



OFFICIAL MINUTES

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape recorded and are available to the public for listening at the Town Center Offices from 8:30am – 4:30pm, Monday through Friday, by contacting the Town Staff at 970/824-5645 302 Pine St. Minturn, CO 81645

REGULAR MEETING OF THE • MINTURN TOWN COUNCIL Wednesday, August 4, 2004

REGULAR MEETING, Council Chambers – 5:00PM

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 – CANCELED

REGULAR MEETING – 5:00 PM

1. Call to Order
 - a. Roll Call

Mayor Pro Tem Fred Haslee called the meeting to order at 5:13 p.m. Present were Tom Sullivan, Jerry Bumgarner, George Brodin, and Fred Haslee. Darell Wegert, Hawkeye Flaherty and Bill Burnett were absent with excused absences.

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. EXECUTIVE SESSION – Confirming with legal counsel for the purpose of receiving legal advice on pending litigation – Colorado Revised Statute 24-6-402 (4)(b).

Motion by Tom S., second by Jerry B., to convene in executive session for the purpose of discussing legal issues with the town attorney pursuant to the CRS 24-6-402. Those to be present included the Town Council members present, Town Manager and Town Attorney; all voted in favor. *Note: Darell W., Hawkeye F. and Bill B. were absent.*

The executive session was adjourned at 6:30 p.m. No decision was made.

Darell W. arrived at 6:32 p.m.

The regular council meeting reconvened at 7:00 p.m.

- c. 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.

Motion by Fred H., second by George B., to add a) swearing in ceremony of Peace Officer Marsha Rich and b) 30-foot live stream set back map discussion both under item #9; all voted in favor; *Note: Hawkeye F. and Bill B. were absent*

- e. Order of the Agenda Items.
- f. Approval of the agenda.

Motion by George B., second by Jerry B., to approve the agenda as amended; all voted in favor. *Note: Hawkeye F. and Bill B. were absent.*

3. Approval of the Consent Calendar

There were no items in the consent calendar.

4. Approval of the Minutes

- July 21, 2004

Fred H. noted that on page 8, fifth paragraph, the statement was correct as printed with clarification: The town manager told Mr. Sibley that he would have to come to town council to ask to be paid.

Motion by Jerry B., second by George B., to approve the minutes of July 7, 2004; all voted in favor. *Note: Hawkeye F. and Bill B. were absent*

5. Council Member Reports/Announcements.

6. Special Presentations/Citizen Recognition:

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

Darell W. read a letter from Councilman Burnett stating that his health has improved and that he will be back to council meetings as soon as his strength returns.

Ann C. stated that the town's water attorney, Ann Castle, has been named the state of Colorado Water Attorney of the Year.

Ann C. asked for any applications for participation in the Citizens Advisory Committee. Applications are available at the town center.

SCHEDULED HEARINGS AND ACTION ITEMS

8. Discussion/action of Emergency Items, if necessary.
9. Discussion/action of items pulled from Consent Calendar for discussion.
 - a. Swearing in Ceremony, Minturn Police Officer, Ms. Marsha Anne Rich, by Chief Martinez.

Lorenzo M. introduced Ms. Rich, the town's newest peace officer, effective July 25, 2004. She has 1.5 years of law enforcement experience.

The oath was administered by Mayor Pro Tem Darell Wegert.

- b. Map of 30-foot Setbacks from the Eagle River throughout Minturn

Motion by Fred H., second by George B., to appoint a reputable engineering firm to define the 30-foot live stream set backs along the Eagle River within the city limits of town of Minturn; all voted in favor. *Note: Hawkeye F. and Bill B. were absent*

10. Discussion/action: Approval of Subdivision – Boyd Subdivision, Final Plat, A re-subdivision of Lot 8, and the 15' alley between lots 7 and 8, Block 1, Bauldauf Addition to Minturn, Section 26, Township 5 South Range 81 West Town of Minturn, Section 26, Township 5 South Range 81, West Town of Minturn, Eagle County, Colorado by Town Planner

Motion by Tom S., second by George B., to table the Boyd Subdivision, Final Plat, A re-subdivision of Lot 8, and the 15' alley between lots 7 and 8, Block 1, Bauldauf Addition to Minturn, Section 26, Township 5 South Range 81 West Town of Minturn, Section 26, Township 5 South Range 81, West Town of Minturn, Eagle County, Colorado to August 18, 2004 for proper posting; *Note: Hawkeye F. and Bill B. were absent*

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

Darell W. stated that the council discussed the topic in tonight's executive session regarding work that was completed at the Public Works facility, noting that when the general contractor folded, payment was made through the insurance company. However, Sibley plumbing felt there was some payment for their work that was left out.

Christina Wyatt, the operating manager about of Sibley Plumbing, presented her case, noting that their payment request was filed on time but without the change orders at the advice of the former town manager.

Jerry B. stated that proper procedure was not followed and that the change orders were not signed. He felt this was a mistake on the part of the subcontractor and that is a mistake that the company will have to live with. He stated that the town cannot afford to pay Sibley Plumbing without taking into account all of the other subcontractors who have not been paid.

Motion by George B., second by Jerry B., to deny payment to Sibley Plumbing for the disputed portion of the billing; all voted in favor. *Note: Hawkeye F. and Bill B. were absent*

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

Darell W. summarized the issues related to the sale of US Forest Service Land up for sale under HR 4700. The letter was drafted by the Town Manager.

Ann C. stated that the disposition of the land was discussed with local rangers, Commissioner Gallagher, Jack Ingstad and Congressmen Udall and McInnis. She stated that the town is not in opposition to the sale of the land; rather that the Town of Minturn would like to have planning and zoning input during negotiations. She also hoped that the public would be allowed to comment and that the town would be able to purchase the land for open space if possible. Lastly, she felt that the bill should provide for funding should development on the land cause an economic detriment to the town.

Specifically, Ann C. asked to send the letter to Mark Udall, submit language to provide Minturn with a seat at the negotiation table and to provide suggestions for changes to the bill to put Minturn at an advantage.

Fred H. stated that she had that direction from the council.

Darell W. stated that of the total 116 acres, 62 acres are in Minturn or bordered by Minturn.

Jerry B. asked what the difference was between this bill and the land swap deal with the State Land Board. Darell W. stated that federal bills supercede municipal code requirements. Fred H. reminded the town that if the development wants water service, then the town has negotiating power. Tom S. stated that he felt the bill was vaguely written and that the town should be at the table.

Ann C. stated that she was not clear on the intention of the bill. She would like to see it spelled out.

13. Discussion/Action – Presentation of proposed RV Resort Park by: RV Advisors, LLC by: George “Skip” Ahern, Jr.

Steve Isom, of Isom and Associates, presented the project for Mr. Ahern, who had a death in the family. He introduced principals in the Rocky Mountain RV Resorts Pam Bard and Robin Eldridge, who own four large RV Parks in Colorado. He also introduced two consultants: Joe Dellige, a traffic engineer, and Nicola Ripley, of Montane Environmental Solutions.

Mr. Isom stated that the current RV development project was born in January of this year, when Rocky Mountain RV Resorts became interested in the project. After a variety of meetings, the developer decided to begin working on the project. The project would be located at the current site of the gravel pit across the Cemetery Bridge in Minturn.

Pam Bard summarized the project, emphasizing the fact that the town approached the developer about using a 7-acre parcel for an RV Resort. The town did not want to take on the debt responsibility and felt that a private development would be most acceptable to the town's citizens, she stated.

Ms. Bard explained that she hopes to create a destination resort that is family oriented. She noted another project that she owns is used as a guest ranch for family reunions, weddings, corporate retreats, etc. She stated that there is a growing demand for these kinds of facilities. A partial RV park would be supplemented with 1, 2 and 3-bedroom cabins that have permanent foundations. The site would also accommodate a pavilion much like the Donovan Park Pavilion, as well as two group houses that could accommodate larger groups adjacent. That facility would bring a new reason to make Minturn a destination.

She stated that she has been a property owner in Eagle County in 15 years. She noted that Minturn has a charm that has not been lost, but needs to be enhanced by more visitors.

Ms. Bard stated that a recreation center would also be built that would be used by resort guests and available to the town's citizens.

She emphasized that the plans that were previously submitted are NOT what is currently being proposed.

The construction would be done in stages, starting with the recreation center and road improvements. Second developed would be the RV sites and cabins and finally the pavilion and meeting houses. She also stated that the density would be less than previously proposed. The resort would aim to achieve all 10s by the RV Resort Association, which requires clean facilities, landscaping, amenities and professionalism.

Ms. Bard stated that a few steps would need to be taken in order to go forward:

- Vail Resorts deed restriction lifted
- Need and desire by the town and its residents proven

Darell W. asked the council what format they would like to use to precede. Darell W. recommended using the town manager's 14 points previously outlined to the developer.

Steve Isom stated that the list is not complete; the developer welcomes additional issues that need to be addressed. He issued a letter that addresses the following points:

- Size of the project has been reduced from 110 to 75-85 RV sites, 32-35 Cabins and two family lodges
- Proposed buildings would accommodate a recreation center, main office, manager's apartment, 2 satellite buildings (restrooms and laundry), two family lodge buildings, and a multi-use pavilion
- 32-35 log cabins will be permanent
- Acreage of total project is 14 acres
- Approximately 18 acres are planned for open space
- All infrastructure is paid for by the developer, including road pavement, deep utilities and shallow infrastructure
- Funding for road improvements including those on the cemetery bridge would be paid for by developer
- RV portion will mitigate visual impacts from the site by retaining the beaming along the west side of the project
- Environmental impact is fairly minimal. A environmental consulting group has been hired to minimize impacts
- Wildlife impact will be at a minimum. Restrictions have been placed on outside movement from the project
- Local traffic impact is minimal. A traffic engineer has been hired to minimize impact. Anticipated RV traffic is much less than current traffic patterns.
- Bus stop and shuttle service will be developed to minimize traffic into and through town
- Additional business activity will be substantial. Figures show sales tax dollars alone will generate \$50,000 per year. Additional money will also be spent in the community.
- Final lease amount has not been made but will be within a week.
- Options for names include: Centennial Park Resort and Eagle River Park Resort

Fred H. asked about the type of clientele.

Robin Eldridge stated that the demand is currently for larger, more affluent parks. Average cost per rig is approximately \$250,000. This location has a great opportunity to attract the higher end user. This is one of the reasons that the site was redesigned. The other very attractive point is that the resort will be a year-round resort. The rent will also be higher, which will eliminate low budget travelers. He related this project to the newest development within Tiger Run. Concierge service will be offered as well.

George B. asked how large Donovan Park Pavillion is in square footage.

Ms. Bard stated that it is approximately 6000 square feet but that the kitchen is not large enough for caterers doing special events. The proposed Pavilion would be similar in size.

Mr. Eldridge stated that the Dakota Ridge resort spaces are not as large as the proposed spaces at Minturn. He also stated that light pollution would be minimized with down lighting and scattered pole lighting. In addition, subtle pedestal lighting will be used. He encouraged the town to provide input as to what type of lighting should be used.

Tom S. asked about off-season booking for the more affluent clientele. Mr. Eldridge stated that the conditions for booking a reservation will be strict. The developer stated that this is not a housing project; rather it is a destination for people to come and visit the area and then move on. At Dakota Ridge, the standards are neat and clean rigs and while there is no minimum square footage, there is a discriminating eye at the front door.

Jerry B. asked about what the limit for length of stay in the cabins are. Mr. Eldridge stated that there will be a restriction on reduced rates for long term guests.

Jerry B. also asked about limiting the number of guests per cabin. Mr. Eldridge stated that bed capacity will determine the number of guests.

Length of lease will be determined, but most likely will be a 50-year lease with options.

Alan Holub, 650 Main Street, asked about the adjacent park, LaPlayuella Park, and the Eagle River relate to this project. He asked about whether certain amenities could possibly provide to improve and develop the park. Secondly, he asked how the development would impact law enforcement and how it would .

Mr. Eldridge stated that a great deal of landscaping would be provided on site; the developer is very interested in helping the town improve that park. They just need specific direction as to the park's amenities. He also stated that a night patrol would be provided by the developer; this person would have direct lines to the police department. He again emphasized that due to the clientele, there are few police issues that arise. Furthermore, there are strict guidelines for noise after 10:00 p.m.

Pete Vance of 562 Main Street stated that he has talked with the owners of Tiger Run. The owner told Mr. Vance that 35-40 spaces per night are booked at Tiger Run during the winter months. Front range travelers come up to the resort and go skiing with their vehicles. It has been promoted appropriately and that it works for Tiger Run. The owner believed it could also work in Minturn.

Randy Milhoan asked about the jobs created. Mr. Eldridge stated that the project would employ approximately 30 people.

Aggie Martinez, 962 Main Street, stated that the current noise and light pollution of the concrete plant is loud. He asked about the Elk Migration and whether the RV resort would allow dogs. He also asked if anyone has tested the sewer lines to see if they can handle the extra usage and dump lines. He was also concerned about water pressure for cabins.

Mr. Eldridge stated that the resort has very strict pet rules, which are attached. Designated areas will be used as dog walks. Lighting will be worked on with the town. Only one dump station will be used, but all sites will be fully equipped with all utilities. Backup utilities will in operation. The utilities will be part of the approval process. A decell line will be required. Mr. Isom stated that there is room to expand the lanes.

The traffic engineer stated that a 635-foot long lane will be installed coming north from the bridge. The road will then be widened 12 feet total. The sidewalk would be reconfigured and maintained.

Matt Scherr, 511 Main Street, asked about specific amenities of the rec center. Ms. Bard stated that the exact details have not been finalized but they would like to work with some focus groups in town to assess what Minturn residents desire. The costs would be lower for guests and town residents than for non-guests or non residents. She expects that the charges would be 80-90 percent of the costs of the Avon Rec Center.

Tom S. asked about a need for a traffic light. The traffic engineer stated that it is not required at this time. Mr. Isom stated that the issue has been discussed and that there could be restricted hours of operation for a light during high traffic times. The traffic engineer would talk to CDOT Region 3 representative Skip Houston about putting in a light when there is not enough traffic to require it.

Woody Woodruff asked about construction of the cabins along the hillside and the visual impact of the cabins and the cars that could access those cabins. Mr. Isom stated that the cabins have been moved down the hillside. An overlay of the cabins on the hillside will show that there is very little impact.

Randy Milhoan, 141 Williams Street, asked about hiking trail access from the RV site. Mr. Isom stated that the trail system to Lions head, Taylor Avenue and Two Elk will all be enhanced and kept open.

Mr. Isom summarized the project's needs, including:

- Consensus from town council to proceed
- Vote of the people in November (the developer would pay to put that issue on the general election ballot)
- Release of deed restriction by Vail Associates

Darell W. asked about presentations to the town citizens. Mr. Isom stated that a video production will be available at public places as well as on-site visits for other RV resorts with paid buses, and informal neighborhood and town meetings.

Mr. Vance stated that he hopes that the entire community should be involved. More publicity would help move the process along.

Tom S. stated that the developer has two meetings with the town to get the issue ready to go on the ballot.

Fred H. asked the town attorney what the town council needs to do to get this issue on the ballot. Ann C. stated that a complete project would be proposed to the town council formally and then a series a town meetings. She stated that the council needs to propose that an ordinance needs to be written and approved to move this issue to the ballot.

Jim Kleckner asked whether the council has determined that the issue will go on the ballot.

There was some discussion among council members about whether this was the case.

Ms. Bard stated that every single detail will not be completed, but the language of the ballot will be for a simple proposal for the use of the land and a development agreement subject to the approval of the town bodies.

Allen C. stated that the town has reserved the time to have a coordinated election with the secretary of state's office.

Jerry B. stated that details of the land lease would be disclosed before the issue goes on the ballot.

Ms. Bard stated that there will be an outline of business terms prepared in time for the election. However, the final legal documents will not likely be ready.

Mr. Holub asked the council whether they would be uncomfortable with a motion for getting the issue on the ballot before the finances are disclosed. Jerry B. said he would be uncomfortable with that motion until the financial information was disclosed.

Mr. Isom stated that the election issue is a separate issue from the complete project proposal.

Mr. Scherr stated that the developer has the burden of sharing enough information with the people, not the council's burden. Darell W. concurred.

Allen C. stated that if the developer does not make the general election deadlines, a special election could be held.

Jim Kleckner asked what specific information the council is looking for. Tom S. stated the amount of the land lease, payment for sewer and water taps. Tom S. stated that he believes the developer did not come prepared to this presentation.

Ann C. noted that item #6 that was addressed by the developer in terms of payment.

Tom S. stated that this property is the town's biggest asset. He stated that without knowing all the lease terms, there is no approval of this issue to go on the ballot.

Darell W. stated that all details cannot be fleshed out; that it is impossible.

Fred H. stated that the developer clearly did not have all the questions that the town needed. Tom S. stated that he wants to know the exact lease amounts as well as who will be paying for the water taps.

Mr. Eldridge stated that consultants have been hired at a tremendous expense in order to know the facts in order to know the risk. He emphasized that this has to be a good deal for the town and the developer. All of the facts will be available next week, as has been stated.

Mr. Scherr asked whether a positive election result would make this project a done deal.

Fred H. stated that Vail Resorts also wants to see what the will of the people is before they even lift the deed restriction.

Ann C. stated that a full cost benefit analysis was asked for by the staff and that the process for approval was outlined.

Allen C. stated that the issue is up for the vote, not a complete business plan. He used the case of unifying the fire district as an example.

Jay B. stated that the election time frame is critical and that the developer is aware of the time line. The first reading of an ordinance would need to take place by August 18, 2004.

Ms. Bard asked what steps the developer should go through; Ann C. stated that all of the information requested by the council tonight should be submitted to staff as soon as possible, along with language for the ballot item. Ann C. also stated that this depends on the council's direction tonight to send a letter to Vail Resorts.

14. Discussion/Action – Proposed RV Resort Park request for Town of Minturn for Quit Claim Deed for the Vail Resort property deeded to the Town of Minturn with restriction by: George "Skip" Ahern of RV Advisors.

Ann C. stated that the Quit Claim Deed has been requested by the developer. Allen C. stated that Vail Resorts has to sign off on the deed.

Ms. Bard stated that the land was given to the town for use as open space. If it is not used for open space, then the land reverts back to Vail Resorts. A quit claim deed

would reverse that. The other option to achieve the same result with a letter of request.

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

Ann C. stated that the letter was drafted for the last council meeting but it was tabled. Ms. Bard explained that the town has used this venue to address smaller pieces of property. Allen C. stated he didn't think that Vail Resorts wants to be involved in a political issue and that it would behoove them to simply lift the deed restriction. Ms. Bard asked whether any incentives have been provided to help get the deed restriction lifted. Allen C. stated that Vail Associates have been a good neighbor in lifting restrictions.

The council asked staff to produce a letter but eliminate any references to an election, the RV Park issue, or any other political issue. A time frame before August 18 should also be proposed in the letter.

Mr. Holub asked what the restrictions would be on the sale of the business. Darell W. stated that the lease agreement would outline such restrictions.

Motion by Fred H., second by George B., to draft a letter to Vail Resorts asking for a lift on the deed restriction on the land in question; all voted in favor. *Note: Hawkeye F. and Bill B. were absent*

DISCUSSION CALENDAR

16. Review the itemized list of direction for action to the Town Manager by Mayor Flaherty by: Town Manager.

Darell W. asked if the council should discuss these types of issues in executive session.

Motion by George B., second by Tom S., to discuss personnel matters with only council members present at 6:30 before the next town council meeting on August 18, 2004; all voted in favor. *Note: Hawkeye F. and Bill B. were absent*

Ann C. stated that she is not opposed to taking direction from the mayor; simply she wants to make the entire council aware of the duties requested.

17. Discussion on declaring surplus property Depot Clean-Up by: Floyd Duran, Public Works

Ann C. stated that the council will declare the property on August 18. A sale will be held on August 21, 2004 between 9:00 a.m. and 2:00 p.m. Ann C. also urged the council to visit the depot if they haven't already.

OTHER ITEMS/STAFF REPORTS

18. Reports/Correspondence/Announcements of Staff

a. Events/Admin.

Nicole M. updated the council on the web site development and voice mail system.

b. Public Works

c. Police

d. Treasurer/Clerk

Jay B. stated that budget season is coming. He also stated that sales tax collection is improving, especially with the Minturn Market. Jay B. also stated that the state tax collector is working closely with the town to collect outstanding taxes.

Jay B. stated that he would be attending conferences in September and November regarding budget committees.

e. Town Planner

Wiley S. stated that staff has spent a lot of time on Michael Boyd's subdivision and not a lot of time on long range planning recently.

Tom S. asked about a house on Main Street that has been red tagged. Wiley S. stated that the house was condemned because it was unsafe for human habitation. Allen C. stated that the property is involved in litigation between the landlord and the tenant. The staff will make the town council aware of the building inspector's report.

f. Town Attorney

g. Town Manager

Ann C. reminded citizens that there is an opening on the Planning and Zoning Commission. To date, the town has only received one application despite advertising.

Darell W. encouraged citizens to apply.

Jerry B. asked the staff to compile a list of term expirations for all planning commissioners.

Fred H. asked about the status of the radio tower lease and public notification for moving it. He also asked about the sobriety check last Friday and stated that the placement was very inconsiderate of our business community. He stated that if the intention was to catch late night traffic on their way to Leadville. He believes a letter from the town to the State Highway Patrol is in order.

Allen C. stated that the town was not advised of it, as it was an operation by the State Highway Patrol.

Lorenzo M. stated that the Minturn PD was not a part of the checkpoint and he has questions he would like to ask about the operation. He stated that he was on vacation and apologized for the lack of notification. Lorenzo M. also stated that the weekly stats will

continue to be provided as soon as the new computer system requirements are worked out.

Ann C. stated that the Minturn PD can discuss the community policing philosophy at their next meeting on August 18, 2004.

EXECUTIVE SESSION

19. Executive Session – Continuation of Executive Session scheduled for 5:00 pm – only
If all the scheduled items have not been addressed.

20. Set next meeting date – August 18, 2004

21. Adjournment

As there was no further discussion, the meeting was adjourned at 10:00 p.m.

Gordon “Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk