



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, January 19, 2005**

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

REGULAR SESSION – 6:00 PM

1. Call to Order

a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 6:00 p.m. Those present included Mayor Flaherty, George Brodin, Jerry Bumgarner, Fred Haslee, Tom Sullivan, and Bill Burnett (Mayor Pro Tem Darell Wegert arrived at 6:09 p.m.).

Staff present was Town Manager Ann Capela, Town Clerk / Treasurer Jay Brunvand, Town Planner Wiley Smith, Town Economic Development Director Nicole Magistro, Town Attorney Allen Christensen, Chief of Police Lorenzo Martinez, and Court Clerk / Office Technician Alicia Lynch (Public Works Director Floyd Duran 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.
- e. Order of the Agenda Items.
Addition of Land-use regulations under Council (agenda item 8h) and the introduction of Bobby Ginn (agenda item 5).
- f. Approval of the agenda.
Motion by G. Brodin, second by T. Sullivan, to approve the agenda as amended; all voted in favor.

3. Liquor Authority

- 1) Chili Willy's of Vail Hotel and Restaurant Liquor License Annual Review; 101 Main St., Al Brown Manager by: **Town Treasurer.**

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

J. Brunvand announced that there were several reports in the packet and if there were any questions he would be glad to answer them.

L. Martinez thanked and commended Mr. Brown and his staff for being good neighbors.

Motion by Tom S., second by Jerry B., to approve the Chili Willy's of Vail Hotel and Restaurant Liquor License Annual Review; 101 Main St., Al Brown Manager; all voted in favor.

4. Approval of the Minutes for January 5, 2005.

Mayor Flaherty asked for a correction under Item 10 in the last paragraph regarding the minimum lot line dimension. Mayor Flaherty pointed out that it should be a 42-foot minimum.

Motion by B. Burnett, second by G. Brodin, to approve the minutes for January 5, 2004 as amended; all voted in favor.

5. Special Presentations/Citizen Recognition

- Troy Thompson – Ecological resource Consultants (ERC)
- River Restoration Phase II

Mr. Thompson, 35715 Highway 40 in Evergreen, Colorado, introduced himself and explained his intention to update the council on the process with NRDS Funding. Mr. Thompson stated

that there is approximately \$2.2 million remaining and that the state decided it would convene the work group probably beginning April 2005. Mr. Thompson stated the work group would be responsible for setting parameters for requesting proposals and those proposals would be graded. Mr. Thompson continued by stating they anticipate they will probably be requesting proposals for the second amount of money some time this fall. Mr. Thompson stated he had met with the Town Manager today to discuss the projects and restoration for Phase II. Mr. Thompson stated that they had also met with Division of Wildlife and the US Forest Service. Mr. Thompson stated what was going forward at this point in time and would be downstream from where the first phase project was. Mr. Thompson explained further that this would exclude the big right hand bend below Bellm Bridge because the funding from the state would not cover the restoration for that highway erosion. Mr. Thompson stated that A. Capela had worked with the Union Pacific Railroad on that partnership, although with this project it looked like none of the potential work would be in their right of way. Mr. Thompson explained that they hope to get some local support from the community and funding. Mr. Thompson stated that the Division of Wildlife had a grant coming up this March 4 (2005) which they intending on applying for. Mr. Thompson explained that in the past the state's major concern for the project was the town's ability to protect the river and what types of planning might be done. Mr. Thompson asked for feedback from the council.

J. Bumgarner inquired about the inspection in the south end of town. Mr. Thompson explained that access in the south end of town is poor because there is little access without going through private property. However, the areas that might need treatment are small. Mr. Thompson continued by stating that certainly what could be done would be at a greater cost per benefit.

D. Wegert stated that the long-term goal for the town is to make the Eagle River a Gold Medal fishing stream. D. Wegert stated that in order to achieve this, the stream would have to maintain 2 miles of pristine stream. Mr. Thompson stated that he spoke with Bill Andres (Dept of Wildlife) today and that Mr. Andres felt very strongly that the town should not pursue that at this time for the following reasons: 1) you have to have a certain number of vile mass criteria (or x number of pounds of fish per acre) 2) must have certain proportion of fish over 14 inches. Mr. Thompson stated that the town does not meet the prior criteria. Mr. Thompson stated that he agreed with Mr. Andres on this issue and that destination would probably not be achievable in the near future.

A. Capela stated that CDOT had a considerable amount of interest in becoming a partner for this project.

F. Haslee asked if there had been any interest shown by UP, CDOT, or Forest Service about storm sewers and if any money would be given to help incur the costs. Mr. Thompson stated that the Forest Service would like to re-stabilize the rocks in order to stop the erosion, as opposed to treating the end product. F. Haslee asked if A. Capela would discuss this with CDOT at their next meeting. A. Capela stated that she would discuss this, along with other issues, with CDOT. D. Wegert asked if CDOT is going to redo the corner or just shore it up with boulders. A. Capela stated that right now CDOT might consider shouldering it up a little bit. A. Capela stated that she did not see any major funding in it, just some repairs.

Mayor Flaherty asked if the town could ask for stocking in the river because the fishing in this section of the river is not as plentiful as in the past. Mr. Thompson stated absolutely, but he would have to look into it. Mr. Thompson stated that he was unsure of how it would be funded, but it was worth pursuing.

D. Wegert asked if they changed the limit on the amount of fish. Mr. Thompson stated the posted signs allow up says eight fish, the 2004 fishing regulations called for four fish as the limit, and the 2005 fishing regulations state that two fish. Mr. Thompson stated that he was unsure what size of fish the number applied to.

G. Brodin asked Mr. Thompson if in his opinion there would be more funding available for the lower section compared to the south end of town. Mr. Thompson announced that the state liked the lower section due to the visibility and accessibility behind houses; therefore, yes, he would have to say that section of the town would be more favorable. Mr. Thompson stated that the state does want to get rid of all the money this year, so they are looking to spend it.

Hearing opened to the public at 6:25 p.m.

Hearing closed to the public at 6:28 p.m.

T. Sullivan asked how the redesigning of the 100 block of the river was coming along. Mr. Thompson announced that there was a map available to view. A. Capela stated the improvements would begin in the springtime, as soon as a decision is made by council, but nothing had been set yet. A. Capela stated that staff had been in contact with Cathy Shipley, DoLA (Dept of Local Affairs), and that the town had approval to make the improvements.

Mayor Flaherty asked if anyone else had any questions or comments. There were no questions or comments. The council thanked Mr. Thompson for his time.

B) Introduction of Mr. Bobby Ginn

- New Owner of Gilman / Battle Mountain Property

Mr. Bobby Ginn, 42 Island State, Palm Coast, Florida, announced that he had closed on the Gilman property and that he appreciated the help provided from the town staff. Mr. Ginn stated that his company had been discussing the community and possible annexation with the town staff. Mr. Ginn continued by stating that it was his company's intention to come back to the council to ask for an annexation. Mr. Ginn explained that he was not in any hurry to develop and that his company was exploring options because of the value and importance of the property. Mr. Ginn explained that he wanted to be good neighbors to the town and that his company is building for the long-term. Mr. Ginn stated that he looked forward to working with the town staff and council.

Mayor Flaherty asked if anyone had any questions.

T. Sullivan asked what the general timeframe is for the company to start on its project. Mr. Ginn stated that they are making preparations for the annexation right now and that in the next five to six months they hope to start. Mr. Ginn stated that he, in all honesty, is unsure of any exact

timeframe, but his staff is well educated and well equipped to achieve success in this project. Mr. Ginn stated that it would take time in order for his company to plan accurately and get the job done right.

B. Burnett asked if they have bought the claims/patents to the mines with the property. Mr. Ginn stated that he was unsure and that it was a complicated transaction. Mr. Gin stated that he knew for sure that they own ninety-eight percent of the property, but there are some areas in which they are still unclear of the rightful ownership.

D. Wegert stated that people are concerned and interested about the property. D. Wegert stated that there had been rumors and the more information he could give the better. Mr. Ginn stated that he understood and he would let the town know what was going on. Mr. Ginn explained that as soon as possible they would hold group meetings and move the company offices into town. Mr. Ginn stated that if there were any questions about rumors or the property in general to simply ask him. Mr. Ginn stated that he did not know what was going to happen, so he did not have much information to share at this time. Mr. Ginn stated that they would not be building the Trump Tower and that they would not be asking for unreasonable densities.

A. Capela stated that as discussed during the meeting today the staff plans on incorporating questions regarding this development into the community survey.

Mr. Ginn had his staff introduce themselves upon the request of the mayor. The following is a list of the staff present at the council meeting: Bill Weber, Brian Judge, Mike Larson, and Rebecca Oman.

A. Capela mentioned that the town staff and council had been invited to tour his other properties and make judgments, suggestions, etc. Mr. Ginn stated that he would love for the staff and council to visit the property.

B. Burnett asked if Belden Canyon was a part of the property. Mr. Gin stated that property was not available at the time of purchase, but they have gone back to look at it since.

The council wished Mr. Ginn and his company the best of luck.

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

7. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

8. Reports/Correspondence/Announcements/New Business

- a. Economic Development Director
 - La Playuela Park

N. Magistro reintroduced Laura Wolf, chairperson of committee.

N. Magistro stated that in two weeks there would be site plans available.

- Minturn Market
N. Magistro pointed out the update in the packet
- Public Notice
- b. Public Works
 - Snow Removal
 - Public Works Building
 - Announcement of the replacement Bobcat received
- c. Police
 - Training
 - Patrol Vehicle
 - Holiday Season Community Policing
 - Animal Control
 - Announcement of \$4900 grant received from the Department of Justice
- d. Treasurer/Clerk
 - ERWSD
 - Water Use Calculations
- e. Town Planner
 - Planning and Zoning - Condominium Conversion
- f. Town Attorney
- g. Town Manager
 - Manager Reports:
 - a) Minturn Fire Station retention wall
 - b) Ginn Development
 - c) Water Quality Commission Hearing
 - d) Minturn Cemetery District
 - e) National Forest Service Foundation Grant
 - CDOT
 - CML issues update
- h. Town Council
 - Council Retreat update - Future Planning and Priorities
 - Addition of Land-use Regulations.

M. Gallagher thanked the town of Minturn, especially the mayor, for its support over his ten years as Commissioner. M. Gallagher passed out a handout for the council to review the general provisions of the county land-use regulations. M. Gallagher explained the importance of the decision of the town to either approve growth or not. M. Gallagher strongly recommended that the town adopt the land-use regulations of the county. Mr. Wheelersburg explained that this would not allow the Ginn Development to shop around and would protect the interest of the town. M. Gallagher displayed his concern for the town's ability to handle a project of this size. F. Haslee explained his concern for getting things done in order to go through with the annexation. F. Haslee stated that he wanted to make sure if there were going to be any changes to the land-use regulations of the town that it would be complete prior

to any contracts with the Ginn Development. A. Christensen explained that he and W. Smith had been discussing the Ginn property for several months and that M. Gallagher wanted to discuss the property with the council so the town would follow through. It was decided by the council to move forward immediately.

M. Gallagher offered his assistance for any future endeavors.

The council thanked Mr. Gallagher for all of his hard work.

DISCUSSION, HEARINGS AND ACTION ITEMS

9. Discussion/Action – Conditional Use Approval

Applicant: Invest in Yourself

Address of Property: 455 Main Street

Proposal: To seek approval for allowing a residential use in a commercial zone

Summary: The applicant is proposing to lease residential space as apartments within a commercial use structure.

Recommendation: The applicant requests the item to be tabled for discussion until 2/16/05.

W. Smith introduced the case. W. Smith asked if anyone had any questions regarding the case. There were no questions from the council.

The mayor opened a public hearing at 7:49 p.m.

The mayor closed the public hearing at 7:50 p.m.

Motion by D. Wegert, second by T. Sullivan, to table the conditional use approval until February 16, 2005; all voted in favor.

10. Discussion/Action – Condominium Conversion – Final Plat

Applicant: Bill Sisk

Address of Property: 245 Main Street, 244/246 Boulder Street

Zoning: Old Town Character Area – Mixed Use

Proposal: To seek approval for converting two residential units to condominiums

Summary: The applicant is proposing conversion of two residential units at 245 Main Street and 244/246 Boulder Street to condominium units and one (1) type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision, such conversion shall be subject to the requirements of Chapter 17, Article VII, Final Subdivision Plat Sec. 17-133, Planning Commission review of

final subdivision plat, Sec. 17-134 Town Council review of final subdivision plat, Sec. 17-135 Final plat application Sec. 17-136, Additional requirements

Discussion:

The Minturn Municipal Code, states per Section 17.253 Condominium Conversion, Applicants for conversion of existing units, defined herein as a subdivision that would not require a new building permit and that currently is at build out, shall follow the general procedures of Article VII, Final Plat, and shall provide the additional information and documentation in Section 17.252.3 to the Town at the time of application.

Recommendation:

The Planning and Zoning Commission grant approval to the application subject to the following conditions.

1. A map showing all common areas (general, limited common area), usages of the building and grounds, and the building showing horizontal boundaries for the interior division of all units.
2. A copy of the townhouse association Articles of Incorporation, bylaws and covenants.
3. A management plan
4. A maintenance plan
5. The final plat for the townhouse project shall contain all the information required by Article XI of Chapter 17. In addition, if there are any restrictive covenants, conditions or restrictions other than specified in the declaration, they shall be filed concurrently to filing of the final plat.
6. A copy of the declaration applicable to the townhouse project.
7. The applicant will allow inspection of the accessory apartments by the Eagle River Fire Protection District for compliance of fire codes before a Certificate of Occupancy is issued.

T. Sullivan asked if the property was currently one property. W. Smith affirmed.

T. Sullivan asked if it was approved if anyone could make a conversion. W. Smith stated that they would have to abide by the provisions in the code.

D. Wegert asked how this would affect the neighbors. W. Smith stated that the exterior would not be changed and that it should not affect the neighbors. D. Wegert asked how it would affect the property value of the neighbors. W. Smith stated that it should not have a negative impact, but he was not sure. D. Wegert asked if there would be any change in parking. W. Smith stated that there would be no change.

J. Bumgarner stated that he would rather live next to a property owner, rather than a tenant because an owner would take more pride in the property.

Bill Sisk, of 653 Boulder Street, stated he needed to condominiumize the property for financing purposes.

Public hearing opened at 7:40 p.m.

Craig Boule, of 232 Main Street, stated that he received a public notice regarding this applicant and that he did not understand what it meant. He stated that he lives 250 feet from the property. He stated his concern for parking on Main Street. He explained his opinion of the lack of parking accommodations. Mr. Boule showed a picture to the council. W. Smith stated that he had submitted the notice to the newspaper with plenty of time to get it posted, but the notice was not published at least than 10 days prior to the hearing as stated by the Town Municipal Code. Mr. Boule stated that the property was physically posted incorrectly, as well as that only the Boulder Street address was posted. This property division affects both Boulder and Main Street, therefore he felt that all three legal addresses need to be posted.

Ed and Elaine Turnbull, 231 Main Street, stated that they were not given any notice about this at all. Mrs. Turnbull expressed her concern for parking and the kind of precedent it would set in the town. Mr. Turnbull stated that there had been promises made regarding the property that were never kept. They asked about snow removal.

Public hearing closed at 7:52 p.m.

D. Wegert asked if the maintenance plan covered issues such as parking. B. Sisk explained that parking for the units would be available in garages, on Boulder Street, between the two houses, and that extra spaces were available in the driveway. B. Sisk stated that he has two more parking spaces than required by the code.

Mayor Flaherty asked the applicant to have all of the requirements complete by the next appearance before the council. Mayor Hawkeye asked W. Smith to include another parking plan in the packet for the applicant.

F. Haslee stated that he would like to have the fence restored and a sidewalk put in on the front facing street (Boulder Street). Mayor Hawkeye asked W. Smith to discuss this with the applicant.

At this point it was noted that the publishing of the Public Notice newspaper did not allow for the required minimum 10 day notice. With this in mind Town Attorney Allen C. requested the item be tabled until the next meeting at which time proper and timely notice could be issued in conformance with the Town Code. Town Council expressed desire for the applicant to address as many of the Planning and Zoning recommendations as possible prior to the next meeting.

11. Discussion/Action – Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication For The Town of Minturn by Town Attorney.

Motion by T. Sullivan, second by B. Burnett, to table Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication for the Town of Minturn, until the item could be discussed during the work session scheduled prior to the February 2, 2005 meeting; all voted in favor.

12. Discussion/Action – Ordinance 1 – Series 2005 (First Reading): An Ordinance amending the existing service contract with Eagle River Water and Sanitation for Town wide water and trash billing services By Town Treasurer.

Motion by F. Haslee, second by T. Sullivan, to approve Ordinance 1 – Series 2005 (First Reading): An Ordinance amending the existing service contract with Eagle River Water and Sanitation for Town wide water and trash billing services; all voted in favor.

FUTURE AGENDA ITEMS / WORK SESSIONS

13. Items to be added to future agendas / work sessions

- Work Session for discussion of land-use regulations and Ginn Property
- Old Town Hall
- Water ordinance

EXECUTIVE SESSION

14. EXECUTIVE SESSION

Motion to convene into Executive Session by F. Haslee, second by T. Sullivan, with the following citation opened for discussion; all voted in favor (*NOTE: Executive Session opened at 8:50 p.m.*).

- Pursuant to Colorado Revised Statute 24-6-402(4)(f) for purposes of discussing a personnel matter. (Town Manager Review)

Returned from session at 9:43 p.m.; no action was taken and action was directed at staff.

15. Set next meeting date – February 2, 2005

16. Adjournment

As there was no further discussion, the meeting was adjourned at 9:45 p.m.

Mayor, Gordon “Hawkeye” Flaherty

ATTEST:

Town Clerk, Jay Brunvand