

**TOWN OF AVON, COLORADO**  
**AVON SPECIAL MEETING FOR FRIDAY, MARCH 9, 2012**  
**REGULAR MEETING BEGINS AT 4:30 PM**  
**AVON TOWN HALL, ONE LAKE STREET**



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	<b>PRESIDING OFFICIALS</b>
<b>MAYOR</b>	<b>RICH CARROLL</b>
<b>MAYOR PRO TEM</b>	<b>KRISTI FERRARO</b>
<b>COUNCILORS</b>	<b>DAVE DANTAS, CHRIS EVANS, TODD GOULDING</b>
	<b>AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.</b>

**TOWN STAFF**

**TOWN ATTORNEY: ERIC HEIL      INTERIM TOWN MANAGER: PATTY MCKENNY      DEPUTY TOWN CLERK: CATHERINE MYTHEN**

ALL REGULAR MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS  
COMMENTS FROM THE PUBLIC ARE WELCOME DURING CITIZEN AND COMMUNITY INPUT AND PUBLIC HEARINGS  
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS  
AGENDAS ARE POSTED AT AVON TOWN HALL AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY  
THE AVON TOWN COUNCIL MEETS ON THE SECOND AND FOURTH TUESDAYS OF EVERY MONTH

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- 1. CALL TO ORDER AND ROLL CALL**
  - 2. APPROVAL OF AGENDA**
  - 3. DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST**
  - 4. UNFINISHED BUSINESS**
    - a. Discussion and Possible Action on Removal of Abandoned Modular Buildings from Lot 5, Village (at Avon) Filing 1 (*Eric Heil, Town Attorney*) Removal of Modular buildings from Lot 5
  - 5. ADJOURNMENT**

## **Memo**

**To: Mayor and Town Council**  
**From: Patty McKenny, Interim Town Manager**  
**Date: March 9, 2012**  
**Re: Special Council Meeting**  
**Removal of Abandoned Modular Buildings from Lot 5**

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### **Summary:**

A special council meeting was called to be held today March 9, 2012 at 4:30 PM at the request of Mayor Carroll to discuss the removal of abandoned modular buildings from Lot 5. Please note the agenda was posted yesterday 24 hours prior to the meeting time of 4:30 pm today. There was an affirmative response from six council members to attend this meeting. Council Goulding will be unable to attend the meeting and Councilor Reynolds will call into the meeting via conference call.

Please find attached the following materials which may help with this this discussion:

1. Letter from Town Attorney to Stone Creek Charter School Board President Ron Wolfe dated February 29, 2012 addressing the timeline
2. Email response from Ron Wolfe stating the status of the buildings
3. Memo dated February 8, 2012 from Town Engineers outlining options that exist in order to deal with the buildings
4. Memo dated January 4, 2012 from Town Engineers discussing status of the buildings and proposed action to remove the buildings

Please note Ron Wolfe, Kevin Kromer, both with Stone Creek Charter School, and Ed Lyons, Mountain Valley Excavating, who submitted the lowest bid to remove the buildings, have been invited to attend the meeting.



ERIC J. HEIL, ESQ., A.I.C.P., OWNER  
MEREDITH VAN HORN, ESQ., ASSOCIATE

February 29, 2012

Stone Creek Charter School  
P.O. Box 5910  
Avon, CO 81620  
Attn: Ronald C. Wolfe, President

RE: Modular Buildings on Lot 5

Dear Mr. Wolfe,

The Avon Town Council reviewed your request to extend the timeline for removal of the modular buildings from Lot 5, Village (at Avon) to May 15, 2012. Unfortunately, such an extension is not acceptable to the Avon Town Council. Town Council acknowledged that the representation by Stone Creek Charter School ("Stone Creek") at the February 14, 2012 Council meeting was that Stone Creek committed to removing the modular buildings by April 1, 2012. The Town believes that adherence to this timeframe is absolutely critical to the Town's performance schedule for the Swift Gulch regional transit facility project and any delay will result in costs and damages to the Town.

Currently, there are several vendors who have submitted proposals for removal of the modular buildings. Although the Town understands that the Stone Creek Board of Directors may desire additional time to explore other options, the Town believes time has run out. The Town urges Stone Creek to select a vendor immediately to remove the modular buildings and desires to receive a copy of an executed contract that evidences a completion date for removal of the buildings by April 1, 2012. If Stone Creek is unable or unwilling to proceed with hiring a contractor for removal of the buildings, then the Town will demand that Stone Creek execute a quit claim deed conveying Stone Creek's interest in the modular buildings to the Town and Town will demand a release of the UCC security interest and deed of trust held by Wells Fargo so that the Town may proceed to remove the modular buildings from Lot 5.

If you have any questions or wish to discuss please do not hesitate to call. Time is truly of the essence with regard to this matter.

Best Regards,

A handwritten signature in blue ink, appearing to read "Eric J. Heil".

Eric J. Heil, Esq., A.I.C.P.

Cc: Avon Town Council  
Patty McKenny, Acting Town Manager  
Justin Hildreth, Town Engineer

## Patty McKenny

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**From:** Eric Heil Email  
**Sent:** Thursday, March 08, 2012 5:34 PM  
**To:** Patty McKenny  
**Subject:** FW: Stone Creek Status

Here is Ron's E-Mail

Eric J. Heil, Esq., A.I.C.P.

### HEIL LAW

& PLANNING, LLC

2696 S. Colorado Blvd., Suite 550  
Denver, CO 80222

Tel 303.975.6120

Mob 303.518.4678

Fax 720.836.3337

E-Mail [eric@heillaw.com](mailto:eric@heillaw.com)

Website [www.heillaw.com](http://www.heillaw.com)

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**From:** Eric Heil [<mailto:ericheillaw@gmail.com>]

**Sent:** Thursday, March 08, 2012 5:27 PM

**To:** 'Patty McKenny'

**Subject:** FW: Stone Creek Status

Here is the e-mail from Ron.

Eric J. Heil, Esq., A.I.C.P.

### HEIL LAW

& PLANNING, LLC

2696 S. Colorado Blvd., Suite 550  
Denver, CO 80222

Tel 303.975.6120

Mob 303.518.4678

Fax 720.836.3337

E-Mail [eric@heillaw.com](mailto:eric@heillaw.com)

Website [www.heillaw.com](http://www.heillaw.com)

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**From:** Eric Heil [<mailto:ericheillaw@yahoo.com>]

**Sent:** Thursday, March 08, 2012 6:59 AM

**To:** Eric Heil

**Subject:** Fw: Stone Creek Status

----- Forwarded Message -----

**From:** Ronald Wolfe <[r.c.wolfe@comcast.net](mailto:r.c.wolfe@comcast.net)>

**To:** HEIL ERIC <[ericheillaw@yahoo.com](mailto:ericheillaw@yahoo.com)>

**Sent:** Wednesday, March 7, 2012 7:24 PM

**Subject:** Stone Creek Status

Eric, we are still in the process of negotiating a sale contract; WF has approved the deal. The buyer is negotiating with Ed Lyons and another well known modular contractor. CDOT and Gypsum are in the discussion. I will give you the latest status prior to the Tuesday council meeting.  
Ron

## Memo

To: Honorable Mayor and Town Council  
Thru: Larry Brooks, Town Manager  
Legal Review: Eric Heil, Town Attorney  
From: Justin Hildreth, P.E., Town Engineer  
Jeffrey Schneider, P.E., Project Engineer  
Date: February 8, 2012  
Re: Update on Removal of Abandoned Property from Lot 5, Village at Avon Filing 1

Initials

            
            
            
            
            
          

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**Summary:** Stone Creek Charter School (SCCS) vacated Lot 5, Village (at Avon) Filing 1, located at 375 Yoder Avenue, on June 30, 2011, leaving 18,000 square feet of abandoned modular school buildings behind. The Town notified SCCS and Wells Fargo Bank (holder of the note on the buildings) that its property was abandoned and must be removed from the site. Town Staff completed a solicitation to find contractors to either demolish the buildings or to dismantle the buildings and haul them from the site for reuse. Nine proposals were received with seven for demolition and three for dismantling, freight, and re-use. Re-use of the buildings involves clearing and obtaining the title documentation; the Town Attorney is currently negotiating to clear up the title issues and will provide a verbal update to Town Council.

Three options exist for the Town with respect to the abandoned modular buildings: first, the Town may demolish the buildings on site because the terms of the lease allows the Town to cause removal of the structures; second, the Town can obtain proper title to the buildings, sell them, and have them dismantled and reused; third, the Town can obtain proper title to the buildings and utilize a portion of the modular buildings. The three options are presented below. Staff is asking for direction from Town Council on which option to pursue.

**Discussion:** In 2006, the Avon Town Council entered into a one-year lease agreement with Stone Creek Charter School (SCCS) to occupy Lot 5, Village (at Avon) Filing 1. The school mobilized modular school buildings onto the site and operated a charter school at this location until their lease expired on June 30, 2011. Since then, SCCS has been unable to relocate the modular buildings. The Town served SCCS and Wells Fargo with notice that its property was abandoned and that it would have to be removed. In order to accomplish the removal, the Town solicited proposals from contractors for either demolition or removal and reuse. On January 12, 2012, the Town issued a request for proposals for interested firms to remove the abandoned buildings. A pre-bid meeting was conducted on January 26, 2012, and Addenda 1 and 2 were issued on January 30 and February 1, respectively. Nine proposals were received on Friday, February 3, 2012. The bid tabulation is included as Exhibit A to this memorandum. A third option of partial utilization by the Town has been identified in the meantime.

### **Option 1: On-site Demolition**

The Town is legally able to demolish the buildings for recycling and disposal in the landfill. Seven proposals were received for this option, with the low bid received from Hess Contracting, Inc. for \$44,000. Advantages of this option are that this is the fastest way for the Town to remove the buildings and free up Lot 5 for its own use. Disadvantages include the capital cost of demolition, and

the fact that the Town is demolishing five-year old buildings rather than allowing someone to utilize them.

**Option 2: Dismantling, Freight, and Re-use**

Three proposals were received for Option 2, with the lowest proposal being a \$10,572 credit to the Town for allowing the sale of the modular buildings. This option, however, requires proper title work to be cleared since contractors are unwilling to transport the units over the highway without the appropriate paperwork. Advantages of this option include the negative capital cost. Disadvantages include the time that may be required to obtain the proper title documentation and other possible complications with the Town acquiring the buildings. The contractor has informed Town Staff that after approximately 45 days, the offer may not be valid since the projected buyer may back out if the timeframe is extended.

**Option 3: Town of Avon Partial Utilization**

A third option was recently identified for the Town to obtain and utilize the buildings. This option was not formally bid, but is believed to cost approximately between \$45,000 and \$55,000. With this option, the Town would utilize a portion of the 18,000 square foot modular space, and remove and/or demolish the unused portion. Advantages of this option are that the Town will gain additional square footage for its operations needs at Lot 5, and that the modular buildings are only five years old and in better repair than the Public Works Administration building. The disadvantages are that the remaining portions of the modular building not utilized would be less desirable than reusing the entire building, and would result in additional square footage without a distinct need. Since Council directed Staff to keep the existing modular office building on Swift Gulch, the need for office space at Lot 5 is diminished. Plus, a reconfigured modular on Lot 5 would result in the same five year horizon imposed by the Village (at Avon) Design Review Board for the approved plan of moving the Swift Gulch modular buildings to Lot 5. Finally, unless the Town is able to purchase the building within 30 days or so, the Town will still need to relocate the existing public works modular to accommodate the Swift Gulch construction schedule.

**Financial Implications:** The CIP budget has \$500,000 for Lot 5 relocation in 2012. Also, the Town is in possession of a \$150,000 surety from SCCS for site restoration. Either of the options presented are well within the available funding for the project, with Option 2 being the most financially desirable at a \$10,572 credit to the Town.

**Recommendation:** Provide direction to Staff on which option to pursue, pending the Town Attorney's verbal update on legal disposition of the buildings.

**Attachments:**

Exhibit A – Bid Tabulation, Abandoned Property Removal

**Town Manager Comments:**



**Bid Tabulation**  
**Town of Avon 2012RFP01**  
**Abandoned Property Removal, 375 Yoder Ave**

**1A - On-site Demolition**

<b>Firm</b>	<b>Lump Sum Price</b>
1 Ewing Trucking	\$93,950
2 Evans Chaffee	\$113,105
3 Miles Rippey, Inc.	\$74,989
4 J & K Trucking	\$119,425
5 JBC Enterprises	\$48,619
6 Mountain Valley Excavating	\$125,000
7 Hess Contracting, Inc.	\$44,000

**1B - Dismantle, Freight, Re-use**

<b>Firm</b>	<b>Lump Sum Price</b>
1 Mountain Valley Excavating	(\$10,572)
2 Satellite Shelters	\$112,000
3 Hunt Construction	\$94,500



## Memo

**To:** Honorable Mayor and Town Council  
**Thru:** Larry Brooks, Town Manager  
**Approved:** Sally Vecchio, Community Development Director  
**From:** Justin Hildreth, P.E., Town Engineer  
Jeffrey Schneider, P.E., Project Engineer  
**Date:** January 4, 2012  
**Re:** Update on Removal of Abandoned Buildings on Lot 5, Village (at Avon) Filing 1

BLR  
PSV SV  
JH H  
JS

**Summary:** In 2006, the Avon Town Council entered into a one-year lease agreement with Stone Creek Charter School (SCCS) to occupy Lot 5, Village (at Avon) Filing 1. The school mobilized modular school buildings onto the site and operated a charter school at this location until their lease expired on June 30, 2011. SCCS has since moved their operations from the site, leaving 18,000 square feet of abandoned modular school buildings behind. The Town notified SCCS and Wells Fargo Bank (holder of the note on the buildings) that its property was abandoned and must be removed from the site. Town Staff has been directed to proceed with removal of the modular buildings, in order to accommodate the planned improvements at Swift Gulch. Town Staff is planning on awarding a contract for removal of the abandoned property at the February 14 Town Council meeting and the abandoned buildings will be removed from the site by April 1, 2012.

**Discussion:** The current strategy for the Swift Gulch project involves relocating Public Works operations, with the exception of the transit and the fleet maintenance divisions, to Lot 5. This reflects a shift from the original 2007 Swift Gulch master plan, which involved a temporary relocation to Lot 5 during construction of permanent public works facilities at Swift Gulch. That property is currently occupied by the abandoned modular buildings from SCCS. Town Council declined to renew the SCCS lease last year and agreed to commence relocation of Public Works to Lot 5. The Town entered into a design review process with the Village at Avon, and approval to relocate was granted by the Village Design Review Board (DRB) on September 27, 2011. Following DRB approval, the Town sent a Notice to Vacate letter to SCCS and Wells Fargo Bank on September 29, 2011. SCCS responded on October 2, 2011 stating that they did not have an alternate site available onto which the modulares could be relocated, and requesting that the Town allow the modulares to remain on Lot 5. Town Council was updated on the situation on October 25, 2011 and directed Staff to proceed with removal of the modular buildings from the site in order to avoid delays and associated costs to the Swift Gulch project. Wells Fargo has failed to initiate any removal activities. The Town Attorney will issue a final Notice to Vacate concurrently with the solicitation of proposals for removal.

The Town is advertising for removal of the abandoned property on January 12, 2012; with proposals from interested firms due on February 3, 2012. The contract for the removal of the abandoned property is expected to be awarded on the February 14 Town Council meeting. As soon as weather permits, the selected contractor will remove the abandoned

property from the site so that the site is ready to receive Public Works materials and equipment starting on April 1, 2012.

**Town Manager Comments:**