



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, September 1, 2004

Work Session: Council Chambers – 5:00 to 7:00 PM
Regular Session: Council Chambers – 7:00 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

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 5:00 – 7:00 PM

1. Town of Minturn FY 2005 Budget – initial overview by: Town Treasurer.
2. Council Direction – adopted from May 2004 Council Retreat – development of position, Office Technician and Community Development Director by: Town Manager and Special Events Coordinator.
3. Economic/Community Development – General presentation on the role of local economic/community development position in State of Colorado by: Pattie Snidow, Colorado Department of Economic Development.

OPEN SESSION – 7:00 PM

1. Call to Order
 - a. Roll Call
 - b. Pledge of Allegiance

Mayor Pro Tem Darell Wegert called the meeting to order at 7:00 p.m. Present were Darell Wegert, Tom Sullivan, Jerry Bumgarner, George Brodin, Bill Burnett and Fred Haslee. Hawkeye Flaherty was 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.

Darell W. summarized the discussion items of the work session.

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.

Tom S. asked for both RV Resort items be put together. The council agreed to move item #14 (RV presentation) up to follow item #8 (Ordinance for RV election question).

- f. Approval of the agenda.

Motion by Fred H., second by Jerry B., to approve the agenda as amended; all voted in favor. *Note: Hawkeye F. was excused absent.*

3. Approval of the Minutes

- August 18, 2004

Motion by Bill B., second by George B., to approve the minutes of August 18, 2004 as presented; all voted in favor. *Note: Hawkeye F. was excused absent.*

4. Council Member Reports/Announcements.

Darell W. reported that the open space committee met recently and reviewed the Sleepy Hollow Ranch application. The committee denied the application until further information was available. He stated that the committee discussed Minturn's lack of filing for open space for the Forest Service parcels that will soon be available. He stated that the county and NWCCOG support the filing for the town.

Ann C. stated that she has received an amended version of HR 4700, which indicates now that towns may be able to purchase the space or file for it to remain open space. She stated that she would make the amended bill available to Cliff Simonton at the county.

5. Special Presentations/Citizen Recognition:
6. Public comments on items, which are **NOT** on the agenda.
7. Discussion/action of Emergency Items, if necessary.

8. Liquor License Renewal Application – Shop n’ Hop; 401 Main St., 3.2 Beer License
by: **Town Clerk**

Jay B. summarized the application as an annual renewal and stated Staff had no concerns and recommended approval.

Terry Marcum, owner of Shop-N-Hop, was present for the hearing.

Lorenzo M. thanked Mr. Marcum for his good business and neighborly attitude.

Motion by Tom S., second by Fred H., to approve a 3.2 Beer License for Shop-N-Hop #12 at 401 Main Street; all voted in favor. *Note: Hawkeye F. was excused absent.*

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

Skip Ahern principal of Rocky Mountain RV Resorts presented the proposal for putting an RV Resort development on the ballot. He noted that the contentious nature of the issue makes it important to take it to the people for a vote.

Mr. Ahern stated that he understands much opposition to this project relates to existing businesses in town. He outlined a previous legal challenge to the town posed by Councilman Sullivan. Instead of asking for the council to decide on such a legal issue, he feels that taking this issue to the people will lift the tension in town. He stated that after a positive election, the developer will go through the entire planning process before building permits are issued.

Mr. Ahern then outlined the main benefits to the Town of Minturn, which include:

- Recreation Center
- Family Pavilion
- No cost or financial obligation by Minturn or its residents
- Additional revenue to the town of up to \$300,000
- Additional tourism and sales tax revenue
- High-quality resort development
- Nearly \$500,000 in infrastructure improvements
- Challenge Grant for La Playuella Park
- Employment of approximately 20+ full- and part-time staff
- Construction jobs during building phase
- 10-year revenues of \$3.4 million
- 50-year revenues of \$19.7 million

Next, Mr. Ahern outlined the concerns of citizens, including:

- Traffic impact
- Environmental issues of elk migration and bear feeding
- Light pollution
- Noise pollution
- Trash pollution

- Cost and facilities of Recreation Center
- Blowing dirt from the site
- Trail access to existing open space areas
- Type of RVs in the resort
- Length of RV stays

Lou Meskiman, business owner of Thank You Masked Man Services, asked for clarification on the difference between family cabins and cabins. Mr. Ahern stated that the cabins have one-, two- or three-bedrooms and will be up on the hillside, while the family cabins will house larger groups with five to six bedrooms. Mr. Meskiman asked about peak hour (morning) trip ends. Mr. Ahern stated that the average stay is four days in the park and explained the difference between peak hour trip ends and trip ends. Finally, Mr. Meskiman asked about employee housing on site. Pam Bard stated that two apartments for employees would be provided on site and other employees would find housing in the area, of which there is a current excess.

Shane Sorenson of 691 Main Street asked whether the resort would be open year round. Mr. Ahern said that the resort would be very busy through summer and hunting season. From Thanksgiving through April – during ski season – the resort would also be very busy but that the resort will be open year round. All snow removal will be provided by the resort developer. Darell W. asked whether that position would be a staff position or a contract position. He stated that has not finalized that issue yet.

Pete Vance asked whether the developer monopolizes on the hunting crowd at their other resorts. Mr. Ahern stated that in past ventures, he has greatly used this group of people.

Tom Ricci owner of the Minturn Country Club asked for the developer's experience on the effect of an RV resort on property values. Mr. Ahern stated that the RV Resort will be a huge improvement on the current use of the land and that he suspects that will increase property values. Ms. Bard stated that increased revenues for the town also allow for future enhancement to surrounding properties.

Karen Briggs 223 Boulder Street asked about addressing the length of stay and availability of fuel on the site. Mr. Ahern stated that propane would be sold, but not gasoline. He also stated that this is a short term situation, not a trailer park. Regulations will ensure that. Visitors may stay for various lengths of time, but all regulations will continue to be in effect. Mr. Ahern stated that by comparison, this is a hotel, not an apartment complex.

Ms. Bard stated that the daily rates are high enough to eliminate long term stays.

Garth Koehlhoffer of 1010 Main Street asked about total capacity. Mr. Ahern stated there would be 160 in the RV sites, 90 in the cabins and 30 in the family facilities if the facility was full. He also asked whether a geological study has been done.

Mr. Ahern stated that there have been studies indicating this is not a slide site. However, individual core samples have not been taken.

Mr. Sorenson stated that recently, a mud slide has effected the site. Mr. Ahern stated that the developer would look into the issue further.

Mr. Meskiman asked for average occupancy rates. Mr. Ahern stated that early on, occupancy would be 35 percent, increasing 5 to 10 percent each year. Ms. Bard stated that she hopes to see 75 percent average occupancy year round once the entire site is developed. Ms. Bard stated that Tiger Run is not comparable for year round averages because 100 percent of their sites are privately owned by individual timeshare owners.

Mr. Meskiman asked whether 5th wheel trailers would be allowed on the site, like in Dotsero. Ms. Bard stated that the owner of the Dotsero park has invested the least amount of money to gain the most revenue. There are dirt roads and gravel sites with very basic hookups. Ms. Bard then explained that on the rating system for RV resorts, this one will be triple 10s. She cited Grizzly RV Resort near Yellowstone as a prime example of such a resort park.

Karl Krueger owner of 362 Taylor Avenue made two architectural comments:

- Cabins on the hillside are good for the residents of Minturn, but not for guests
- Parking for family retreat centers should be more accessible.

Ms. Bard stated that the rec center is a mixed-use building with recreational facilities and a small meeting space. The pavilion will have large spaces with better views. All three buildings have underground, covered parking in order to maintain the view. Ms. Bard also stated that views tend to be from eye level and up and so western views to the mountains will be prominent.

Mr. Koehlhoffer asked about height of the family buildings. Mr. Isom stated that the buildings would be a total of 22 feet above grade with 9 feet underground for parking, width of 65 feet and length of 80 feet.

Jill Koehlhoffer of 1010 Main Street asked about what amenities the RV Resort's "older travelers" would have in Minturn. Mr. Ahern stated that as an older traveler himself, he is very active and expects his travelers to be the same. Ms. Koehlhoffer also asked about traffic to the other areas in the valley. Mr. Ahern stated that he hopes to extend the ECO service to the site.

Woody Woodruff of 492 Eagle Street asked for clarification on the larger buildings on the site. He asked how many people the buildings could hold for large parties. Ms. Bard stated that it would hold 150 to 200 people. Mr. Woodruff asked how the plan accommodates parking for all of those people. Mr. Ahern said there is parking lower on the hillside as well as underground. He also stated that the developers would shuttle people as necessary. There are 48 underground spaces plus an approximate 36 below. Ms. Bard stated that she knows parking is an issue on this site plan and will be addressed.

Mr. Ricci asked whether the ordinance still requires 1 space for every 4 people. After doing the math, he feels that there might be enough parking on the site right now.

Darell W. stated that this is not the current time to address such details. There will be another time for that.

Jerry B. asked whether cabins will be available for long term rental. Ms. Bard stated that 30 days would be a limit in order to maintain daily and weekly rentals. Mr. Ahern stated that they will do quick turn-around business.

Jerry B. asked whether skirting is essential in the winter months. Mr. Ahern stated that it is not.

Tom S. stated that he feels the annual lease is insignificant. He also stated that the annual net can be close to zero, so revenues from that are not guaranteed. He asked what is guaranteed besides the lease. Ms. Bard stated that the greatest contribution the town has ever received from this property is \$72,000 in a year. She stated that the town also gets property tax and real estate tax. Ms. Bard stated that the company will be obligated to pay the real estate tax on the improvements of the plan. Tom S. pointed out the developer is only willing to pay 1 percent of gross for rent. Ms. Bard stated that \$13 million in improvements to the property and \$500,000 in infrastructure unrelated to the site. Ms. Bard stated that the town's tap fee structure does not address this type of development. Tom S. stated that the developer should not get a \$500,000 break on tap fees.

Darell W. asked Tom S. to keep questions relevant and constructive.

Ms. Bard pointed out that the council and planning commission will be reviewing all steps of the planning process. Right now, the main issue is the ballot question.

Bill B. asked about the total bill for the project. Ms. Bard stated that they are ready to spend \$13 million, outlining two factors:

- Positive vote from the citizens
- Negotiations with the town council and planning commission.

Ms. Bard stated that the developer is capable of the development with all of the factors in place.

Jerry B. asked how the RV Resort plans to generate \$55,000 in sales tax. Mr. Ahern stated that in addition to those sales tax dollars, store fronts will be filled and restaurant waiting will increase. Ms. Bard stated that prices are higher here and their RV customer expenditures are also above average.

George B. stated he feels uncomfortable going into business with the developer and would like to see that negotiated in the future. He also stated that if the vote passes, the resort proposal could be killed if the deed restriction is not lifted, or if the deal is not a good proposal for the town or the developer.

Mr. Ahern stated that citizens are invited to view a video of the proposal at town meetings and private homes. The website and newspaper will post the meetings. Citizens may also contact the town manager with their comments.

Tom S. inquired about the location and distance of the de-cell lane. Mr. Isom stated that the road would be extended 6 feet on either side, plus a sidewalk and would be approximately 640 feet long.

10. Discussion/Action – Ordinance 7: Series 2004 (Second Reading): An Ordinance regarding the November 2004 ballot language for a proposed RV Park Resort by: **Town Clerk.**

Ann C. stated that the required corrections have been made.

Karen Briggs of 223 Boulder stated that the citizens should have a say and that the election should be open and positive.

Pete Vance of 562 Main Street asked the Treasurer if the town needs the RV Park from a financial standpoint.

Jay B. stated that the budget does not show significant growth. State and federal laws have limited the financial growth of the town and the costs of raw materials and services continue to go up. The town cannot keep up with inflation, despite permanently setting the mill levy at 17.934 mills in 1998. Meanwhile, property taxes are decreasing and sales taxes are holding or falling as well. Therefore, the town needs such development for the infrastructure benefits, increased sales tax and property tax. Jay B. stated that the budget is very, very tight.

Ann C. stated that the town's debt obligations are large and are due to cash flow requirements, not for any sort of project. The town is in the black due to fiscal discipline, but can't stay that way for much longer without a large revenue generation.

Darrel W. asked for the community and staff to stay on task with the agenda.

Mr. Vance reiterated his point.

Bill Horak of 541 Main Street stated that he is for the RV Park and asks the council to negotiate it in the best possible fashion.

Motion by Tom S., second by Bill B., to amend the language of the ballot to include lease options of 50 years with two 25 year options, \$25,000 per year with a percentage of the net;

The following discussion ensued:

- Fred H. stated that this amendment locks the town into an agreement without negotiation.
- Darell W. stated that he agrees the town should negotiate a bed tax or space tax rather than a percentage of the net earnings
- Tom S. stated that he would like to see that wording so that the people have an opportunity to see the proposal
- Jerry B. stated that the people will see that the terms would be negotiated by the Minturn Town Council.
- Allen C. stated that amending the ordinance with the language suggested would limit the council
- Jerry B. stated that the numbers would come out in the campaign. He also stated that the council has the ultimate decision on the lease amount.
- George B. stated that the council has the authority to negotiate for the people.

On the vote: Bill B., Fred H., Jerry B., George B., and Darell W. no; Tom S. yes.

Motion by Fred H., second by Bill B., to approve Ordinance 7: Series 2004: An Ordinance regarding the November 2004 ballot language for a proposed RV Park Resort on second reading; five voted in favor, Tom S. no. *Note: Hawkeye F. was excused absent.*

Fred H. asked Tom S. what the best use of the land would be. Tom S. stated that the public park should be used for the benefit of the town. He stated that over time, the deed restriction will be removed off of the land and the town is selling itself short for 32 acres of land.

Tom S. stated that he would like to see a recreational amenity.

Fred H. stated that paying for that would be impossible.

Tom S. stated that the Gilman property and other large areas are developing around town. Over time, the town could use the property as leverage for water service for large developments nearby. He stated that tying the land up for 50 years with an RV Park is selling the town short.

11. Discussion/Action – Ordinance 9: Series 2004 (Second Reading): An Ordinance to Amend the Zoning Map of the Town of Minturn regarding the Minturn Towne Homes PUD by: **Town Planner.**

Darell W. amended the ordinance to add the following under the Title and Section One:

- “lots 1-4 of the Booco subdivision and parcel A of the former railroad property”

Mr. Isom noted that this is a legal description of the property, as shown in the maps attached and it should be included.

Motion by Darell W., second by Fred H., to approve Ordinance 9: Series 2004: An Ordinance to Amend the Zoning Map of the Town of Minturn regarding the Minturn Towne Homes PUD on second reading as amended;

The following discussion ensued:

- Darell W. requested that the applicant agrees to bear-proofing all trash containers. Mr. Isom concurred.

Five voted in favor; Tom S. no. *Note: Hawkeye F. was excused absent.*

12. Discussion/Action – Ordinance 11: Series 2004 (First Reading): An Ordinance amending the Municipal Code to comply with state liquor law by: **Town Attorney.**

Darell W. read the motion.

Allen C. noted that this makes the town come into compliance with state law, which currently allows for restaurant customers to cork open containers and leave the premises. It was requested by the restaurant community.

Motion by Jerry B., second by Fred H., to approve Ordinance 11: Series 2004: An Ordinance amending the Municipal Code to comply with state liquor law on first reading;

The following discussion ensued:

- Darell W. stated that NWCCOG will be developing a seal to make it easy to identify restaurant bottles for law enforcement.

All voted in favor. *Note: Hawkeye F. was excused absent.*

13. Discussion/Action – Ordinance 12: Series 2004 (First Reading): An Ordinance regarding the Minturn Fire Station Intergovernmental Lease Agreement by: **Fire District Chief Charles A. Moore.**

Darell W. read the ordinance.

Ann C. summarized the need for such an agreement.

Motion by Fred H., second by Bill B., to approve Ordinance 12: Series 200: An Ordinance regarding the Minturn Fire Station Intergovernmental Lease Agreement on first reading;

The following discussion ensued:

- Jerry B. stated that this is a housekeeping situation which should have been taken care of previously.
- Ann C. stated that the fire chief asked for the agreement to be in compliance with all requirements.
- Fred H. stated this is still a long term lease, not a purchase situation.

All voted in favor. *Note: Hawkeye F. was excused absent.*

14. Discussion/Action – Ordinance 13: Series 2004 (First Reading) And Ordinance renewing a contract with Eagle County Animal Control by: **Town Clerk**

Darell W. read the ordinance.

Motion by Jerry B., second by George B., to approve Ordinance 13: Series 2004: An Ordinance renewing a contract with Eagle County Animal Control on first reading;

The following discussion ensued:

- Darell W. stated that the town has been in a contract with the county regarding this issue for years. Monthly reports, however, have not been given since March.
- Ann C. stated that the updated reports have been issued.
- Jay B. stated there are no changes in fees related to this contract.
- Lorenzo M. stated that other fines are up to the judge's discretion.

All voted in favor. *Note: Hawkeye F. was excused absent.*

15. Discussion/Action – Ecological Resource Consultants proposal to establish mapping for the Eagle River 30' live steam setback in Minturn by: **Town Manager.**

Darell W. summarized the need for a survey and map. Ann C. stated that ERC estimated that the project would cost approximately \$12,350. After some discussion with the planning department and ERC, Ann C. stated that the project could be done in stages and that she might be able to find grant dollars to get the project completed. If no grant funds are available, the project would be implemented with the least impact to the general fund as possible.

Jerry B. asked for a representative from ERC to attend a council meeting to answer questions about establishing the high water mark.

Ann C. concurred and scheduled it for the first week in October if possible.

The council directed staff to develop phases for the project and get more information from ERC.

DISCUSSION CALENDAR

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

Lorenzo M. presented the philosophy, vision and mission for the Minturn Police Department. He noted that in 1998, the Minturn Police Department adopted a Community Oriented Policing philosophy. The department is not driven by incident statistics, but by a problem solving approach. He outlined various operations procedures, including Training, Treatment of the Public, Foot Patrol Policies, Officer Discretion, Critique, Evaluation, Recruitment and Staffing.

He noted that since adopting this philosophy, crime has been reduced in Minturn while going up across the county.

Bill B. asked what the town can do to help the department.

Lorenzo M. stated that the council can keep in mind increased staffing needs for the department.

Ann C. stated that the police would receive some clerical relief from the new office technician this year.

Darell W. stated he is satisfied with the police department given their resources.

Lorenzo M. stated that monthly updates would be given once the new records management system was in place.

17. Expression of “Thanks to Citizens of Minturn” by: **Councilman George Brodin**
George B. suggested sending a note to each person who speaks at the town council meetings. He volunteered to take on this task personally.

Darell W. stated that he would like to see people sign up when they attend a meeting with their mailing address so the notes could be easily sent.

Tom S. stated that he was fine with the idea as long as George B. was willing to do it.

18. Discussion of Planning and Zoning Commission application submittal and setting a meeting for review by: **Town Planner**

Darell W. stated that there is an addition of one application. The council will be appointing two commissioners, one full time and one alternate.

Ann C. stated that a subcommittee was formed to select the candidates. Tom S. and Darell W. volunteered to review the applications with two members of the planning and zoning commission, Rob Davis and Alan Holub.

OTHER ITEMS/STAFF REPORTS

19. Reports/Correspondence/Announcements

a. Events/Admin.

Nicole M. updated the council on the Centennial Speaker Series, which will be held on Tuesday, September 7, 2004 at 6:00 p.m. in the town center. Additional speakers will hold talks on October 5 and November 9. She also explained the results of the vendor and shopper surveys for the Minturn Market. Lastly, she noted that traffic to the new web site is increasing.

b. Public Works

c. Police

d. Treasurer/Clerk

Jay B. stated that he would be absent at the council's next meeting; he thanked the council for their attention at the work session and reminded the public that the town offices would be closed on Monday for Labor Day.

e. Town Planner

Wiley S. stated that current planning issues have taken much of the planning commission's time; however, recent sessions have been more focused on future planning issues as they relate to the Three-Mile Plan. He suggested that the town council and planning commission work on the Zoning Code at the next council retreat. Two main issues will include the PUD process and Chapter 16. All forms are being re-evaluated and will be posted on the web site in the future.

f. Town Attorney

Bill B. asked whether the town has received a deed for the school district property. Ann C. stated that the survey was received recently and the deed will be drawn up by the town attorney.

g. Town Manager

Ann C. referred to her staff report, which included a citizen complaint. She also noted that the county will be looking at West Nile Virus throughout Eagle County. She stated that she will be away for the next council meeting for her son's wedding.

h. Council Members

EXECUTIVE SESSION

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

Motion by Jerry B., second by Tom S., 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, Town Manager and Town Attorney; all voted in favor. *Note: Hawkeye F. was excused absent.*

No action was taken.

21. Set next meeting date – September 15, 2004.

22. Adjournment

As there was no further discussion, the meeting was adjourned at 10:10pm.

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand