

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL  
HELD JUNE 8, 2010**

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A regular meeting of the Town of Avon, Colorado was held at the Avon Municipal Building, One Lake Street, Avon, Colorado in the Council Chambers.

Mayor Ron Wolfe called the meeting to order at 5:30 PM. A roll call was taken and Council members present were Rich Carroll, Dave Dantas Kristi Ferraro, Amy Phillips, Buz Reynolds and Brian Sipes. Also present were Town Attorney Eric Heil, Town Manager Larry Brooks, Asst. Town Manager Mgmt Services Patty McKenny, Assistant Town Manager Community Development Sally Vecchio, Recreation Director Meryl Jacobs, Community Relations Officer Jaime Walker as well as members of the public.

**APPROVAL OF AGENDA & DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST**

Councilor Carroll asked to include the following item to the evening Executive Session agenda due to some conversations on the topic during the earlier Executive Session:

- a. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b), developing a strategy for negotiations and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(d), and for the discussion of potential transfer of real property pursuant to Colorado Revised Statute §24-6-402(4)(a) specifically related to the Upper Eagle River Water Authority Avon water treatment plant site

Mayor Pro Tem Sipes noted that he would not vote on the SIA amendment for Buck Creek PUD due to a conflict of interest.

**COMMUNITY & CITIZEN INPUT**

- a. Danita Chirichillo, Special Events Coordinator, presented a review of Avon's Summer Events
- b. Greg Hall, Public Works Director, Town of Vail, presented the award to Jenny Strehler, Director PW&T from the Colorado Chapter of the American Public Works Association Award to Avon Public Works Administration for "Small Community Category: Avon's Community Heat Recovery Project"

**CONSENT AGENDA**

Mayor Wolfe asked for a motion on the consent agenda. Councilor Ferraro moved to approve the consent agenda; Mayor Pro Tem Sipes seconded the motion and it passed unanimously:

- a. Minutes from May 25, 2010
- b. Revised Settlement Agreement Town of Avon Opposition To Case No. 05CW262 (Town of Minturn Application For Changes of Water Rights) And Case No. 05CW263 (Town of Minturn's Application for New Groundwater Rights) (Justin Hildreth, Town Engineer)

There were questions from Council on the following item and it was therefore removed from the consent agenda.

- c. First Amendment to Phase II Subdivision Improvements Agreement for Lots 2, 3 and 5, Buck Creek Planned Unit Development (Justin Hildreth, Town Engineer) An amendment to the Buck Creek PUD that would substitute a letter of credit with cash collateral for the project

Several revisions were suggested as a result of the council's questions and discussion. The revised SIA addressed changing the surety from a letter of credit to a cash escrow account and removing contradictory language dictating when permits can be issued. The further recommended changes included the following:

- ✓ Placing the escrow account into a separate account to prevent comingling of funds
- ✓ Additional language that would be clearer as to the enforcement of the SIA

This item would be included on the next agenda.

### NEW BUSINESS

Sally Vecchio, Assistant Town Manager Community Development, asked that the matter, the 2010 Intergovernmental Agreement for Building Inspection Services between the Town of Avon and the County of Eagle, be continued until sometime in July as the Eagle County Attorney's office has not yet had a chance to review the document. The IGA supports using Eagle County Building Inspectors on occasion when Avon's Building Official is unable to perform the inspections. It was discussed to revise the agreement so that the town could provide the same services to the county if so needed, to create a more reciprocal IGA environment. Councilor Dantas moved to continue the IGA until July; Mayor Pro Tem Sipes seconded the motion and it passed unanimously.

### ORDINANCES

Eric Heil, Town Attorney, presented Ordinance No 10-10, Series of 2010, First Reading, Ordinance Amending Chapter 3.12 of the Avon Municipal Code to Revise the Exemptions from Real Estate Transfer Taxes. He noted that the legislation amends Chapter 3.12 Real Property Transfer Tax by addressing the following items:

- ✓ Updating the exemption for transfer to, from and between business entities where no consideration is provided
- ✓ Revising Section 3.12.070 regarding applications and appeals.

Further discussion resulted in some revisions as outlined in the motion. Councilor Ferraro moved to approve Ordinance No 10-10, Series of 2010, Ordinance Amending Chapter 3.12 of the Avon Municipal Code to Revise the Exemptions from Real Estate Transfer Taxes with the following changes:

1. *WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by*
2. *Section 3.12.060(5) is repealed in its entirety and reenacted to read as follows:  
 "(5) Transfers made pursuant to capital investment, reorganization, merger, consolidation, liquidation, dissolution or termination of corporations, partnerships, limited liability companies, trusts, or other business entities recognized in Colorado for no consideration other than acquisition or cancellation or surrender of stock or percentage ownership interest in such business entity, if to the extent that the relative ownership interest of such persons in the real property or in the percentage ownership of the business entity are the same after the transfer as immediately before the transfer and there is no monetary consideration;" for that portion of the transfer."*
3. *(c) Application Review. The Town Manager, or designee, shall review applications for Exemption from Real Property Transfer Tax within thirty (30) days of receipt of a complete application. The failure of the Town Manager, or designee, to review an application for Exemption from Real Property Transfer Tax within thirty (30) days shall not be deemed to constitute an approval of an application for Exemption from Real Property Transfer Tax; however, the application applicant may elect to appeal the application directly to the Town Council according to the procedures set forth in sub-section (d) below. If the Town Manager, or designee, determines that the application does not include adequate information to determine whether the application complies with an exemption stated in Section 3.12.060 of the Avon Municipal Code, the Town shall send a communication to the applicant stating that the application can neither be approved nor shall be denied unless the applicant provides additional information and, shall state the required information necessary to complete review and shall provide a maximum of thirty (30) days for the application. Once the applicant to provide additional information is received, the The Town Manager, or designee, shall review the supplemented application additional information which is timely submitted within*

thirty (30) days of receipt. The Town Manager, or designee, shall approve, partially approve, or deny the application in writing based upon compliance with the exemptions, or the intent of the exemptions, set forth in Section 3.12.060. Inadequate or inaccurate information which does not demonstrate compliance with the exemptions set forth in Section 3.12.060 shall be grounds for denial of an application.

- (d) Appeal to Council. Any person whose application for Exemption from Real Property Transfer Tax is not acted upon with the timeframe set forth in sub-paragraph (c) above or whose application is denied or partially approved may appeal such decision to the Town Council in accordance with the procedures and requirements of this Section 3.12.070.

Councilor Phillips seconded the motion and it passed unanimously.

#### **COMMUNITY & CITIZEN INPUT - CONTINUED**

Mark Weinrich, ABA member, resident and business owner in Avon, commented on the Avon CAN proposal, noting that the sentiment of the group is still resoundingly not in favor of increasing the sales tax in Avon. He asked council to consider finding other revenue streams instead of sales tax.

#### **RESOLUTIONS**

Scott Wright, Assistant Town Manager Finance, presented Resolution No 10-15, Series of 2010, Resolution in Opposition of Statewide Ballot Measures Proposition 101, Amendment 60 and Amendment 61. He noted that the Resolution was drafted that stated Avon's Town Council opposed the positions of the statewide ballot measures to be voted on in November. He also described some of the devastating financial impacts that would be a result of passing the measures:

##### *Proposition 101:*

- ✓ Reduction of specific ownership tax
- ✓ Elimination of vehicle rental taxes
- ✓ Elimination of communications tax

##### *Amendment 60:*

- ✓ Eliminates the debrucing vote in 1998 which allowed Avon to retain over \$2M in property tax; if passed would reduce Avon's ability to collect \$300K in taxes

##### *Amendment 61:*

- ✓ Impacts town's taxes in relationship to its debt of \$1.2M so that over a period of several years when bonds mature, it would be forced to reduce its property taxes as well

Councilor Ferraro moved to approve Resolution No 10-15, Series of 2010, Resolution in Opposition of Statewide Ballot Measures Proposition 101, Amendment 60 and Amendment 61; Mayor Pro Tem Sipes seconded the motion and it passed unanimously.

#### **MAYOR REPORT**

Ron Wolfe, Mayor, presented an update on the Eagle Valley Multi Party Land Exchange, noting that some of the parties have agreed to assist with the land trades.

#### **TOWN MANAGER REPORT**

Larry Brooks, Town Manager, noted that he spent time with Eagle County Commissioners on the Swift Gulch Regional Facility proposal.

**EXECUTIVE SESSION**

Councilor Phillips moved to convene into an Executive Session at 6:35 PM to discuss the following matters as outlined on the agenda; Councilor Carroll seconded the motion and it passed unanimously.

- a. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) and for developing a strategy for negotiations and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(d) specifically related to pending litigation and settlement discussions regarding Town of Avon v Traer Creek Metropolitan District, 2008 CV 0385
- b. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b) specifically related to pending litigation regarding Traer Creek, LLC, et.al. v Town of Avon 2010 CV 316
- c. Receiving legal advice pursuant to Colorado Revised Statute §24-6-402(4)(b), developing a strategy for negotiations and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(d), and for the discussion of potential transfer of real property pursuant to Colorado Revised Statute §24-6-402(4)(a) specifically related to the Upper Eagle River Water Authority Avon water treatment plant site

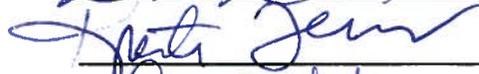
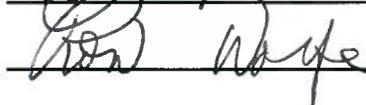
Councilor Ferraro moved to convene to the Regular Meeting at 8:15 pm; Mayor Pro Tem Sipes seconded the motion and it passed unanimously.

There being no further business to come before the Council, the regular meeting adjourned at 8:15 PM.

**RESPECTFULLY SUBMITTED:**

  
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Patty B. McKenny, Town Clerk

**APPROVED:**

Rich Carroll   
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Dave Dantas   
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Kristi Ferraro   
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Amy Phillips   
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Albert "Buz" Reynolds   
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Brian Sipes   
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Ron Wolfe   
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