



OFFICIAL MINUTES

REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, July 21, 2004

REGULAR MEETING, Council Chambers – 7:00PM

Minturn Town Center
302 Pine Street • Minturn, CO 81645 • (970) 827-5645

MAYOR - Gordon “Hawkeye” Flaherty, **TOWN MANAGER** - Ann K. Capela
MAYOR PRO TEM - Darell Wegert **TOWN CLERK/TREAS** - Jay Brunvand

COUNCIL MEMBERS:

George Brodin
Jerry Bumgarner
Bill Burnett
Fred Haslee
Tom Sullivan

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

WORK SESSION

- None scheduled

REGULAR MEETING

1. Call to Order
 - a. Roll Call

Mayor Flaherty called the meeting to order at 7:06 p.m. Present were Mayor Hawkeye Flaherty, Tom Sullivan, Jerry Bumgarner, George Brodin. Fred Haslee and Darell Wegert. Bill Burnett was absent with excused absence.

Staff present were Ann Capela, Town Manger; Nicole Magistro, Administrative Assistant; Jay Brunvand, Town Treasurer/Clerk; Allen Christensen, Town Attorney; Wiley Smith, Town Planner; and Lorenzo Martinez, Chief of Police.

- b. Pledge of Allegiance
2. Discussion of the Agenda
 - a. Items to be pulled from Action Calendar.

- b. Items to be pulled from the Discussion Calendar.
- c. Items to be pulled from the Consent Calendar.
- d. Emergency Items to be added.
- e. Order of the Agenda Items.

Move item 11 to the beginning of the action calendar.

- f. Approval of the agenda.

Motion by George B., second by Darell W., to approve the agenda as amended; all voted in favor. *Note: Bill B. was absent.*

3. Approval of the Consent Calendar

4. Approval of the Minutes

- July 7, 2004

Motion by George B., second by Darell W., to approve the minutes of July 7, 2004; all voted in favor. *Note: Bill B. was absent.*

5. Council Member Reports/Announcements.

6. Special Presentations/Citizen Recognition:

7. Public comments on items, which are **NOT** on the agenda.

SCHEDULED HEARINGS AND ACTION ITEMS

9. Discussion/action of items pulled from Consent Calendar for discussion.

10. Discussion/Action Sibley Plumbing - A payment request by Sibley Plumbing:
Minturn Public Works Building by Mayor

Fred H. recommended that if the town pays Mr. Sibley, all other claims should be paid.

Hawkeye F. stated that two factors are outstanding: town staff specifically requested the work to be done, and the town staff supplied the materials to be used.

Jay B. stated that the town worked with all the contractors and the town is not required to pay him because he has already submitted to the insurance company and got paid. Jay B. emphasized the procedure that was set up and followed. This would be an additional expenditure that could open the door for potential lawsuits, possibly including from the insurance company.

Ann C. stated that she looked at the issue from all sides. She does not recommend payment.

Hawkeye F. stated that the work was done but he (Sibley) was never paid.

Fred H. stated that the deal is between the contractor and Sibley Plumbing.

Hawkeye F. emphasized that the town requested the work of Sibley Plumbing and not the contractor.

Fred H. stated that if in fact the town did that, the council was not notified.

Jay B. stated that the town knew all along that the building was not heated and that the town talked to the contractor directly regarding this issue. It was pointed out that those discussions noted we had heaters we would use on the building when the time came. The problem is not if the work was done or done satisfactorily; it is that the established procedure for payment of the change order was not completed properly by the contractor (Sibley).

Hawkeye F. stated that Mr. Sibley told him that the town directly contacted Mr. Sibley.

Ann C. asked who is “the town.” Hawkeye F. stated it was Floyd. Ann C. stated that Floyd did not have the authority to order this work. She stated that it does not mean that the town’s duly authorized person gave permission. She also stated that the former town manager stated that he told Sibley Plumbing that it would not be paid.

Hawkeye F. suggested tabling the issue for further consideration.

Fred H. asked that the mayor not make assumptions when talking with parties involved.

