and Kevin Hyatt for running for office and congratulated Lindsay Hardy, Amy Phillips & Russell Andrade for winning the election and being the new Councilors.

4. PUBLIC COMMENT

Video Start Time: 00:15:22

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

Tom Ruemmler commented that he sent Council an email which outlines why suggestions by the Town Attorney are incorrect. He said the framework has been modified over time through statutes and in his opinion only 330 signatures are needed for the recall petition. He said that anyone suppressing a recall

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petition is subject to a misdemeanor. He said this is an example of why having a Home Rule Town is not good.

Kristi Ferraro corrected Tom Ruemmler's comments on misunderstanding the law. She said the 25% of the votes casted means 25% of the electorate, which is 496 signatures. She said that 330 signatures only represent 17% of the 2018 electorate. She expressed that the recall proponents should have recruited candidates for candidacy in November and should not be allowed to continue to waste taxpayer dollars.

Michael Cacioppo corrected Kristi Ferraro's comment on that it was a small group, he said it is wrong as there were over 650 signatures. He objects to Amy Phillips attending the Executive Session on the recall petition as she was subject to the recall. He believes that Mr. Ruemmler is reading the law correctly. He said there were a lot of effort that went into this and that Council misspent hundreds of thousands of dollars over the years, so the recall dollars spent are a small amount.

Ruth Stanley made a comment that with everything going on in the world, especially with COVID-19, we do not need this recall. She thanked Council for working hard for helping the community and the recall is disgraceful. She expressed she is very upset with the recall committee and congratulated Amy Phillips on getting reelected.

5. BUSINESS ITEMS

5.1. PRESENTATION: PROCLAMATION HONORING COLORADO GIVES DAY (DENISE KIPP, EXECUTIVE DIRECTOR RED RIBBON PROJECT)

Video Start Time: 00:29:08

Councilor Wolf joined the meeting at 5:41 p.m.

Michelle Stecher joined the meeting and spoke on behalf of the collective. She was joined by Alan and Brenda Himelfarb, Connie Miller, Melanie McKinney, Tsu Wolin-Brown, and Bridget Bradford.

Mayor Smith Hymes read the proclamation and pronounced December 8, 2020 as Colorado Gives Day.

5.2. PRESENTATION EL PUENTE RADIO (COMMUNICATIONS MANAGER ELIZABETH WOOD AND GARY SCHWEDT, KZYR)

Video Start Time: 00:35:54

Communications Manager Liz Wood introduced the topic. Gary Schwedt took Council through the presentation. Tony Mauro and Pauline Araujo Agoitia were also virtually present. Councilor Fancher said thank you for bringing this into the Valley and expressed how awesome this project is. Town Manager Eric Heil mentioned he supports this project to expand outreach to our Hispanic community. Councilor Prince expressed hesitation with Council sponsoring a for-profit business and not giving the opportunity to all radio stations. Councilor Fancher said we also pay money to the Vail Daily. A majority of Council was supportive with the Platinum sponsorship of \$24,000 for 2021 and reassessing in 12 months for 2022. Gary Schwedt said they plan to go live on December 1st.

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5.3. PRESENTATION OF OAK VILLAGE ACADEMY PROPOSAL ON PLANNING AREA E (PLANNING DIRECTOR MATT PIELSTICKER)

Video Start Time: 01:11:10

Planning Director Matt Pielsticker introduced the topic. Adam Zablud, Eli Zablud and Amy Lewis also virtually joined and presented. Mayor Smith Hymes asked about the financial side. Council asked several questions, including what subsidy is needed to make this affordable for the community, what will fees be like for local families, and have they considered the utility easements on this lot.

Town Manager Eric Heil said if there is interest by Council in this concept, we can bring back for further discussion in early 2021. Council will revisit this with the new Council members.

Mayor Smith Hymes asked for public comments and Executive Assistant to the Town Manager Ineke de Jong read a written comment sent by Merced Rutty. She suggested to explore options for local preschools to relocate and expand before opening a new one.

Bette Todd commented she does not agree with this project as this is a public piece of land and she believes it should not be dedicated to a private use and she requested to not raise the building height of 48 ft.

Catherine Hayes said she agrees with Councilor Thuon's comment on looking for options locally first and she asked a few questions, answered by the developers.

Steve Coyer, with the Vail Valley Foundation, mentioned that the quality of teaching and pay have to be upgraded. He thinks it is a wonderful idea and he is requested Council to keep this project on the burner as we need high quality early childhood centers in the Valley.

Executive Assistant to the Town Manager Ineke de Jong read one more written comment from Lisa Chaple. She asked if is this the same group that proposed the early childhood center in Edwards that did not go through and if has the Town thought about investing in already stablished schools to help increase quality.

Guy Erickson asked what the proposed maximum height of the building is and said the PUD will have to be changed.

5.4. RESOLUTION 20-25, A RESOLUTION APPROVING A DEED RESTRICTION AGREEMENT FOR UP TO NINE (9) COMMUNITY HOUSING UNITS AT 77 METCALF ROAD (PLANNING DIRECTOR MATT PIELSTICKER AND TOWN ATTORNEY PAUL WISOR)

Video Start Time: 02:04:01

Planning Director Matt Pielsticker introduced the topic. Michele Evans and Ruth Borne presented. Councilor Underwood and Councilor Prince both asked for more time to look at the deed restriction. Council asked to put in a clause for consequences if the property ever gets converted back to commercial use. Council felt this was a great option and just the legal issues need to be worked out.

