

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD JULY 27, 2010**

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 and Buz Reynolds. Brian Sipes was absent. Also present were Town Attorney Eric Heil, Town Manager Larry Brooks, Assistant Town Manager Patty McKenny, Assistant Town Manager Community Development Sally Vecchio, Assistant Town Manager Finance Scott Wright, Town Engineer Justin Hildreth, Community Relations Officer Jaime Walker as well as members of the public.

AGENDA APPROVAL & DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Mayor Wolfe suggested considering Ordinance No. 10-15 prior to Ordinance No. 10-14; there was no opposition to this request. Mayor Wolfe then asked that anyone in the audience who wanted to comment on the four items that have posted a public hearing to sign up at the back of the room. He noted that this practice is in place in order to better track the public input for those matters having public hearings.

CONSENT AGENDA

Mayor Wolfe asked for a motion on the consent agenda. Councilor Phillips moved to approve the consent agenda; Councilor Carroll seconded the motion and it passed unanimously:

- a. Minutes from July 13, 2010
- b. Change Order 001 to the contract with Elam Construction for the 2010 Street Improvements Project - This change order reconciles changes in material quantities (Shane Pegram, PE Engineer II)

ORDINANCES

Eric Heil, Town Attorney, presented Ordinance No. 10-11, Series of 2010, Second Reading, Ordinance Amending Chapter 5.12 Of The Avon Municipal Code Concerning Booting Regulations. He noted that the proposed amendments included the following:

- require parking enforcement companies to accept payment by credit card
- include a phone # for the property Owner/Manager who authorized vehicle impoundment

It was noted that some of the revisions were suggested in light of some safety and convenience concerns. Mayor Wolfe opened the public hearing and the following comments were made:

- Nick Antuna did not support the requirement to take credit cards and provided reasons for his position

The public hearing was closed. Further discussion on the use of credit cards was heard; the following council members did not support the use of credit cards: Dantas, Reynolds, Phillips and Wolfe. Councilor Phillips moved to approve Ordinance No. 10-11, Series of 2010, Second Reading, Ordinance Amending Chapter 5.12 Of The Avon Municipal Code Concerning Booting Regulations with the condition that the proposed section addressing credit cards payments would not be included. Councilor Dantas seconded the motion and it passed unanimously (Sipes absent).

Eric Heil, Town Attorney, presented Ordinance No. 10-12, Series of 2010, Second Reading, Ordinance Amending the Avon Municipal Code to Prohibit Medical Marijuana Business Use of Property. He noted that the ordinance Amends the Municipal code to prohibit medical marijuana business use of property. After some brief discussion, Mayor Wolfe opened the

public hearing, no comments were made, the hearing was closed. Councilor Ferraro moved to approve Ordinance No. 10-12, Series of 2010, First Reading, Ordinance Amending the Avon Municipal Code to Prohibit Medical Marijuana Business Use of Property. Councilor Carroll seconded the motion and it passed with a four to one vote (Dantas – nay; Sipes absent).

Mayor Wolfe presented the Emergency Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025. Mayor Wolfe opened the public hearing to take some public comments as follows:

- Wendell Porterfield, attorney representing clients in Wildridge encouraged the town council to pass an emergency ordinance that would address the application in the pipeline
- Dominic Mauriello, representing applicant building units, encouraged the town council to pass an emergency ordinance that would address the applications both pending and about to be brought forward

Mayor Wolfe closed the public hearing.

Numerous topics were discussed as follows:

- Details about the projects in the pipeline.
- The code section that placed the moratorium and why it was not addressed earlier
- Various extension scenarios
- The number of votes required to pass an emergency ordinance vs. an ordinance with two readings

More public input was received from the following people: Dominic Mauriello, Tab Bonidy, Mike Dantas, Bethany Boston Johnson.

Councilor Ferraro moved to approve Emergency Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025 and allowing for thirty days for projects in process. Councilor Phillips seconded the motion. Further discussion ensued and the motion failed with a three in favor vote to a two against vote (Carroll, Ferraro, Phillips – yea; Dantas, Reynolds – nay; Sipes absent). It was noted that per the Charter in order to pass an emergency ordinance, there is required a unanimous minus one vote.

After further discussion, Councilor Dantas moved to approve the Planning & Zoning version of Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025. Councilor Reynolds seconded the motion and it failed two to three (Dantas, Reynolds – yea; Carroll, Ferraro, Phillips – nay; Sipes absent).

Councilor Phillips moved to table Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025 until later that evening. The motion was seconded and approved unanimously (Sipes absent).

Sally Vecchio, Asst Town Manager Community Development, presented Ordinance No. 10-14, Series of 2010, First Reading, An Ordinance Amending the Avon Municipal Code by Enacting Title 7, The Avon Development Code; Repealing Title 16: Subdivisions; Repealing Title 17: Zoning; and Repealing Portions of Title 2: Administration and Personnel. She presented an overview of the development code, including the history and involvement of the zoning advisory committee, what it is meant to accomplish, the intent and format of the code, etc.

Matt Gennett, Planning Manager, presented the design standards to try to show the impacts on hillside residential development. It was noted that the design standards are a section of the development standards proposed in Section 7.28. Discussion ensued on numerous topics as follows: Height revisions, Retaining walls, Design standards, Process of appeal, Exemption for platted properties, Slope stability and grading, Alternative Equivalent Compliance. Town Attorney Eric Heil spoke about the topics as well. Further comments included the following:

- ✓ staff is trying to explain the implications created by the new code; they are not abdicating the new rule / standards
- ✓ It was noted that a "pre application meeting" is now part of the process which should help applicants understand the difficulties and requirements of the new code,
- ✓ It was noted that the new code does not impact the existing platted properties
- ✓ There was concern expressed some council members about that staff is making approvals; and they would prefer P&Z review and recommendations.

Sally Vecchio, Assistant Town Manager, Community Development, reviewed some of the public comments provided by Councilor Dantas. Mayor Wolfe accepted public input and the following comments were made:

- ✓ Tab Bonidy, resident and architect, didn't support the current draft
- ✓ Chris Evans, business owner, resident, former P&Z member, asked that the code should be specific about the intent
- ✓ Trip Plavec, resident and builder, noted that none of his homes would be in compliance, asked for further review.
- ✓ Mike Dantas, builder, commented on the right of way requirement
- ✓ Paul Anderson: P&Z engineer; noted some of the engineering conflicts in the draft development code
- ✓ Phil Matsen, resident and builder, spoke about retaining walls
- ✓ Leslie Roubous, resident & P&Z member, commented on the fact that P&Z should have had the people in the room at their meetings first.
- ✓ Tambi Katieb, planning consultant, supported the code being specific about the intent
- ✓ Jeff Manley, builder, commented on the slopes difficulties and that the proposed code is too restrictive for the steep lots
- ✓ Dominic Mauriello, resident, concerned about site coverage
- ✓ Phil Sturve, resident & P&Z member, in general supported the code, but thought it needed more review and revisions
- ✓ Todd Goulding, resident & P&Z member, commented in general on the process and the code

Councilor Dantas moved to continue until August 10, 2010 Ordinance No. 10-14, Series of 2010, First Reading, An Ordinance Amending the Avon Municipal Code by Enacting Title 7, The Avon Development Code; Repealing Title 16: Subdivisions; Repealing Title 17: Zoning; and Repealing Portions of Title 2: Administration and Personnel. Councilor Reynolds seconded the motion and it passed unanimously.

Further discussion ensued on Emergency Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025 with a focus on what effective date to use for future applications.

Councilor Ferraro then moved to approve the Planning & Zoning version of Ordinance No. 10-15, Series of 2010, First and Final Reading, An Emergency Ordinance Amending the Avon Municipal Code by Repealing Sections 17.12.040(b) and 17.28.090 and Enacting Section 17.28.025 noting that "any complete application that has been submitted for approval prior to

September, 30, 2010", would be acceptable under the existing code. Councilor Phillips seconded the motion and it passed unanimously. *Sipes absent.*

NEW BUSINESS

Bob Ticer, Police Chief, presented an Agreement with Eagle County for use of Radios and Radio Services. Some discussion ensued about whether or not the town would have enough input into the services provided. Councilor Ferraro moved to approve the Eagle County Agreement; Councilor Phillips seconded the motion and it passed unanimously. *Sipes absent*

Mayor Wolfe opened the Public Hearings for the two Amplified Sound Permits, no comments were made, and the hearing was closed.

- 1. Applicant Name: David Wieder
- Event Name: BecTri Event
- Event Date: August 8, 2010
- Amplified Sound Times: 7:45 AM until 2 PM

Councilor Phillips moved to approve the permit for the Bec Tri event; Councilor Ferraro seconded the motion and it passed unanimously.

- 2. Applicant Name: Frank Osurio
- Event Name: American Crown Circus
- Event Date: August 13, 14, 15, 2010
- Amplified Sound times: Fri. / Sat. 5 pm until 8 pm; Sun. 4 pm until 6 pm

Councilor Carroll moved to approve the permit for the American Crow Circus noting the timeframe from 5 pm until 8:15 pm; Councilor Ferraro seconded the motion and it passed unanimously.

MAYOR REPORT

Mayor Wolfe presented an update on the multi-party land exchange.

There being no further business to come before the Council, the regular meeting adjourned at 11:50 PM.

RESPECTFULLY SUBMITTED:

Patty McKenny

Patty McKenny, Town Clerk

APPROVED:

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