



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, November 17, 2004**

**Work Session: Council Chambers – 5:45 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

**WORK SESSION – 5:45 PM**

- Battle Mountain/Bolt’s Lake Development proposal by Commissioner Mike Gallagher
- Radio Tower Lease discussion

**REGULAR SESSION – 7:00 PM**

**1. Call to Order**

a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 6:42 p.m. Those present included Mayor Flaherty, George Brodin, Jerry Bumgarner, Tom Sullivan, and Bill Burnett. Fred Haslee arrived at 6:43 p.m. Mayor Pro Tem Darell Wegert arrived at 6:48 p.m.

Staff present was Town Manager Ann Capela, Town Planner Wiley Smith, Town Economic Development Director Nicole Magistro, Town Attorney Allen Christensen, and Court Clerk / Office Technician Alicia Lynch (*NOTE: Jay Brunvand was excused absent*).

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.
  - Two citizen recognitions
- a. Order of the Agenda Items.
  - Moved the Radio Tower Lease discussion after the Liquor License hearing.
  - Moved the Executive Session before the approval of the minutes.
- b. Approval of the agenda.

Motion by Bill B., second by George B., to approve the agenda; all voted in favor.

EXECUTIVE SESSION

**3. Executive Session**

Motion by Jerry B., second by George B., to go into the Executive session for the purpose of discussing a personnel issue and conferring with our water attorney via telephone on water issues; all voted in favor.

- Pursuant to: Section 24-6-402 (4)(b) for the purposes of consulting with our attorney on the litigation between town of Minturn and Invest in Yourself update and water rights.
- Pursuant to: Section 24-6-402 (4)(f) for purposes of discussing a personnel matter.

Closed session at 6:50 p.m.; no action taken.

Returned from session and no action was taken.

**4. Approval of the Minutes**

- **October 20, 2004**

Motion by Jerry B., second by Darell W., to approve minutes for October 20, 2004; all voted in favor.

- **November 3, 2004.**

Motion by Darell W., second by George B., to approve minutes for November 3, 2004; all voted in favor.

## **5. Council Member Reports/Announcements**

Hawkeye F. and George B. discussed ECO Transit. George stated that this week was the week to ride for free and that ECO Transit does this every year. Hawkeye F. stated that this was an opportunity to see if riding the bus was for you.

Open Space Committee will meet on November 29, 2004.

Hawkeye F. thanked the staff for all it's hard work on the Centennial, especially Nicole M. He stated that he had a wonderful time at the birthday party on Monday night.

## **6. Special Presentations/Citizen Recognition**

Suzanne Foster, the Drama teacher at Battle Mountain High School, as well as the cast and crew, was recognized by Hawkeye F. for the dinner theatre and the fall play about Minturn. Suzanne Foster and the cast and crew received certificates of appreciation. He stated that the show was excellent and a ton of fun.

Darla Goodell received a certificate of appreciation and was recognized by Hawkeye F. for the Turntable restaurant.

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

Mr. Anthony Aiello, 30 Mann Avenue, stated that Fred H. asked him to move his vehicle from in front of his house on Pine Street. However, Chief Martinez had already informed him about the code and had him move his vehicle. Mr. Aiello stated that he was under the impression that it was public property until this point. He then noted Fred H. had his trailer parked there for approximately nine days, while he was on vacation. Mr. Aiello asked if this was another case of how our town rules only apply to certain individuals or is this a council member who thinks the rules don't apply to him. He continued by asking for an answer from Fred H.

Fred H. asked if he was being isolated because he noticed that Mr. Aiello did not include anything about Roy's trailer. Mr. Aiello stated that Roy's trailer was parked on his property. Fred H. stated that it was not. Mr. Aiello stated passionately that irregardless, this is one of the town's laws and he wanted to know if it was going to be enforced from here on out or if he was going to have to keep moving vehicles.

Hawkeye F. stated that the Council would take it under consideration. He then stated that he would have the Town Manager meet with the Police Chief and prepare a recommendation to share with the council. He also stated that the Police Chief can come back with facts on how the laws are being enforced.

Mr. Aiello stated that that if something was a nuisance then have it moved, but if not and it was there for a few days that was fine. He stated that he would like everybody to get along. He then stated that the RV Park has torn the town apart, putting neighbor against neighbor. He also stated that he was unhappy with the Vail Daily and that the town was getting a lot of bad publicity because of it.

Hawkeye F. thanked Mr. Aiello for his comments and input. Hawkeye F. stated if there was anything Mr. Aiello or any other citizens could do to help put this issue behind the town and patch up the differences with neighbors, to please do so.

Hawkeye F. asked if anyone had anything else to add and no one did.

## DISCUSSION, HEARINGS AND ACTION ITEMS

### **8. Liquor License Hearing for the F.M. Saloon by Police Chief.**

*(Note: the Council sat as the Local Liquor License Authority to consider the pending liquor license.)*

Allen C. stated that the Police Chief found everything in order, there were no incidents in the last year, and there were no problems with the renewal.

Ann C. stated the owner/manager, Andy Kaufman, was present to answer any questions the Council may have for him.

Hawkeye F. asked Mr. Kaufman if he had any information to pass on to the council.

Andy Kaufman, business address 146 North Main Street, stated that The Saloon has had another good working year and he thanked Chief Martinez for his help. He stated that every year it keeps getting better and better. He also thanked Nicole M. for all of her hard work and asked the town to take good care of her. There was then some discussion about what the proceeds from funding would be used for. Mr. Kaufman stated that he was hoping that a citizen's group would be formed to help implement the building of some recreation for the children of the community, preferably in La Playuella Park. He also stated that he hoped this would be done in short-term, due to the fact that it has been put off for two years now.

Motion by Tom S., second by Bill B., to approve the FM Saloon LTD Hotel and Restaurant liquor license annual renewal application located at 146 Main Street as presented; all voted in favor.

Hawkeye F. thanked Mr. Kaufman for everything he does for the town and stated that if he had any information to pass on to the town he should contact any of the council members or the town manager. Finally, he wished Mr. Kaufman good luck for the upcoming winter season.

## **9. Discussion/Action on the Radio Tower Lease by Town Manager.**

Ann C. stated that the information regarding this issue was in the packet on page 67. She reviewed the three options for the council to decide and introduced Mr. Ron Crider who was present to represent the radio tower and its owner Pilgrim Communications.

Hawkeye F. stated the general consensus was to have a short term lease, but there were three options that the council could decide. He asked Mr. Ron Crider what would be best for him. Mr. Crider stated that he would prefer to stay at the current location, due to the fact that he would save money. However, he also mentioned that he would be pleased at either location, as long as he was guaranteed the space for a long-term lease. He stated that he would stay in the current tower with a short-term lease, as long as he could be guaranteed a long-term lease in another location following that lease.

There was some discussion amongst the council, staff, Mr. Crider, and citizens as to what was in the best interest of the town. Some opposed a long-term lease and some opposed having the radio tower there all together. Ms. Ann Eckstrom, from 632 Main Street, stated that while the council members were in executive session, the citizens independently discussed the radio tower issue. She stated that the citizens as a whole were not bothered by its current location because they were used to it. Tom S. stated that location should be moved because right now its out in the open, and perhaps it could be pushed back against the mountain or hidden in some way. Hawkeye F. concurred. Nancy Hasset, from 624 Main Street, wanted to know about height adjustments for the tower. Bill B. stated that the town should let Mr. Crider use the tower where it is for the next year and decide what to do after the one-year short-term lease has taken place. He felt that this would give the town a better understanding of the benefits and conflicts the radio tower would actually cast on the town. Tom S. does not think it is a good business move for the town to commit to a long-term lease and that he would be more comfortable with a three-year short lease, and work towards finding another spot, but not guarantee it.

Allen C. stated that any lease has to be negotiated and brought back to council and approved by ordinance.

Fred H. wants to see the terms of any negotiations, but he is thinking along the lines of a shorter-term lease.

Mr. Ron Crider stated that his goal is to have a radio station here, not to be a power entrepreneur. He stated that this could be a very good thing for the town and could help bring in revenue for the town.

Jerry B. stated that he liked the option of a five year lease.

Darell W. stated that he liked the shorter lease, but was willing to give Ann the option, so he opted for a twenty-five year lease.

Hawkeye F. stated that the council would leave negotiations up to Ann C. Ann C stated that she would come back to the council with ordinances.

## **10. Discussion/Action of Taylor Avenue by Project Manager Mike Wheelersburg.**

Mr. Mike Wheelersburg stated that he was present to answer any questions or concerns, due to the agreement between himself and town to be there once a month. He stated that Wiley S. and himself have started weekly meetings on the project site and he felt communication has been positive. He also stated that he believed the town has a progress report in their packets and that he wanted to clarify that the water and sewer line on Minturn Street and Taylor Avenue would be installed November 18, 2004, one day off schedule. He stated that hopefully by November 24, 2004 they will have completed the all-weather road surface.

Hawkeye F. asked about putting something on the road for the winter and patching it in the summer.

Mr. Wheelersburg stated that rotomill would be used as a quick fix for the patch this winter and this upcoming spring they will redo the road with asphalt.

Hawkeye F. asked if repaving was going to be necessary past the Lopez's house; Mr. Wheelersburg stated no. There was some discussion amongst the council about the drainage on Taylor Avenue.

Anne C. stated that a timeline was developed with the Minturn Towne Homes and it was provided in the packet on pp 41 and pp 42. She also stated that the Xcel Energy agreement was in the packet.

Tom S. asked about the removal of a unit; Mr. Wheelersburg stated that they were looking into this possibility due to the fact that they may not have to lower the high pressured gas line. Mr. Wheelersburg also stated that this was not final. Tom S. asked if the unit being discussed was the southern most unit; Mr. Wheelersburg concurred. Ann C. stated that the map of the site was on pp 47. Tom S. asked when Mr. Wheelersburg thought he would know if they were going to move the building or not. Mr. Wheelersburg stated that they should know within two weeks. Tom S. asked if this is something that requires approval. Wiley S. noted that there would have to be a minor amendment to the PUD which would show those plans. Hawkeye F. asked if that was a staff approval; Wiley S. concurred.

Hawkeye F. asked if Mr. Wheelersburg had to move building A when he staked out the gas lines. Mr. Wheelersburg stated no, but that he had moved building B, which he had submitted plans to Wiley S.

Hawkeye F. asked about the parking. He was especially concerned for the winter season. Mr. Wheelersburg said he planned to have that taken care of before the winter season with a construction gravel driveway, as well as a parking area in phase two, and that they were a little behind schedule. He assured the council that everything would be taken care of before the Thanksgiving holidays.

Ann C. asked if the reports were acceptable and if it was a good way of reporting to the council; Council members concurred.

There was some discussion amongst council and staff regarding changes mid PUD and plats. The council decided that it was wise to stick with what the rest of the town and the county does and not allow any digging until the final plat is sorted out. Wiley S. stated that there would be a meeting at 7:00 p.m. on November 18, 2004 for the Chapter 16 Ad-hoc committee and that there was a new member, Mike Gallagher. He also stated that the committee would take the time to look at all of the alternatives and options.

**11. Discussion/Action – Fiscal Year 2005 Public Hearing by Town Manager (Jay Brunvand was excused absent).**

Hawkeye F. asked if staff had anything to state. No one did. *(Note: due to the fact the following ordinances are in reference to the FY2005 budget the public hearings for each Ordinance would be held together.)*

Public hearing opened at 8:19 p.m.

Hawkeye F. stated that this would be the last public hearing for the budget.

Public hearing closed at 8:20 p.m.

**12. Discussion/Action – Budget related ordinances by Town Manager (decision is to be made).**

• **Ordinance No.15 – Series 2004 (First Reading)**

An ordinance amending the 2004 Budget, recognizing additional general fund revenues in the amount of \$236,190.00, and appropriating general fund expenditures of \$61,725.00 and recognizing additional arts fund revenues in the amount \$17,000.00, and appropriating arts fund expenditures of \$17,000.00 and recognizing additional capital fund revenues in the amount of \$110,000.00, and appropriating capital fund expenditures of \$110,000.00

Motion by Bill B., second by Fred H., to approve first reading of Ordinance No.15 – Series 2004 as presented; all voted in favor.

• **Ordinance No.16 – Series 2004 (First Reading)**

An ordinance levying general property taxes for the year 2005, to help defray the costs of government for the town of Minturn, Colorado for the 2005 budget year.

Motion by Fred H, second by Bill B., to approve first reading of Ordinance No.16 – Series 2004 as presented; all voted in favor.

- **Ordinance No.17 – Series 2004 (First Reading)**

An ordinance annually setting, amending and approving town fees as set forth in the following attachment to be included in appendix A of the Minturn Municipal Code for the town of Minturn, Colorado fees commencing January 1, 2005.

Motion by Bill B., second by Fred H., to approve first reading of Ordinance No.17 – Series 2004 as presented; all voted in favor.

- **Ordinance No.18 – Series 2004 (First Reading)**

An ordinance recognizing revenues, appropriating expenditures, approving transfers and adopting the Town of Minturn budget for the period beginning on the first day of January, 2005 and ending on the last day of December, 2005.

Motion by Fred H., second by Bill B., to approve first reading of Ordinance No.18 – Series 2004 as presented; all voted in favor.

### **13. Discussion/Action of a Preliminary Minor Subdivision of the Sullivan Subdivision for Lots 3-7 of Block E of the Taylor Addition by Town Planner.**

Mr. Tom Sullivan stated that, due to the fact he is the applicant he would be stepping down from the Council for this discussion.

Wiley S. summarized the facts on the subdivision and previous discussions regarding this issue. Wiley S. noted that three options have been offered for Mr. Sullivan to go over and decide which was best for him. Ann C. noted that the options were on pp 85 of the packet. Wiley S. stated that the staff report began on pp 83.

The council reviewed the three options noted in the packet. Wiley S. asked if there were any questions. None were asked. (*NOTE: The options discussed pertained to a minimum 50-foot lot line; however, 41-foot lot lines were proposed by the applicant*).

Tom S. took the podium, explained how he came to own the property, and that he felt the best way to develop the land would be to have three single-family units instead of six. He stated that no matter what, he would do either, depending on what the town wanted. He continued by stating all options available. He wanted to make sure that no one thought he was getting special treatment because of his position as a Council Member and that he only wants what is best for the town.

Ms. Hasset said she looked at that property because she considered purchasing it. However, she stated that she was going to put only one unit there. She stated that he did not have to put up more units and asked why not two? Mr. Sullivan stated that he wanted to make it nice, but one unit may be too costly of a house to develop in that particular area, being that it would not look right in that neighborhood.

There was some discussion amongst citizens, including Ms. Eckstrom, Ms. Hasset, and Rob Baumgartner of 564 Taylor Street, about the value of the property, what each lot would sell for, and why three units was or was not in the best interest of the town. Rob

Baumgartner stated that he lived next door to this site and that he was glad that the council was discussing what was going to be done at this site. He also stated that he was glad to be informed of the options and that he would rather see two units be put up.

Mr. Sullivan stated that he would like to divide the lots into two 50 and one 25-foot lots, because there are a total of five existing twenty-five foot lots. He then stated that putting up five houses would look awkward.

Bill B. stated that he felt three lots would be best. Fred H. stated that he was under the same impression as Mr. Sullivan was and that in his opinion, putting houses up on 25-foot lots would look awkward there. George B. said he would rather see five 25-foot lots put up, in order to be consistent and treat everyone the same. Jerry B. stated that there was a misunderstanding and that Mr. Sullivan should do what ever it is that he is allowed to do. He continued by stating that he felt two 50-foot and one 25-foot lots would be more pleasing to the neighborhood. Darell W. agreed with Jerry B.

Ann C. stated that this is not a new interpretation of the 41-foot lots. She stated the town still says that there is a 50-foot minimum and the determination that it has got to be frontage. She stated that staff is suggesting in option two that the applicant, Mr. Sullivan, go back and ask for a variance from council, which will ultimately decide to give it or not.

Jerry B. stated that asking for a variance is not going to make him popular with anyone and that he would not want to do anything for Tom S. that he would not do for any other applicant.

Hawkeye F. asked if the applicant would like to withdrawal his application. Mr. Sullivan withdrew his application.

**14. Discussion/Action – Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication for the Town of Minturn by Town Attorney.**

Hawkeye F. summarized why this ordinance has not been passed as of yet. Allen C. stated that the entire council has not been present in order to make a decision. Allen C. stated that the town does not have anyone on staff to do the calculations and that this is going to cost the applicants a lot of money. He also stated that this applies to all projects that make demand on the water system, whether in town or someone attempting to annex into the Town.

There was some discussion between staff and council about the specifics of the ordinance and who it applies to. They also discussed whom this would cost money and how zoning applied to the ordinance.

Motion by Darell W., second by George B., to table the issue until December 15, 2004; all voted in favor.

**15. Discussion/Action on Town Bridge Improvement Report by Floyd Duran of Public Works (Hand out available).**

As Floyd Duran was not present, council moved this issue to the next council meeting.

**16. Discussion/Action on status of town junk clean up by Town Manager.**

Ann C. summarized the status of the town junk clean up.

Hawkeye F. stated that some junk was cleaned up and it looked a lot better. He recommended that the town stay away from rotomill to fill potholes; that the town spend money to buy coal patch instead, due to the danger of it to the children and seniors in the town.

Hawkeye F. recommended to council that authorization be given to the staff to get rid of the steel. He stated that Floyd has made progress at the shop; however, Floyd needs money to buy more horse tanks. He also stated that the vehicles up there need to be organized.

Mr. Rob Baumgarten stated that he could get rid of the junk (concrete), if necessary.

There was some discussion between staff and council as to what to do with the junk left up there. They also discussed what to do with the stuff that was not junk, but needed to be restored.

Jerry B. stressed that the council needs to start saying no to people who use town property for their own personal usage. Jerry B. also volunteered his time to help clean up.

There was discussion regarding an issue of who had access to the town property.

Hawkeye F. stated that they needed to know what Floyd D.'s plan for cleaning up was. He stated that they would set up a meeting with Floyd D. and Ann C to discuss this matter.

**17. Discussion/Action on Town Manager To Do List results and new items by Town Manager (See packet from 11/8/04).**

Ann C. stated that besides clean up she would like to get a permit to burn the wooden debris from the river project. She would also like to have clarification as to what is allowed to be stored at the town junkyard. She went on to state that a lot of work needed to be done at the old town hall.

Ann C. stated that council members should point out anything that they feel she may have overlooked.

**18. Discussion/Action on the status of the Water Plant Deed by Town Manager.**

Ann C. stated that she wanted to bring it to the council's attention that this item had not been dropped and that the staff did retain information from Alpine Engineering. An estimate was given, which can be found in the packet, and she would keep the council up to date.

There was some discussion between the staff and the council about where the site was located and how they should actively pursue another site. Legal fees were also discussed; Ann C. stated that an extra three thousand dollars would be needed.

**19. Renewal of Community Involvement by Town Manager and Town Economic Development Director.**

Nicole M. asked the council to stand up and stretch to get the blood flowing because she wanted the council to pay close attention to this. She stressed how important community involvement is. She stated that four things need to be the focus of community involvement: the citizens, businesses in town, marketing, and events. For this council meeting she wanted to discuss citizens. She asked each member of the council whom he has met in the past month in town that had given some insight about the community.

Jerry B. stated that he met a couple that was upset that there were not any more smaller houses in town, so that they could simply walk into town.

Darell W. stated that he met some senior citizens that he did not realize were senior citizens here. He stated that he is always running into people that he did not know were citizens of Minturn.

Hawkeye F. stated that he met Kathy Sullivan, Jessica, Sarah, and Jack at the Minturn birthday party. He stated that they told him about their household.

Fred H. stated that at the last council meeting he met a woman who helped him realize how diverse the town is in its opinions and so forth. He stated that he was seeking out ideas to help the town.

Tom S. stated that he has talked to a lot of people in the south end of town that he did not know too well and that their wants and needs are neglected.

Bill B. stated that he meets new people all the time. He stated that people want to know about Minturn, past and present, and what the future looks like. He stated that there is money available and that we need to get on the ball in order to get the money.

George B. stated that he met a lady at the Dinner Theatre that was pleased that the play was about the history of Minturn.

Nicole M. stressed how council and staff need to become more involved. She stated that we should get out there and walk the talk. She also stated that we need to truly listen, develop priorities, and follow thru with the plans of the town. She stated that she would like to have citizens see action on their input and suggested that the town have issue groups. Nicole M. pointed out the attachment in the packet. Nicole M. stated that as a town we need to relinquish control. Nicole M. stated that the town was going to have an essay contest, in order to understand what it is that citizens like about Minturn. She also felt that this would help the town listen and understand what the citizens want.

Ann C. stated that Basalt has a model of social capital that has worked pretty well for its town, and that doing a citizens survey is one way to figure out what the Minturn wants. She stated that a modification of the model to fit Minturn's wants and needs could be a positive and beneficial way to better the town economically.

Tom S. stated how he thought the town had been bogged down by the RV park for the last 6 months. He stated that it was frustrating being on council and having all of its energy devoted on the town's energies, not the councils. He hoped that this was behind them, and that the council could now concentrate on such things like LaPlayuella park, lampposts, and sidewalks. He also stated that he thought issue groups were a great idea.

Ann C. suggested that an issue group for painting the water tower would be great, but that money would be needed to fund this project. She stated that the town would have to find a way to raise this money.

Jerry B. discussed the situation with the lampposts and asked what we can do to get it done ourselves. Council members decided that the lampposts needed to be put up immediately and that money should be set aside for this.

Motion by Darell W., second by George B., to spend five thousand dollars on five light posts; all voted in favor.

Bill B. stated that these light posts were not going to be easily obtained and that they would need to be maintained.

## OTHER ITEMS/STAFF REPORTS

### **20. Reports/Correspondence/Announcements/New Business**

- a. Economic Development Director
- b. Public Works
- c. Police
- d. Treasurer/Clerk
- e. Town Planner
  - i. Wiley S. announced that the planning commission is not meeting next week.
- f. Town Attorney
- g. Town Manager
- h. Town Council

FUTURE AGENDA ITEMS

**21. Items to be added to future agendas**

- Ordinance 15 thru 18: Series 2004 (second reading)
- Ordinance 14: Series 2004 (second reading)
- Radio Tower Lease
- Town Bridge Improvement Report
- Town Junk Update
- Number two on Community Involvement
- Light posts update with five thousand dollar limit

**22. Set next meeting date – December 1, 2004**

**23. Adjournment**

As there was no further discussion, the meeting was adjourned at 10:20pm.

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Hawkeye Flaherty, Mayor

ATTEST:

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Jay Brunvand, Town Clerk