Mayor Smith Hymes asked for public comments and Bette Todd commented about the definition of eligible household as it has been significantly changed and turnover of tenants.

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Councilor Wolf believes this needs more consideration in time. Michele Evans said this is all interior work and they would like to start on December 1st.

After Council discussion, Councilor Underwood moved to continue Resolution 20-25 Approving a Deed Restriction agreement for up to nine (9) Community Housing units at 77 Metcalf Road to the next meeting on November 17th. Mayor Pro Tem Phillips seconded the motion and the motion passed with a vote of 6 to 1. Councilor Wolf voted no.

5.5. ADDED ITEM 7.3 HIGHWAY 6 PEDESTRIAN CROSSING UPDATE (MOBILITY DIRECTOR EVA WILSON)

Video Start Time: 02:43:35

Town Manager Eric Heil explained the County decided not to partner at this time to try to reduce the speed limit. Mobility Director Eva Wilson virtually joined the meeting. Councilor Fancher asked about placing a sign reading "people crossing the street, please slow down" as she thinks the drivers should be alerted to be aware, regardless of the speed limit. Town Manager Eric Heil clarified that in Phase 1, a pedestrian crossing cannot be put in there, but a median island can be built. If that reduces the traffic down to 40 mph, then further enhancements can be made to do a pedestrian crossing where the median is.

Councilor Underwood asked why there is only one median island proposed in the drawing presented in the western end. Mobility Director Eva Wilson explained that the bus stop is west bound, so a crossing is not necessary for the east bound bus shelter. Mayor Pro Tem clarified it is needed for residents at River Oaks and Eaglebend complexes.

Councilor Prince suggested to send a letter to the head of CDOT, and if no response, send a letter to the Governor, signed by our County Commissioners to request support to allow a pedestrian crossing. Mayor Smith Hymes said she already called the head of CDOT and left a couple of messages, but she has not heard back from her.

Councilor Wolf suggested to just take down the speed limit sign and put up our own, the legal consequences are worth it if it saves a life. Town Attorney Paul Wisor said this is not realistic and would have serious legal consequences. There was lengthy Council discussion on how to elevate this issue to the County, the State, the Governor, and bypass CDOT, who has not been helpful. Councilor Thuon agrees with Councilor Prince on sending letters to the Governor.

6. MINUTES

6.1. APPROVAL OF MINUTES FOR OCTOBER 27, 2020 REGULAR COUNCIL MEETING (TOWN CLERK BRENDA TORRES)

Video Start Time: 03:17:26

Councilor Fancher moved to approve the minutes from October 27, 2020 Regular Council meeting. Councilor Prince seconded the motion and the motion passed with a vote of 5 to 2. Councilor Wolf and Councilor Thuon voted no.

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7. WRITTEN REPORTS

- 7.1. Town Manager Report (Town Manager Eric Heil)
- 7.2. Village (at Avon) Transit (Planning Director Matt Pielsticker and Mobility Director Eva Wilson)
- ~~7.3. Highway 6 Pedestrian Crossing Update (Mobility Director Eva Wilson)~~
- 7.4. Upper Eagle Regional Water Authority Oct 22, 2020 Meeting Summary (Mayor Smith Hymes)

8. MAYOR AND COUNCIL COMMENTS & MEETING UPDATES

Video Start Time: 03:18:34

Councilor Underwood made a comment about the arguments of Tom Ruemmler and Michael Cacioppo. She mentioned she has done extensive research into this matter of law and the Town Attorney Paul Wisor and Town Clerk Brenda Torres are correct in their determination. The threshold signatures required is nothing other than 496. She said that Tom Ruemmler saying the Town Attorney and Town Clerk are committing a misdemeanor is offensive and ridiculous. She fully acknowledges that a lawfully conducted recall is a constitutional right but this recall should not be allowed to go on. She closed her comment saying this is very serious business and to please not allow this Town to be bullied and intimidated into submission.

Mayor Smith Hymes expressed that the Climate Action Collaborative is revamping goals for 2030, meetings ramped up and she will keep Council informed.

Councilor Wolf, as he was not present when conflict of interest was discussed, was notified by Town Attorney Paul Wisor that he has been recused from Executive Session and explained why.

8.A. ADDED ITEM: EXECUTIVE SESSION FOR THE PURPOSE OF RECEIVING LEGAL ADVICE FROM THE TOWN ATTORNEY PURSUING TO CRS SECTION 24-6-402(4)(B) REGARDING THE RECALL PROCESS

Video Start Time: 03:27:57

Mayor Smith Hymes, Councilor Wolf and Councilor Underwood left the meeting at 8:39 p.m.

Mayor Pro Tem Phillips moved to go into Executive Session for the Purpose of Receiving Legal Advice from the Town Attorney Pursuing to CRS Section 24-6-402(4)(B) Regarding the Recall Process. Councilor Fancher seconded the motion and the motion passed with a vote of 4 to 0. The time was 8:40 p.m.

Executive Session started at 8:42 p.m.

Executive Session ended at 9:22 p.m.

9. ADJOURN

There being no further business before Council, Mayor Pro Tem Phillips moved to adjourn the regular meeting. The time was 9:23 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.

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 Thun

Jennie Fancher

Scott Prince

Tamra Underwood