Motion by Darell W., second by Fred H., to table the payment to Sibley Plumbing discussion; all voted in favor. *Note: Bill B. was absent.*

11. Discussion/Action of Minturn Town Homes Zoning Amendment and PUD Preliminary Plan Approval by Town Planner

Wiley S. summarized the application to construct 27 town homes; the planning commission reviewed the concept in March, April and December ('03) and eventually recommended approval for conceptual plan approval. It was then reviewed by the town council. On June 23, 2004 the preliminary plan was recommended to council by the planning commission. On July 7 the issue was first heard by the town council; the plan was referred back to the planning commission for a July 14 additional study and amendment. Approval was recommended to the town council at that time.

Wiley S. noted that in addition to the packet, the council has a map of the area and two letters: one from staff and one from a concerned citizen. He recommended approval with the conditions stated in the council packet. He has reviewed the application and all conditions, with the exception of those related to building D, have been met. All parts of the PUD submittal have been included.

George B. asked about the elevation drawings in the packet. The town planner did not receive height measurements on the existing drawings.

Darell W. asked for clarification of the 10-foot setbacks, which he remembers were granted for perimeters. He asked whether the 10-foot setbacks also pertained to the setbacks on Lions' Lane. Wiley S. stated he would look into that.

George B. asked whether measurements would be taken from existing grade. Wiley S. answered positively.

Tom S. asked if the overhead clearance was given by Xcel Electric. Jim McNeil of Alpine Engineering stated that the council has in its possession two letters concerning utilities: one letter is concerning the high pressure gas easement, the other is from Jim O'Neil regarding the low-pressure and overhead electric easement.

Fred H. asked whether the need for a full view rendering from Highway 24 was conveyed to the applicant. Wiley S. stated that request was not in the minutes or notes. Fred H. stated that he would like to see that but understands that it was not conveyed by staff to the developer previously.

Ann C. asked for time for the applicant to go over the requirements set forth at the last town council and planning meetings.

Hawkeye F. stated that the applicant will state their case; the public will be able to comment during the following public hearing; those points raised will be addressed again by the applicant.

George Gregory, the attorney representing Minturn Development, LLC., introduced members of the development team, including Misters Isom, McNeil, Wheelersburg, Commerford, Bufman and Sone. He hoped to expedite the presentation by going through a checklist provided by the town to the applicant in the Town Council Land Development Application Summary:

1. All concerns and conditions of the Town Council were addressed

Mr. Gregory stated that "all concerns" is a vague idea but that the developer will do its best to address all of the issues raised.

2. Building D Engineering of the rock wall should be addressed and;
3. The visual height and mass should be addressed and;
4. By means of providing suitable alternatives to Building D;
5. Recommend possible suggestions to changing the design for Building D, on the southernmost portion of the development regarding lowering the roofline and refiguring the entry to the garage and also including plans for asphalt shingles, shakes and wooden railings as part of the architectural features.

Mr. Gregory stated that Building D has been set aside by the Planning Commission for further review and is not part of the current application. Alterations will be made and presented accordingly when a suitable design has been agreed upon. Mr. Isom concurred.

6. The applicant agrees to address the Planning Commission comments and concerns as identified within this report. The applicant making any modifications to the plan document as requested by the Planning Staff and

Building Inspector, Town Clerk, and Eagle River Water and Sanitation District. prior to Certificate of Occupancy.

Mr. Gregory stated these items would be subsequently addressed in the items #17-25.

7. The applicant shall pay all required fees and charges related to development of the subject property.

Mr. Gregory concurred.

8. The Town Council grant an Amendment to the Zoning Map and Preliminary Plan approval to the applicant meeting in a general fashion the design and other regulations of the Town but to submit a final application following the Submittal Information Checklist to warrant final approval.

Mr. Gregory stated such checklist was attached to Mr. Isom's letter to the town council dated 7/19/04.

9. Counsel review of all letters of agreement for easements and access

Mr. Gregory stated these have been supplied. The specific questions raised by Tom S. and Fred H. in previous meetings are answered in a drawing on page 39 of the council packet, which was provided to the developer by Xcel Energy through the Public Works Co. of Colorado.

Mr. McNeil has gone over the high pressure gas line with the energy company and he demonstrated the relative location and building adjustment on the drawings. Mr. Isom also stated that there is a letter from Jim O'Neil.

