



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, November 3, 2004

OFFICIAL MINUTES

Regular Session: Council Chambers – 5:45 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.

OPEN SESSION – 5:45 PM

1. Call to Order

a. Roll Call

Mayor Hawkeye called the meeting to order at 5:46 pm. Those present included Mayor Flaherty, George Brodin, Jerry Bumgarner, Bill Burnett, Fred Haslee and Darell Wegert. Tom Sullivan was excused absent.

Staff present were Town Manager Ann Capela, Town Treasurer Jay Brunvand, Town Planner Wiley Smith, Economic Development Director Nicole Magistro, Court Clerk/ Office Technician Alicia Lynch, Police Chief Lorenzo Martinez, and Town Attorney Allen Christensen.

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.

Hawkeye F. added discussion of Taylor Avenue to discussion calendar.

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

Motion by Darrell, second by Jerry, to approve the agenda as presented: all voted in favor (*NOTE: Tom S. was absent*).

3. Approval of the Minutes

Darrell asked for changes in minutes page six in last paragraph on RV park. He would like to see a transcript of the tape included in the portion of the minutes. His main concern was that council members' comments were not entirely included and that since there were no cameras at the meeting, the physical descriptions of council action should also be included.

Hawkeye suggested tabling the minutes.

Fred H. told the mayor council discussion had been stifled during the meeting.

Hawkeye stated he felt halting the discussion was appropriate.

Ann C. summarized the Darrel's request for a transcript and stated that no physical description is contained in audio tapes.

Motion by Jerry B, second by Fred H., to approve the minutes for October 20, 2004 as presented: all voted in favor (*NOTE: Tom S. was absent*).

4. Council Member Reports/Announcements.

George and Fred put up 15 flags in the south end of town before election on November 2, 2004. George B. donated the flags for the town.

1. Special Presentations/Citizen Recognition

2. Public comments on items, which are NOT on the agenda.

Following the divisive nature of the election, Ms. Laura Wolf volunteered to raise money to make improvements to La Playuella Park. Ms. Wolf stated that she had discussed this with other citizens and they were willing to help as well. She hopes to bring a positive influence to the town.

Bill B. asked what she would like to see there.

Ms. Wolf stated that she would like to do something for the children. She continued to discuss equipment for a playground.

Bill asks if it would be appropriate to let children play on suggested equipment (fire engine) for the park. Allen C. stated that there are safety requirements for all playground equipment.

Hawkeye noted that the park is a grand priority of the council.

Ms. Wolf stated that funds provided by the town would be matched if allotted for the equipment if done by November 19, 2004.

Ann C. thanked Ms. Wolf for coming. Ann C. proceeded to state that there are already plans for this particular park. She offered Ms. Wolf the opportunity to be a part of the upcoming projects for the park.

Ms. Wolf thanked the council for its support.

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

DISCUSSION, HEARINGS AND ACTION ITEMS

4. Discussion/Action of Taylor Avenue.

Hawkeye F. addressed current issues at the Minturn Towne Homes.

Wiley S. stated that the whole project had been reduced from 27 to 26 units due to the location of the gas line.

Hawkeye F. stated that he had heard complaints about the condition of Taylor Avenue. He asked if the county road would be paved before winter.

Floyd Duran, public works director, stated that they would not. Floyd D. also stated he did not know what was going on with the road and he would check on it.

Jay B. concurred and suggested using rotomill as a temporary solution.

Hawkeye asked who is supposed to be keeping up with the project.

Ann C. stated that Wiley S. would conduct weekly site visits to keep up with the project.

Hawkeye stated that he is unsure whether the project will be completed according to the plans presented to the town council.

Ann C. stated that the town has no direct connection with the subcontractors.

Hawkeye F. stated that he is concerned with the safety of the project. He wanted to know who is responsible for what, so that the responsibilities are clear and completed by these individuals in an efficient and effective manner.

Ann C. stated that she understood.

Floyd D. stated that he is concerned that construction worker parking on the site could be a problem.

5. Discussion/Action – Fiscal Year 2005 Public hearing

Public hearing was opened at 6:19 p.m.

- Burt Mercial of 626 Main Street asked about the budget public hearing cycle.
- Jay B. stated that there will be a public hearing on November 17, 2004 for first reading. The ordinances will also be read on November 17, 2004 for first reading.

The Public hearing was closed at 6:23 p.m.

Darell W. asked whether the 3% trash rate increase will be reflected in the current budget.

Jay B. stated that the budget would show the changes on the Water Page (page 46 of budget) at the next public meeting. Jay B. stated that at the last meeting changes on water fees and taps were suggested. Those changes went from a 5% to a 3% increase. The changes were made because the mayor felt that a 3% increase was more in line with the cost of living increase and therefore, the water fund would pay for itself. Jay B. then read the long term and annual debt service on the water fund from the budget (page 44 of FY2005 budget).

Darell W. felt that the debt service is still high, and that we should keep the increase higher on rates.

There was some discussion among the council members about whether or not the individual households should be paying so much so quickly on this debt service.

Jay B. stated that the mill levy for the general fund is not part of the water fund. On each water tap, an additional \$50 per month for four years would pay off the entire debt service.

Darell W. asked whether there was any additional money generated in the fund.

Jay B. stated that there was, but that money was being saved for future water system improvements, like a new water plant.

Darell W. stated that the extra money is not a cushion; it is being used for day to day maintenance and improvements.

Jay B. stated that the past improvements have cost great amounts, and that having extra money in the water fund every year is not a luxury. Right now, it is earmarked for sand on our largest filter.

Hawkeye F. asked whether an Energy and Mineral Impact Grant could be used to buy sand, as it has been in the past.

Darell W. stated that he would like to see the water increase stay at 5%.

Hawkeye F. stated that they will be able to review the effects of a 3% increase at the next meeting.

Allen C. reminded the council that water issues are never simple. Allen C. also reminded the council that drilling a well isn't as easy as just drilling it.

Jay B. pointed out that the 5% increase still would not pay for the day-to-day operations. The extra money comes from the capital fund and water tap fee revenues. If the town was going to meet all of its needs in the water fund without tapping into the capital fund, the increase would need to be at least 5%.

Ann C. stated that the town is not in the position to deal with any catastrophic problem with the water system, and that an incremental, steady increase to fees is the way to prepare for those issues.

Bill B. stated that in the past, the town had spent huge amounts of money fixing pipes that they did not know would break and that the town can not save enough for every emergency.

Bill B. also stated that he felt the public hearing was all they had to take care of tonight.

Darell W. asked to speak with the treasurer on the budget again.

Jay B. suggested that the council members come in this week to get the kinks of the budget worked out. A special council work session was set at 4:00 p.m. on Friday, November 5.

6. Preliminary Minor Subdivision of the Sullivan Subdivision for Lots 3-7 of Block E of the Taylor Addition.

Wiley S. asked to add a public hearing time to the agenda so that it could be table for the next meeting. He explained that it was not on the agenda because the applicant, Councilman Sullivan, was not present.

Hawkeye F. said that it wasn't on the agenda, then staff should bring it back on November 17, 2004.

Wiley S. agreed.

Ann C. stated that she spoke with the applicant about putting it on the agenda for tonight, but that he was not going to be present. She felt that he should be present to answer any questions the council might have.

Jerry B. stated that Mr. Sullivan called him and requested that the item should be put on the agenda even though he could not be present because "time is of the essence."

Staff asked whether the agenda should be amended.

Motion by Jerry B., second by Fred H., to add the Sullivan Minor Subdivision to the action calendar; before he council voted, the following discussion ensued:

Ann C. stated staff was prepared with all the information.

Jerry B. stated that if there are any questions, the applicant would deed restrict the lots so that in perpetuity there could only be single dwellings built on the lots.

Darell W. asked the town planner for information on the application.

Wiley S. summarized the application, which went before the planning commission on October 27 and was approved with conditions. He noted a staff report submitted to the council. He stated the location of the subdivision and he stated that the proposal is to subdivide five lots into three. Wiley S. stated that the planning commission approved the subdivision with conditions:

1. Will serve letter from the Town of Minturn for water tap. He stated that this has been addressed and provided. Hawkeye F. asked for clarification on the number of taps. Wiley S. stated that it would be three taps, one for each lot. Fred H. asked if these were single family units proposed on the lots. Wiley S. affirmed. Wiley S. provided a copy to the town clerk.
2. Will serve letter from Eagle River Water and Sanitation District for sewer service. Wiley S. stated that he has talked with the district and they have provided a letter, signed by Mr. Haslee.
3. Topographic plan and drainage plan. Wiley S. stated that Mr. Sullivan is working on this and that staff has talked to the surveyor. The plans should be provided by the end of this week or beginning of next week.
4. Will serve letter from the Fire Protection District for fire service. He stated that this has been provided.
5. Subdivision Improvement Agreement between the town and the applicant. Wiley S. stated that he has not yet talked to the applicant about this, but he stated that Mr. Sullivan agreed at the Planning Commission meeting that he would work with town.

Hawkeye F. asked if there were any questions regarding this matter.

Darell W. asked of all the five things, if anything was available yet. He asked Wiley what they planned to do.

Wiley S. stated that conditions 1-4 have all been provided or will be. He stated that he needs to work with the applicant and the town attorney on Item 5. Darell W. asked if items 1, 2, 3 and 4 were in the hands of planning and zoning.

Wiley S. affirmed.

Hawkeye F. asked Jerry B. if there was a legitimate reason for handling this matter tonight.

Jerry B. stated that time is of the essence on the financing and winter is coming, so Mr. Sullivan requested that Jerry B. push the application forward.

Hawkeye F. stated that in order to get this done, the council would have to approve it with conditions and if the conditions are not met, then approval can be rescinded. This would give Mr. Sullivan a change to do what he needs to for his financing but it still puts a limit on it so that it could be done by November 17, 2004.

Allen C. stated that he was told the issue was tabled but felt that there was a provision on the code and the code states that the applicant "shall" be present. He also does not think that the council should proceed.

Hawkeye F. asked whether Jerry B. could act as the applicant's representative for the purpose of tonight. Ann C. stated she would retrieve the section of the code. Allen C. stated he was concerned that this application should be treated like any other application and, could you approve this without a subdivision agreement or soils testing.

Jerry B. stated he felt that Councilman Sullivan would not want to be treated any differently than anyone else, and if they would make others jump through the hoops, then he was confident the applicant would go along with that.

Bill be requested five minutes to break. Hawkeye F. directed staff to read the code on this matter during the break. (*Note: The council took a five minutes break.*)

Allen C. stated that Wiley S. pointed out Chapter 17 Section 116(17-116), which states specifically that the applicant must be present to present the project. He felt that having another council member appear on behalf of the applicant would be in violation of the Code of Ethics, and although that violation had not taken place, it was clear that Jerry B. would not represent the applicant as defined in the code anyway.

Jerry B. made a motion to amend his previous motion. Hawkeye F. stated the council could just make a motion to table the application. Allen C. stated the motion needed to contain a specific date for the next hearing, so that the posting notices could still be in effect.

Wiley S. stated the appropriate date would be November 17, 2004.

Motion by Jerry B., second by Fred H., to table the Sullivan Subdivision at lots 3-7 of Block E of the Taylor Addition until November 17, 2004 at 7:00 p.m.; all voted in favor.
(*Note: Tom S. was absent*)

OTHER ITEMS/STAFF REPORTS

7. Reports/Correspondence/Announcements/New Business

a. Events/Admin.

- Nicole M. reminded that council that the Minturn Centennial is on November 15, 2004. She stated that there would be a birthday party held for the occasion. (*Note: Nicole M. left the meeting for an excused absence, Jay B assumed the minutes*)

b. Public Works

- Bill B. asked what we were going to do with all the junk up by the Lease Lot.
- Ann C. stated it is being cleaned up and some items will be sold. The amphitheater structure parts are being considered for recycle.
- Jerry B. noted the site is an embarrassment to the Council. It was requested to be placed on the next agenda.
- Jerry B. stated Lafarge has concrete piles and it needs to be cleaned up.
- Hawkeye stated that Monday he and Ann C are doing another tour of the items on her list to do. Discussion ensued that the list must be approved by Council. Hawk stated the items were citizen concerns or Council concerns. These items are citizen concerns, safety and council concerns.
- Darell W. noted the Chain of Command in the Budget and stated that Hawkeye was skirting the Council and their direction.
- Hawkeye stated again they are Citizen concerns, safety items or Council direction.
- Ann C . stated the chart discussed has been disbursed to staff for their update and reporting of the listed items. This series of reports will be on the November 17 agenda.
- Floyd stated that the Fire District has cut up some of the cars.

c. Police

- Hawkeye discussed the budgeted vehicle scheduled for purchase in FY2005.

d. Treasurer/Clerk

e. Town Planner

- Wiley noted a monthly report that the Planning Division is producing. This report notes the accomplishments from the previous month.

- Bill B. asked how the new members of the P&Z Commission were doing.
- Wiley stated that the members had trial under fire and mastered the process well. He also noted that Councilman Tom S. presented his property at that meeting.
- Bill B. asked how the deed for the Water Plant land was coming along.
- Ann C. stated that Alpine Engineering had been hired to complete the study at a cost of approximately \$13,000. She will give a report at the next meeting with dates and dead lines. Ann C. noted a question on the planning Commission. Ann C. noted they are unable to determine when certain members were appointed. A Schedule has been completed on terms of the P&Z Commissioners; discussion as to how to rotate the Chairmanship. Ann C. asked if Council wished to direct the P&Z to rotate the Chairmanship. She stated that appointments expire on the 31st of March on staggered four-year terms. Rob Davis and Robert Martinez's terms end on March 31, 2005.

f. Town Attorney

- Hawkeye asked how we are doing in Court due to the fact that we have just raised the court costs.
- Allen C. stated he would direct budget questions to Jay B. As to the concept of how are we doing with the Judge, etc; Allen C. stated that things are going fine.

g. Town Manager

- Ann C. stated that her report was in the packet.
- She noted that Alicia L. was the new Court Clerk / Office Technician.
- She shared with the Council a map had been created of the Town indicating the Town and the areas that HR4700 is proposing for sale.

h. Town Council

- Hawkeye noted they would be doing a walkabout.
- Hawkeye F. stated he would like to set up a meeting so that Darell and Hawkeye could meet the new P&Z members. This meeting needs to be prior to the next P&Z meeting and Saturday would work. This is just a general get to know and orientation.
- Hawkeye F. asked if any others in the audience wanted to comment; none did.
- Hawkeye F. asked Bill B. if he wanted to start the next meeting early.
- Bill B. stated he would, but that it was up to the council as a whole.
- It was determined that the earlier meetings worked better. The next meeting would start at 5:45 with a work session, followed by the council meeting at 6:00.

FUTURE AGENDA ITEMS

8. Items to be added to future agendas

- Town Bridge Improvement Report
- Discussion/Action – Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication or Town of Minturn by: **Town Attorney**
- Town Junk Clean UP
- Sullivan Minor Subdivision
- Town Manager To Do List_Results
- Water Plant Deed Follow Up

EXECUTIVE SESSION

9. Executive Session

There was no executive session scheduled.

10. Set next meeting date – November 17, 2004.

11. Adjournment

As there was no further discussion, the meeting was adjourned at 7:33 pm.

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk