



## 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 18, 2004

**Work Session: Council Chambers – 5:00 PM**  
**Regular Session: Council Chambers – 6:00 PM**

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

### WORK SESSION 5:00 – 6:00 PM

- HR 4700 – House Bill 4700 introduced by Congressman Scott McInnis – telephone conference call with Congressman McInnis or his representatives

### REGULAR MEETING – 6:00 PM

1. Call to Order
  - a. Roll Call

Council Member Fred Haslee called the meeting to order at 6:12 p.m. Present were Hawkeye Flaherty, Darell Wegert, Tom Sullivan, Jerry Bumgarner, George Brodin, and Fred Haslee. Bill Burnett was absent with an 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.

- **Executive Session** – Conferring with legal counsel– Colorado Revised Statute 24-6-402(4)(b)(B)

Motion by Tom S., second by George B., to convene in executive session for the purpose of consulting with the town attorney pursuant to the CRS 24-6-402(4)(b). Those to be present included the Town Council members present and Town Attorney; all voted in favor. *Note: Bill B. was absent.*

The executive session was adjourned at 7:00 p.m. No decisions were made.

Bill Burnett arrived at 7:00 p.m.

### **OPEN SESSION – 7:00 PM**

b. Pledge of Allegiance

2. Discussion of the Agenda

a. Items to be pulled from Action Calendar

Item #8 should be removed as it needs to go to Planning and Zoning first.

Fred H. asked for item #14 to be moved to the top of the agenda in consideration of Councilman Burnett's attendance solely for this item.

Hawkeye F. asked to move item #15 to the last item on the agenda.

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.

f. Approval of the agenda.

Motion by Fred H., second by George B., to approve the agenda as amended; all voted in favor.

3. Approval of the Minutes

- August 4, 2004

Motion by Fred H., second by Darell W., to approve the minutes of August 4, 2004 as amended; six voted in favor. Bill B. abstained.

Fred H. stated that on page 20 of the council packet, he would like to see more specific wording on the motion; he specifically asked for the firm Ecological Resource Consultants to be used; on page 25, Mr. Martinez was concerned about light and noise pollution, as well as early operations hours of the concrete plant. Page 18 should be stated temporary mayor pro tem Fred Haslee.

4. Council Member Reports/Announcements.

5. Special Presentations/Citizen Recognition:

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

- A.J. Johnson of 0101 Stetson Drive in Singletree introduced himself as a candidate for County Commissioner in District 2. He welcomed input from the Council and looks forward to getting to know the issues in Minturn.

7. Discussion/action of Emergency Items, if necessary.

## SCHEDULED HEARINGS AND ACTION ITEMS

8. Discussion/Action – Ordinance 7: Series 2004 for November 2004 ballot regarding the proposed RV\_Park Resort (First Reading) by: **Town Clerk.**

The Mayor read the Ordinance in full.

The public hearing was opened at 7:19 p.m.

Darell W. indicated that the discussion should be limited to the issue of the ballot. Fred H. concurred, citing past articles that stated that the citizens should be able to vote on this issue.

Bill Sisk of 653 Boulder Street stated that the RV Park is a huge decision for the town of Minturn. He believes that the issue should be up to the citizens to decide. He felt that due to the misinformation of the past, the citizens have a right to become educated on the issue and should be put to the vote.

Matt Scherr of 511 Main Street asked about the language of the ballot question. Specifically, what is the town committed to if the ballot issue is passed? Does it mean that we must allow the developer to build something and if so, what must we allow?

Hawkeye F. stated that the town would be committed to a long-term lease and operational plan. The plan must go through the entire planning process and could be turned down if it did not meet guidelines.

Fred H. stated that the entire process would be a public one. The final decision would be up to the council, but on the input from the public.

Pete Vance, 526 Main Street, asked the question: do we need an RV Park? He felt that this primary question still needs to be addressed. He feels that the town needs to justify its need for increased revenue.

Hawkeye F. stated that Mr. Vance's comments were off topic. He asked Mr. Vance to address the ballot issue.

Mr. Vance stated that he feels the Council should make the decision about the RV Park development, not the public.

Randy Milhoan of 141 Williams Street stated that the issue should go to the vote of the public because it has been such a divisive issue among the community. He feels that the people will look at the issue objectively, including all of the project's advantages and disadvantages. He believes it is a strong proposal based on the benefits to the community.

Anthony Aiello of 30 Mann Avenue of Minturn stated that he believes that the people should vote on the issue. He believes that there are better ways to bring in business to Minturn than an RV Park.

Carol Briggs, 223 Boulder Street, stated that this issue has divided the town and it will do that again if the town council members only decide. She believes this issue should go to a vote of the people.

Aggie Martinez of 962 S. Main Street stated he believes the people should vote on the issue.

The public hearing was closed at 7:32 p.m.

Motion by Fred H., second by Darell W., to approve Ordinance 7: Series 2004 for November 2004 ballot regarding the proposed RV\_Park Resort on first reading; the following discussion ensued:

- Tom S. stated that he feels that the town is rushing into this process. He objected to the clause in the Ordinance that gives an option to sell the property. He also stated that the town will be facing huge development pressure in the coming years. He feels that the lease agreement is unacceptable and that "fair market value" will be a hard thing to determine. He feels that the town needs to protect its assets. He feels that the ordinance should not pass in its current form
- Darell W. stated that he feels the option to purchase is also not acceptable. He proposed an amendment for an option to purchase.
- Fred H. outlined the process for sale of public property, noting it must be voted on by the general public. He stated that the council can take no action to sell property without the approval of the people. He stated that the wrong impression was given by Councilman Sullivan. Allen C. concurred.
- Jerry B. stated that there was never a discussion point for the town to sell this land. He strongly objected to the current ballot language and felt disappointed in the developer for proposing it.
- Bill B. asked whether the Ordinance can be tabled and re-written.
- Hawkeye F. stated that the council can make amendments to the Ordinance for the second reading and then vote on it as amended. There is a timetable for getting this issue on the ballot.
- Tom S. felt that this timetable issue should not be the burden of the town council. He cautioned the council to make a hasty decision.
- Ann C. stated that there is nothing prohibiting the council from amending the ordinance.
- George B. suggested that the council strike the option to purchase from both references in the Ordinance

- Skip Ahern, a representative of the developer, agreed.
- Fred H. stated that there could be a potential conflict of interest that is driving Tom S. and his objections
- Ann C. recommended removing “bonded” from the Ordinance and ballot question

The motion has been amended to include:

- Striking the two phrases, one in the Ordinance title and one in the actual wording of the ballot, that read “the option to purchase”
- Removing the term “bonded” from the Ordinance title and the ballot question.

Six voted in favor; Tom S. voted no.

Hawkeye F. stated that the Council would consider this for second reading on September 1, 2004. He apologized that he will not be able to attend that meeting.

9. 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 – **Town Planner**

Wiley S. summarized the request to approve two lots. The application was made and the notice was given. The Planning Commission heard this in August and by Town Council in September of 2003. The motion failed on a 1 to 6 vote and has been involved in litigation ever since.

He outlined the conditions he feels must be met:

- Proper notice be given to property owners, posted, and published before it comes to Town Council;
- The ten additional parking spaces approved with the previous uses be retained contingent upon a change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements ;
- Such loading, parking and distribution facilities shall be fully adequate to meet the existing use;
- Ingress – Egress Easement as a service access to Main Street for the existing car wash located on Boulder Street. Mr. Boyd will need to dedicate this easement or provide a cross access agreement between Lot 7 and Lot 8.
- The applicant agrees to address the Town Council comments and concerns as identified within this report.

Michael Boyd had no comment on the materials presented stating that he had not been provided with the information and he had not been able to consult with his attorney.

Darell W. asked whether the Council should table this based on the fact that the issue is involved in litigation. Darell W. asked whether staff had given a copy of these requirements to the attorney.

Wiley S. had not provided that material to Boyd's attorney. Allen C. stated he would get the lawyers handling this case in touch with one another.

Motion by Fred H., second by Bill B., to table the 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; all voted in favor.

The issue will be addressed at the next council meeting on September 1, 2004.

10. Discussion/Action – Ordinance 8: Series 2004 Amending Minturn Zoning Map – Old Bakery Building by: **Town Attorney & Town Planner**

Motion by Fred H., second by Darell W., to table Ordinance 8: Series 2004 Amending Minturn Zoning Map – Old Bakery Building on first reading because it needs to go to the Planning and Zoning Commission first; all voted in favor.

11. Discussion/Action – Preliminary Plan Approval for Minturn Towne Homes PUD, by: **Town Planner.**

Wiley S. presented a summary of the application: C&B Development is requesting an Amendment to the Zoning Map and a Preliminary Plan for a PUD approval for 27 Towne Homes that will have a mix of 2, 3, and 4 bedrooms with garages including a mix of open space in configurations of 2 to 5 attached units. The property is located on lots through 10 of Block A, Taylor Addition in the 100 block along Taylor Avenue east of downtown Minturn. The property consists of 1.857 acres in Game Creek Character Area.

He outlined the history of the project through the public process.

He introduced Steve Isom to complete the presentation.

George Gregory, counsel for the applicant, stated the planning and zoning commission placed one requirement on the last application through the P&Z.

- Architecture to be restudied regarding variation in rooflines, use of more natural materials such as stone, wood, rusted steel and other materials which fall into the character of Minturn.

Mr. Gregory stated that the applicants have taken photographs of various buildings throughout town. He stated that there are many different styles of architecture in Minturn. He felt there was no specific style of architecture they felt they could imitate. The nature of towne homes also limits the style of architecture.

As a result, the designers have incorporated stone, corrugated metal and natural cedar.

Wiley S. stated that all notification requirements have been met.

Mr. Isom went over the various design details, including stone accents, canopies over back entrances made of corrugated tin on projected roofs, varied roof pitches and elevations, and changes in the color palate to reflect the native colors in this area. Shed roofs rather than gabled will be used on the dormers. Bay windows have been popped out.

Mr. Isom also showed a scaled color rendering of the area that incorporated the entire area and the hillside behind it.

Mr. Gregory summarized the 15 items that were requested and addressed from the July 14 Planning and Zoning Commission meeting. The only item that was not addressed at that time was a scaled model of the project.

Mr. Isom presented the model, showing the overall massing and the elimination of the hairpin turn. The turn now accommodates all emergency vehicles except a large ladder truck. The Eagle County Ambulance District and unified fire district have approved the plan. Fourth Street will no longer need to be used for emergency access.

Mr. Gregory stated that all requirements set forth at this time have been met, and outlined them as such.

Mr. Isom explained that all roof lines are 35 feet except for one building, which extends to 39 feet on Building D. However, Building D has been completely redesigned.

Charles Overy, who built the model, stated that the trees shown on the model are both mature and planting size.

In summary, the applicant feels they have addressed all of the issues brought up by the planning commission concerning the design of the buildings.

Lastly, Mr. Gregory presented a petition in support of the project. He read the petition and presented it to the council.

The public hearing was opened at 8:18 p.m.

Alan Holub of 650 Main Street asked how the process would proceed from here and how the developer will be asked to comply with the proposed changes.

Tom S. stated that they can hold the certificates of occupancy. Hawkeye F. stated that the council can set forth conditions and hold the developer to that.

Allen C. stated that the developer has offered a deposit to ensure those requirements are met.

Matt Scherr of 511 Main Street stated that he felt the drawings were not sufficient to make a decision on the visual re-design of the buildings.

Michael Boyd 455 Main Street stated that developing the property in question has been very difficult. He feels that the town should let the developers build the project provided it complies with the code.

Karen Briggs of 242 Boulder stated that she feels the developer has gone through the proper procedure and that the town should stick to its guidelines in order to welcome new development into Minturn. She stated that the town needs to be reasonable when considering all development.

Karl Krueger of 362 N. Taylor Avenue summarized his involvement in the process. He felt the stakes were much higher due to the 27 units being proposed. He noted problems of the town and developer in meeting code guidelines. He felt that while the developer has made strides in their presentation, the project has not been given the close attention it deserved. He feels that the developer is taking advantage of the height requirements, parking restrictions, road widths, and future density possibility. He understands that the steepness of the property is very difficult to require all of these things. However, he feels that the town lacks the teeth to enforce its own code and protect itself from future development. He also stated that the planning staff is irresponsible in not requiring developers to meet slope, open space and density requirements. Applications have been consistently late, which has set a precedent. Mr. Krueger noted that the past town planner had warned the council about height, density and open space; the council seemed to forget those warnings. He presented a packet that tries to make the development company comply with the town code. He feels that the main issue of life safety has been resolved, although he stated that the developer has made convenient mistakes in forgetting certain pieces of information, including a second page from a letter from Carol Mulson and the exclusion of Minturn Road from the color renderings.

Marc Hennessee of 232 N. Taylor recapped a conversation from Carol Mulson, in which she felt the Fourth Street access was secured and that fire trucks could be easily maneuvered throughout the project.

Mr. Gregory read a portion of a letter addressed to the Town Manager dated August 10 from Carol Mulson. Mr. Gregory noted two points in the letter that still needed addressing: maneuverability and fire hydrant placement. Ms. Mulson met with the building project manager about these issues and then wrote another letter dated August 11 that approves both issues.

Mr. Hennessee finished his comments, stating that he was restricted in height for a proposed building project on Taylor Avenue. He feels that if this project passes, he will resubmit his application for an increased height.

Hawkeye F. stated that the developer is trying to work within the rules of a PUD and not a single unit development.

Mr. Krueger clarified his objection to the Mulson letter in question.

Stephanie Lopez of 252 N. Taylor Street stated that she likes the project. She asked about availability of water and water pressure.

Jim McNeil of Alpine Engineering stated that with 100 pounds of pressure at the fire hydrant is more than enough to serve all the units all Taylor Avenue. The highest units on the development will lose pressure, but homes on Taylor Avenue will not lose pressure. She also expressed concern over how construction traffic will impact recreation and wildlife.

Marka Brenner, president of Minturn Realty, stated that she supports the project as a business and property owner.

Mr. Holub stated that the planning and zoning commission made sure that the trailhead would remain open while the project is under construction.

Mr. Isom added that this is a unique site and so a PUD is an ideal use for this type of project, all documentation on open space has been submitted and that park and street requirements have all been met. He stated that density has been calculated and meets code requirements. Mr. Isom summarized the reasoning and changes made to this development over the process.

Mr. Krueger asked if the model grading is accurate.

Mr. Overy stated that the model is accurate according to the plans that he had; however, changes were made to the plans after the model was built.

Mr. Aiello stated that he felt the project looks fine as long as the project meets the requirements that the council is comfortable with. Still, he feels the rules should be applied accordingly.

Hawkeye F. noted that the proposal is a new one due to improper notification of the previous preliminary plan proposal.

The public hearing was closed at 8:56 p.m.

A brief recess was taken at 8:57 p.m.

The meeting reconvened at 9:12 p.m.

Bill B. asked about the people of Taylor with overhead power services.

Mr. Isom stated that the first house would be under grounded at the developer's cost. All other homeowners will still have overhead power.

Tom S. asked about letters for easement agreements for the high pressure gas lines and power.

Jim McNeil stated that Xcel Energy is working on the placement of monopoles but there is no signed agreement on this issue. However, it will be put on either the right of way or on the developer's property.

Tom S. stated that the agreements were supposed to be in place many weeks ago.

Mr. Isom stated that the poles are currently proposed in the same locations as the current poles. The gas line easements are provided on the plans.

Xcel Energy has approved the transformer sites.

Tom S. asked if Jim O'Neil is approving of this current site plan. Mr. McNeil stated that O'Neil has conceptually approved this project although he is not sure if O'Neil is the final decision maker on the issue.

Mr. McNeil stated the structural poles will have no guide wires attached and that that the town will have all easements as required or final plat.

Darell W. asked whether the developer will put "No Parking" signs on garage doors where the driveway is too short to accommodate a full size car. Mr. Isom concurred. Extra parking spaces have also been allowed.

Mr. Isom stated that Lion's Lane is currently 20 feet wide plus two feet of shoulder. Snow storage is planned for various points around the site and not on the side of the road.

Mr. Isom stated that Taylor Avenue is 20 feet wide and will remain so throughout the construction project.

Fred H. asked for clarification on site plan A3. He is concerned with dedicated parking on right of way roads. He is not concerned with parallel parking, but is concerned with perpendicular parking in the driveway.

Mr. Isom recognized that Lion's Lane is an easement and that the parking could be eliminated if needed.

Tom S. asked about water access to Vail Resorts.

Mr. Isom stated that the water lines are in place for that property, but that the council has not granted water to Vail Resorts.

Mr. Isom stated that dimensions are shown from finished grade but that the heights are measured from existing grade.

George B. asked about improvements made to the Lopez properties. Jim Commerford stated that the project manager will be in touch with those neighbors about the recent changes to the project.

Reading from the code, Hawkeye F. stated that the developer should justify why this PUD is warranted and meet the character of the Game Creek area. He read more from the code, emphasizing the residential aspect of this area. He noted that multi-family complexes are not allowed and that duplexes are a conditional use. Next, he read from the general PUD guidelines, stating that neighboring property should not be adversely affected. Hawkeye F. acknowledged the developer has come a long way when it comes to emergency access. However, he stated that he has never seen a sidewalk as part of this plan. He feels that this design, mass and density are not consistent with the housing of the Taylor area without the additional dedication of open space and recreational space. He felt that single family homes should be developed on 5,000 square foot lots on this site.

Mr. Isom stated that the 10 lots have not been developed for 100 years because of the problem of access. Once the lower portion was purchased by the town from the railway, the property had the ability to be developed. A duplex PUD was already proposed at an earlier date. More recently a plan for no more than 27 units was approved by the town council. He doubts that the developer would have ever purchased the property if they could not develop this site as a PUD. He showed pedestrian access on the site plans, noting that people would not need to walk on Lion's Lane. He stated that he has no problem adding a walkway on Taylor Avenue. As for the massing and scale, he feels that the project is only workable with a PUD development.

Lew Meskiman stated that the town needs to accept this project so that the town can continue to attract year-round residents. He is not excited about the design but feels that the town is at a crossroads and needs to accept the change that is inevitable.

Tom S. stated that the condos are going to be listed for \$400,000 and up. Mr. Meskiman stated that these are more reasonably priced than what a single family or duplex would cost, and therefore won't change the character as much as single family homes.

Jim Commerford stated that the homes will be priced from the mid-300s to the high-400s. Square footage will range from 1,500-2,100 square feet and reservations have already been made.

Jerry B. stated that the advertisement in the paper is listed for \$399,000 to \$500,000.

Mr. Hennessee stated that the points outlined by Hawkeye F. really struck a chord with him and that he agrees this proposal is out of character.

Hawkeye F. restated his position and acknowledged that the rest of the council members may have a different opinion.

Motion by Darell W., second by George B., to approve the preliminary plan for the Minturn Towne Homes PUD with the following conditions; all voted in favor.

- Sidewalk on Taylor Street
- Access to the existing hiking trail during construction
- Encroachment agreements for all private improvements within the Lion's Lane easement

- Posting of a compliance bond by developer to secure conditions of the agreement in the amount of \$25,000
- Monthly meetings with the project manager and town council
- Necessary improvements to neighboring properties, including under grounding of power and possible drive way improvement at the Sandra Lopez property. Driveway improvements if required for Shirley and Jerry Lopez properties.

Five voted in favor; Tom S. and Hawkeye F. no.

13. Discussion/Action – Ordinance 9: Series 2004 Amending Minturn Zoning Map – Minturn Towne Homes PUD (First Reading) – **Town Planner.**

The mayor read the ordinance in full.

Motion by Jerry B., second by Fred H., to approve Ordinance 9: Series 2004 Amending Minturn Zoning Map – Minturn Towne Homes PUD on first reading; five voted in favor; Tom S. and Hawkeye F. no

A brief recess was taken at 10:10 p.m.

The meeting reconvened at 10: 14 p.m.

Bill Burnett left the meeting at 10:15 p.m.

14. Discussion/Action – Minturn Fire House retaining wall bid documents/bid approval, by: **Town Planner & Town Manager.**

Jim McNeil of Alpine Engineering stated that the town currently has two bids for the retaining wall. The options were a boulder wall, a mechanically stabilized wall and a soil nail wall. Each of the walls has advantages and disadvantages. After talking with about 15 contractors, Mr. McNeil feels that the best option is a soil nailing wall. Two bids were submitted, but only one was satisfactory. HTM Construction bid \$29,500.00, but does not including the paving. However, the plans are already engineered. Mr. McNeil recommended that the paving be done simultaneously with another project going on in town, because the paving is only about 20 feet by 30 feet. A concrete pan along Pine Street and to the culvert will also be required.

Ann C. stated that the once they approve the bid, the town can go back to the fire district to see what they can contribute to these costs.

Discussion ensued about the placement of the culvert within the project.

Motion by Fred H., second by Tom S., to approve the \$29,500 bid for the Minturn Fire House retaining wall; all voted in favor. *Note: Bill B. was absent.*

16. Discussion/Action – Review and Declaration of Town’s Surplus Property, by: **Town Manager & Public Works Director.**

Motion by Fred H., second by Hawkeye F., to declare the list of surplus property for the Town of Minturn; all voted in favor.

The sale will take place on Saturday August 28 from 10:00 a.m. to 2:00 p.m.

17. Discussion/Action – Presentation of proposed RV Resort Park by: RV Advisors, LLC by: **Pam Bard**.

The presentation was continued to a future meeting.

## DISCUSSION CALENDAR

18. General Minturn citizens complaints about bears in town as related to household Waste storage/refuse pick up storage containers other matters related to safety of residents due to attraction of bears by storing food waste in currently approved containers by: **Town Manager**.

Bill Andree, district wildlife manager for the Division of Wildlife, gave his recommendations for the bear situation in Minturn. The Eagle Valley is having a hard year. The bears have been feeding out of trash cans for six years. There are many sightings in Minturn every night. The only way to start attacking this problem: bear resistance trash control. He stated that Vail has cut their calls from 300 to 100 after adopting a bear-resistant ordinance. Avon is currently looking at doing a similar ordinance. Aspen and Pitkin County have also adopted ordinances. The system will evolve over time, but the best recommendation he can provide is to provide an ordinance to not allow trash out on any day other than trash day. Currently Waste Management is changing out trash cans at no cost. He feels the town should bear proof now before they are forced to do it.

Lorenzo M. stated that bear activity has been increasing for the last three years.

Commercial accounts can get bear-proof dumpsters, according to Andree. Tom S. stated that there is no charge for commercial dumpsters.

The town staff was directed to get a copy of the Town of Vail's ordinance regarding this issue. Hawkeye F. stated that it would be helpful to put bear-proofing information on the web site.

Mr. Andree asked for new development requirements to include bear-proof trash containers.

Tony Aeillo stated he is against another ordinance because he felt this is up to the individual residents.

Bill Andree stated that the DOW has information on their website and the town can link to it for public use.

19. Eagle River – Minturn 30' setback establishment and mapping, by: **Town Manager.**

Tom S. stated felt there were two surveys that have two different results. Mr. McNeil indicated that Russell Survey Company measured the high water mark from the edge of water on a particular day. Mr. McNeil's surveyors measured the high water mark based on evidence from high water over time.

Mr. McNeil stated that a previous town manager indicated that sewer lines could be placed within the 30' set back.

Ann C. stated that the town and current developer agreed to go with the Russell Survey report. Troy Thompson of ERC was asked to organize a new survey from the high water mark.

Jerry B. stated that the town has always gone by the Russell survey and that the high water mark was never in dispute. Darell W. concurred.

Ann C. stated that the town has no liability for the buildings on Mr. Brinkerhoff's development as they are located within the 100-year flood plain. She recommended that the town get a new survey based on the methodology provided by the town and then adopt the results formally.

Mr. McNeil stated that there is a level of subjectivity to the survey regarding the high water line.

Ann C. stated that the developer has retained Troy Thompson of ERC as his consultant regarding vegetation.

20. Minturn Police Department – Philosophy/Vision/Mission as requested by Mayor Flaherty by: **Chief Martinez.**

Motion by Darell W., second by Tom S., to table the issue until the September 1 Council Meeting; all voted in favor.

21. Overview of Minturn's Executive Functions in relations to Mayor/Council Governance structure.

Fred H. stated that he feels that the mayor needs to be consulting the council before giving direction to the town manager.

Hawkeye F. feels that he is simply passing on the complaints and concerns to the Town Manager. He is not giving direction to her; he stated it is up to her to make decisions about what needed to be done. He stated that the town manager stated she would look into these issues. He went through a list of issues he personally felt needed addressing.

Tom S. stated that council directed Ann Castle to send a letter Vail Resorts regarding a water issue. Then Hawkeye F. contacted Ms. Castle recommending that she hold the

letter until she heard from Glen Porzack. Tom S. stated that the council should be informed of these issues.

Ann C. stated that she welcomes communication from the Council Members.

#### OTHER ITEMS/STAFF REPORTS

22. 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

#### EXECUTIVE SESSION

23. Executive Session – Continuation of Executive Session scheduled for 6:00 pm – only  
If all the scheduled items have not been addressed.

24. Set next meeting date – September 1, 2004.

As there was no further discussion, the meeting was adjourned at 11:20 p.m.

25. Adjournment

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Jay Brunvand, Town Clerk