Mr. Isom stated that all poles on the property will go underground on the site, then the lines will resurface two poles north from the south. Tom S. asked about how the lines get from underground to overhead. Mr. Isom explained how the lines will run underground along the gas easement, climb out of the ground just north of the property and up the pole through conduit. All work will take place in the Eagle County road right of way. Mr. McNeil clarified the technicalities of how the power lines. Tom S. stated that he has discussed this matter with Jim O'Neil yesterday afternoon and that he is very concerned with the technical matters related to this site. Mr. McNeil stated that Mr. O'Neil is concerned about the placement of guide wires and terminal poles. Tom S. asked that if the poles are placed close to the right of way, then where will the guide wires for the terminal poles go; if it is on railroad property, they have not secured permission yet. If anything happens on railroad property, permission will need to be granted.

Mr. Gregory restated that the drawing was submitted by Xcel Energy, not the development company.

10. Counsel review of status of 4th Street

Mr. Gregory stated that to his understanding, 4th Street has been used by the town for approximately 50 years.

The town attorney stated that the platted portion, called 4th Street, was vacated years ago and that today 4th Avenue is paved and marked but not platted. Allen C. also stated that the county roads representative was going to bring the documentation regarding 4th Avenue to the town and that he would check with the railroad regarding the easement. He

stated that there is no document at this time, but it is probably, but not necessarily, a prescriptive road. The road is on property owned by the railroad but that it has been used by the town over a long period of time. He then noted that over time, it has probably become a public road but it does not have a plat or ordinance claiming it is a road.

Mr. Isom stated that after research with the county through tax documents, the original 4th Street, and others, were vacated by Jack Johnson working in conjunction with the town of Minturn on April 14, 1976. He presented a map showing the original 4th Street. County tax records show housing on the new part of 4th Avenue, therefore recognizing it as a public street.

Darell W. asked about receiving a letter from the fire department regarding the turning radius approval. Ann C. stated that the letter was included in previous packets.

11. Elevation drawings showing existing grade

Mr. Gregory stated that sheet A4 shows elevations, existing grades, distance to mid-point of roof and all levels of the buildings.

Mr. Isom pointed out the drawings included in the packet. He noted that finished floor elevations are also shown.

Hawkeye F. asked for clarification on the heights indicated on the drawings. Mr. Isom noted that all buildings are measured off of existing grade and are shown by a continuous measurement system.

12. Elevation drawings with ALL dimensions and setbacks

Mr. Gregory stated that Sheet A2(1) shows the dimensions and setbacks.

Jerry B. asked how close building B was to the gas line. Mr. Isom stated it is 10 feet and that building B satisfies the easement requirements from Xcel. Tom S. stated he understood that a 10-foot easement was required near the buildings but that a 50-foot easement elsewhere was asked for by Xcel Energy.

Mr. Gregory stated that the title policy did not show many of the nuances related to utilities and easements. Mr. Gregory stated that the development company is not required to give a 50-foot easement.

Jim McNeil stated that Mr. Morganfield of Xcel Energy indicated that moving gas lines might be a possibility. The title policy from the Town of Minturn when the property was sold to Marka Brenner did not show a gas line. Therefore the development company had to find it; once they found out where it was, they found out there were two gas lines located 9 feet apart. Previously the easements were for single lines rather than widths of space. There is also nothing about a telephone line running through the project. In effect, the company was unaware of the easements that are present on the property, according to Mr. Gregory. He stated that the company does not have a letter regarding all of these issues because they are just discovering them.

13. Addition of the "Planning and Zoning Commission" to Item 1 of the motion

Mr. Gregory acknowledged this has been done.

14. Building project manager will attend the first meeting of the Town Council every month to review progress and problems related to the project.

Mr. Gregory concurred.

15. The Planning and Zoning Commission approves the Preliminary Plan with the exception of Building "D".

The planning commission approved the plan on July 14, 2004.

16. The following items will be added to the plans:

17. Buildings are to be dimensioned

Mr. Isom presented dimensions on all buildings for the first phase is on sheet A2 7/19/04 on the large format.

18. Driveways to be dimensioned

Mr. Isom showed that driveways are also dimensioned on the same plan as previous. Tom S. stated that lengths were not dimensioned and that was the biggest issue. Mr. Isom stated that additional parking is provided on the side of the building. Tom S. stated that since the garage parking is required, then there will not be enough clearance to have clear view to back into the street. Mr. Isom stated that two parking spots are required for each unit. The driveways on Building BB are the only ones with the short, 10-foot driveway. All other driveways are 15 feet or greater. Tom S. asked for the dimensions indicated on the plans. Mr. Gregory stated that the driveways will be 10 feet on the final plans submitted before building permits are issued. Tom S. stated that these issues are vested if not specified. Mr. Gregory assured that the driveways would be shown. Fred H. stated this will be a condition of approval.

19. Building heights are to be shown on elevations

See item #11.

20. Materials board will be provided

21. Color samples will be provided

Mr. Isom presented the materials board, noting that railings will all be the same as the shakes shown. Face construction will be of the hardy board and trim as shown; color board was also shown.

22. Retaining wall materials will be called out

23. Retaining wall elevations will be shown

Mr. Isom demonstrated that the retaining walls were called out on drawing A2. He also noted a keystone wall at the southeast corner. The slope is 2-1 between buildings, and that all other walls will be made of natural stone and boulders. He noted dimensions are shown.

24. A color rendering of the building elevations will be provided

Mr. Isom showed the color drawing.

25. An Irrigation plan will be provided

An irrigation plan is noted on A2. Mr. Commerford introduced Scott Sones, who will do the expanded landscape plan. He noted that the primary plan shows 130 Aspen and 50 Spruce trees. He also explained that work is still need to blend the boulder walls into the site as well as a way of blocking headlights from neighboring properties.

Hawkeye F. asked about street lighting. Mr. Isom stated that lighting is shown in the engineering plans and that all intersections will be lit. Lighting will also be provided to shine on each driveway. The main street lighting will be no higher than 12 feet.

Mr. Gregory noted the items still needing attention include easement document from Xcel regarding overhead power and gas line easement document, and dimension of driveways.

Mr. Isom reviewed the process that the applicant has so far gone through with the Town of Minturn. He noted that portions of the sale included the vacation of Taylor Avenue; there was significant discussion ensued over the future of Taylor Avenue as it related to setbacks. The conceptual plan was based on these discussions and the use of Taylor Avenue and Lion's Lane. On May 24, the land lease manager for the railroad met with the developer and the town manager; the result was an application to widen Taylor Avenue in order to then widen the turning radius onto Lion's Lane. He committed that the development team will pursue the access on railroad property and will continue to try to improve that radius. Mr. Isom then shared an agreement dated April 1, 1983 between the town of Minturn, the Lopez family and RB Shelton, which has a condition of road improvement at no cost to the homeowners. The development company has already agreed to improve those neighboring properties at the company's expense.

Hawkeye F. asked for clarification as to why buildings in Phase One are the only ones addressed. Mr. Isom stated that the buildings throughout the property are consistent and that for ease, and at the agreement of the council, only Phase One buildings are detailed.

Mark Hennessey at 232 N. Taylor stated that the developers have not talked to the property owner Shirley Lucero, who owns lots 13, 14 and 15. He recognized Ms. Lucero in the audience.

Next, he asked that about construction traffic on Taylor. He presented a petition by property owners.

He then asked how far from Ms. Lucero's property will the closest building be located, as here house is built right up to the property line. The council stated that all setback requirements have been met and that the buildings could be very close to Ms. Lucero's home.

Mr. Hennessey stated that Vail's ladder truck has a turning radius is 100 feet 2 inches. In front of Shirley's house to the edge of the railroad property is 54 feet. Mr. Isom stated that the maximum turning radius would not be large enough for that truck – access would have to go up to 4th Ave. Mr. Hennessey stated that Minturn's fire engine would not be

able to make the radius; neither can a LaFarge concrete truck. To him that means that all construction traffic would have to come via N. Taylor.

Next he asked about the overhead power poles in front of the Lopez and Lucero homes. Mr. McNeil stated that it will be undergrounded but there will be a terminal pole that will need to be placed. He hopes that this will not impact the neighbors. Mr. McNeil stated that this location needs to be addressed right away because the terminal pole will have guide wires. McNeil noted that there are options for poles so they don't have to have guide wires, but typically, this is the way to brace the leading poles.

Kim Morewood, owner of 282 Taylor, asked why all the power couldn't be undergrounded along Taylor. Mr. McNeil stated that this is an expense that the homeowners would have to discuss. McNeil again urged that Xcel Energy needs to come on site to address these issues. Hawkeye F. stated that all homeowners would have to address their additional wiring from the undergrounding of the main lines to their individual homes. Mr. Isom stated that if the wires have to be undergrounded, the developer will incur the costs associated with that.

Mr. Hennessey stated that the project should be stopped based on the life safety. Fred H. asked whether Mr. Hennessey is opposed to the project or the construction traffic. Mr. Hennessey stated that he is concerned with the turning radius, as well as traffic and safety issues related. He believes that if the access to the property is moved and reworked, the project could work whereas keeping the proposed turning radius is dangerous.

Ann C. asked for clarification on the roles of Mr. O'Neil and Mr. Morganfield. Mr. McNeil stated that Alan Morganfield works for Lone Tree Energy and is "on loan" to Xcel and deals with right of way for high-pressure gas. John Lambert is will Seller and Riggs, who put together the fieldwork. Jim O'Neil deals with low-pressure gas, power service and rights of way.

Fred H. asked about power relocation and whether it is common practice to put power poles on private property or on public rights of way or easements. Mr. McNeil stated that they put poles in rights of ways and easements. Fred H. then stated that if a home is very close to the property lines, they may in fact have a wire or pole very close to someone's home. Mr. McNeil agreed, restating that the energy company puts poles where they can with the options that they have. Mr. Hennessey again asked whether the pole would be placed on Lucero's property.

Hawkeye F. asked that people sign up to be on the town email list so they can be notified of town happenings.

The town attorney reiterated the ways that property owners can be notified.

Christy Gludworth, of 232 Main Street, stated that she would like to make sure that the requirements for the notification have been met. Ms. Gludworth stated that she is an attorney but is not representing anyone in this case. She then stated that the following notification violations have occurred:

- Posting in newspaper – only 4 days notice was given prior to the first planning meeting, rather than the required 10 days.
- First class mailing to everyone within 250 feet was not accomplished.
- Mailing was not stamped and not addressed to anyone specifically.

Ms. Gludworth stated that she wants all details finalized and legal as outlined in Town Code Section 16. She advised that everyone be renoticed and that the town double check these requirements.

Ann C. referred to a letter sent to the town by Waldorf Associates. She stated that she spoke with Dale Larkin, the person who wrote the letter, regarding this issue and that she has agreed to mail information regarding the project to him.

Ann C. stated that that the map given to the council by Ms. Gludworth is a copy of a map that is not a legal plat.

Ms. Gludworth stated that most of the lots are 25 feet wide.

Ms. Morewood asked for a map that is accurate.

Mr. Hennessey stated that Shirley Lucero, Jerry Lopez, Lorraine Lopez and Eloy Lopez and other neighbors have not received notification in their mail.

Mr. Isom stated that the county records give addresses, and his records show that correspondence was sent. He recited several addresses of homes that were sent notification.

Ms. Gludworth encouraged the council to send certified mail to prove that this correspondence was sent.

Karl Krueger, owner of 362 Taylor, shared his views of the drawings presented since the conceptual plan. He also shared his own drawings, which he noted are his representation of the project and wanted to make them part of the record. He outlined several major problems and visual aides:

- The process of notification has not been met including the following:
 - Notices were not issued correctly,
 - Vail Daily notice was not published in time,
 - Letters on the sign are not 1 inch high
 - Notice was wrapped around a pole.
- Legitimate access to existing property and future Vail Resorts property is not adequate
- Photographs that showed:
 - Recent PUD development with narrow space between buildings
 - Town of Avon required postings on garages for NO PARKING in front of doors
- Turning radius is not addressed specifically nor dimensioned
- Traffic on Taylor Avenue and Lion's Lane will not be safe

- Access to the property does not have to be the way it is currently planned – it has been designed based on a faulty assumption
- Liability on the Town of Minturn has not be solved regarding the turning radius
- Actual parking and spaces that will effectively become parking spaces.
- Lion's Lane parking is located within the town right of way
- Actual visual impact of Building D

Mr. Krueger again reiterated that the single access is not the only access and that the town council should not rely on what the developer tells them but their independent evaluation. He then read the conceptual plan approval requirements from the code. He hopes that the council will take their responsibilities in this matter very seriously.

Jim McNeil responded to life safety issues presented. He stated that one of the first meetings by the developer was with the fire chief, who is fully aware that a fire truck cannot make the turn in question. This point was also made at the first town council meeting. Because of this understanding, the letter from Carol Mulson's addresses access from the north via 4th Street.

Mr. Hennessey stated that even the smallest emergency vehicle cannot make the radius in question.

Mr. Krueger stated that emergency vehicles will have to drive double the distance from the fire house to access the property.

There was some discussion regarding fire access and whether a truck coming from 4th Avenue would have to still make that same radius.

Hawkeye F. asked for more information on the turning radius and various kinds of emergency response vehicles, as well as the added time it would take to respond to an emergency call.

Mr. McNeil stated that he does not want to jeopardize life safety issues in any way. All of his discussions with the fire chief indicate that access from 4th Avenue is acceptable as long as the department has assurance that there would be 4th Avenue access or access similar to it.

Andrew Vihil, 432 Taylor Street, asked whether Taylor Street will be closed in order to elevate it. Mr. McNeil stated that Taylor needs to be raised five feet. Mr. Vihil stated that this especially will be an issue in the winter and that many people will detour around the steep part of Taylor Street and will therefore increase traffic on North Taylor. Mr Isom stated that sewer and water will also be done at the same time the road is raised. The developer will keep Taylor Avenue closed for a short time and only when necessary.

Alan Holub, of 650 Main Street, stated that he is in favor of the project and voted as such as a member of the planning commission. He thanked the citizens for attending this evening. His main concern is with the 4th Avenue access. He also outlined that the notification process should be improved.

Hawkeye F. left the meeting.

Mr. Holub stated that he did not wish to continue until the mayor returned to the meeting.

Darell W. stated that he would be in control of the meeting during the mayor's absence.

Mr. Holub went on to state that this is especially important in the PUD process because of the value of real estate and the constant changes in the valley. Lastly, he thanked the mayor for letting citizens speak and have their word in the process.

Ms. Morewood asked whether the access can be changed by eliminating one building.

Mr. Isom stated that that is not possible. She also asked whether Grant Avenue is usable. The mayor stated that the street is still a street and that it is accessible by 1st Avenue.

Mr. Krueger restated that there is more than one way to access this property. Hawkeye F. concurred.

Ms. Gludworth stated that notice is a basic constitutional right and if it is not followed, a bad precedent can be set.

Marka Breenner, president of Minturn Realty, stated she has lived in the valley 36+ years. She addressed the council concerning proper notification regarding three homes on Nelson Avenue. She also stated that Mr. Krueger was retained by herself at the early stages of this project. She then addressed several issues:

- Turning radius – the developer is working with the railroad to increase the radius of this turn. She showed photos from Bachelor Gulch to illustrate tight turns in other development
- 4th Street access over time is a concern of hers that she feels has been addressed by the attorneys.
- Power pole location by Xcel will acknowledge people's homes.
- Lopez family has been notified over 10 year period regarding the neighboring development or the possibility of it.

Ms. Brenner stated she is supportive of the project, regardless of the change in perspective it has gone through. She then clarified the development company's knowledge of gas lines and easements on the property.

Tom S. stated that the property sale was finalized in early July, so surely they knew there were gas lines. He felt that the town should not be approving projects without specific approval and final agreements in hand.

Craig Buehl of 232 Main Street asked whether the buildings are sprinkled. Mr. Isom said no. Mr. Buehl stated that the homes in Bachelor Gulch are all sprinkled to fire access is not as large of an issue as in this location.

Mr. Hennessey stated that what happens in Bachelor Gulch is not relevant.

Krueger shared a letter from Xcel Energy dated April 2, 2002 stating that there were two gas lines crossing the property. It is signed from Jim O'Neil. Mr. Isom stated the company has never seen such a document.

Ross Davis, attorney representing Marka Brenner, stated that the town and developer operated on an agreement that the PUD would be developed on the property. He also stated that the town is protecting the interests of organizations that are perfectly capable of protecting themselves, including Xcel Energy and the unified Fire District. He encouraged the council to move forward with approval.

Ms. Brenner pointed out that the photos she shared also show retaining walls and landscaping done by C&B development.

Mr. Hennessey reiterated that the life safety issues have not been addressed. He urged that the council not to pass the proposal based on

- Accessibility for any fire truck in the fire district during and after construction.
- High pressure gas line easement

Fred H. stated that the high pressure gas easement will have to be taken care of between the developer and the utility company.

Ann C. stated that in a long conversation with the fire chief regarding the turning radius and accessibility of the site, the fire chief recognized all of the issues and approved of the project provided she has access via 4th Avenue. She reiterated her conversation and Ms. Mulson's repeated approval for access.

Joyce McSpadden, 531 N. Taylor Street, stated that she has not ever seen a fire truck successfully navigate N. Taylor Street due to addressing problems. She stated that she believes that this is the beginning of some promising things in the neighborhood and is in favor of the project. She feels that the construction traffic will not be much worse than the current businesses operating on Taylor and on Railroad property.

Bob Gallegos of Westminster stated that he and his family still own property here. He feels this is an exciting project, but he has also seen approval of bad projects in the town. He stated that in his experience growing up, and later working and consulting in this valley, he feels that the town needs to be respectful of the open space and protection Minturn has maintained. He believes that 27 units will have a visual impact that will deface the Lionshead Rock view. He does not want to see that kind of density in Minturn. He related to specific council members and their properties. He also stated that planning commissioners did not feel confident about their approval but were bullied by the staff. He understands the right to build on the property, but thinks it should be to the scale and character of the town. He stated that such a dense property would "sell-out" Minturn's valley and he thinks with this sort of development, it will be a reason to move away.

David Clapp, 392 Taylor Street, asked why the town is not discussing Building D. Fred H. stated that the developer pulled it from the proposal. Mr. Isom stated that the planning commission requested that the developer revisit it. He stated that notification was poor and that he walks by the property every day but has just noticed it. He also stated that the

date on the sign is for a June meeting. He suggested changing signs with each meeting. He also stated that 4th Avenue easement access, a hairpin turn and Building D should be addressed specifically before the PUD gets approved.

Mr. Krueger asked when exactly notifications need to take place. Allen C. stated that the first meeting with each commission is required to be noticed.

Ms. Gludworth read a section from Section 16 on posting and stated the sign only announces the planning commission meeting and not the council meeting. Hawkeye F. stated that this was the town's mistake and they will take responsibility for it.

Mr. Davis commended the town on using an email list as an effective way to communicate with the community.

Mr. Clapp asked about the master plan, which outlines height requirements. He believes this PUD should take into account bordering private property.

George B. asked if Mr. Krueger could explain how he could make this project work. Hawkeye F. stated that it is not Mr. Krueger's project and although he has made valid points, he needs to convince the developer of the changes.

Mr. Isom stated that 32 units are allowed on the property.

Mr. Gallegos stated that is too many.

Mr. Isom stated that the developers plan to work with the town to make this plan manageable and workable. The site is 2.04 acres including Taylor Avenue and Lion's Lane or 1.87 acres without the streets.

Hawkeye F. stated that the town allows one unit per 5,000 square feet. Mr. Isom corrected, stating that two units are allowed on 5,000 square feet. He stated that the planning commission approved this density.

Mr. Gallegos stated that the town council is the final decision maker.

Mr. Krueger stated that from a town meeting last December, the former town manager and town planner stated that they had to prove 27 units work, not that 27 units were guaranteed. He stated that the town can negotiate this.

Mr. Gallegos stated that he was on the original planning commission for Eagle County. They had specific regulations for hazardous geological areas. He felt that the town is opening itself to liability if this is in a rock fall area. Mr. Isom stated that the developer has done very extensive geological surveys.

Fred H. stated that in his opinion, the two PUDs that the town has done in the past have not gone well. He hopes this one is handled more appropriately.

The public hearing was closed at 10:35 p.m.

All council members were present after the recess.

Hawkeye F. stated that he has reviewed the public notice that has been followed, including Vail Daily publication on June 19 for a June 23 hearing. The town ordinances require that the posting be published for 10 days. He recommended that the PUD Preliminary Plan process be reinitiated from step one.

Motion by Fred H., second by Darell W., to send back the zoning amendment and PUD Preliminary Plan for the Minturn Towne Homes to the planning and zoning commission for the first preliminary plan review;

Allen C. noted that all town ordinances will be strictly enforced regarding notification and notification posted in the public right of way.

Hawkeye F. stated that the town has to redo all posting as required for the planning and zoning meeting on August 11, 2004 in order to avoid potential litigation.

Fred H. requested that the developers do a rendering of the site from the most visible perspective from Highway 24.

Tom S. stated that all materials need to be submitted on time and in full in order to fully consider the project or else the meetings will be pushed back. Hawkeye F. stated that this is a reasonable request.

All voted in favor. *Note: Bill B. was absent*

Mr. Isom asked for specific direction to the planning commission.

Hawkeye F. stated that the entire process should be started all over.

Tom S. asked for driveway lengths to be called out, placement of poles and guide wires for overhead utilities.

Allen C. stated that this direction is solely a suggestion as the entire process will start from square one.

12. Reading/action on Ordinance 6 – Series 2004 (Second Reading): An Ordinance Amending Chapter 2 of the Minturn Municipal Code by the Creation of a New Section as it Pertains to Court Costs by Court Clerk

Nicole M. summarized the Ordinance.

Motion by George B., second by Fred H., to approve Ordinance 6 – Series 2004 on Second Reading;

Hawkeye F. stated that the rising costs of the judicial system are degrading it.

Five voted in favor, Hawkeye F. nay. *Note: Bill B. was absent.*

13. Discussion/action on HR 4700: A Special Tax for White River National Forest Improvements by Town Manager

Ann C. summarized the legislation, and she stated that she would like to draft a letter regarding the parcels for sale.

Tom S. asked for the ability of the town to zone all the properties so that they do not have to go through the PUD process.

Ann C. stated that the town should be able to veto and comment on all the parcels as it has economic impact on the town.

Hawkeye F. asked about other parties interested in purchasing the land.

Motion by George B., second by Darell W., to draft a letter regarding HR 4700, specifically discussing input from the town on zoning, land acquisition and winter elk grazing;

Hawkeye F. stated that he would like to see the Open Space Advisory look at this issue.

All voted in favor. *Note: Bill B. was absent.*

14. Discussion/action on declaring surplus property from the Depot Clean-Up by Town Manager

Hawkeye F. asked that members of the former volunteer fire department go down and look at the supplies and materials still stored there.

Motion by Tom S., second by George B., to table the declaration of surplus property from the Old Depot; all voted in favor.

15. Discussion/action on a letter of request to Vail Resorts concerning deed restrictions on town property by Town Manager

Ann C. stated that she has drafted a letter for Vail Resorts to lift the deed restriction on the property near the cemetery. Allen C. and Ann C. stated that they will update the council regarding other issues going on at this property.

The council will take the letter under consideration.

DISCUSSION CALENDAR

16. There are no items on the discussion calendar at this time

OTHER ITEMS/STAFF REPORTS

17. Reports/Correspondence/Announcements of Staff

- a. Events/Admin.
- b. Public Works
- c. Police
- d. Treasurer/Clerk
- e. Town Planner
- f. Town Attorney
- g. Town Manager

The town manager stated that the town has hired a new Police Officer, which will start on Friday. Hawkeye F. stated that he is addressing complaints concerning policing policies and philosophies of the Minturn Police Department.

Fred H. asked about Mr. Burnett's health. George B. stated that Mr. Burnett's health is not good and that he is concerned about his health. George B. stated that Mr. Burnett's family thinks he lives for these meetings. Allen C. stated that the town policy to dismiss a council member is 60 days. Ann C. stated that when she has talked with him he was looking forward to the meeting and involvement in the town.

EXECUTIVE SESSION

18. Executive Session – none is scheduled at this time.

19. Set next meeting date – August 4, 2004

20. Adjournment

As there was no further discussion, the meeting was adjourned at 11:35 p.m.

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand