



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, February 16, 2005

Work Session: Council Chambers – 6:00 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

WORK SESSION – 6:00 PM

- 1. Dana Spigener, Alpine Engineering – Update on Water Plant Property Survey**
- 2. Ginn Development – Presentation by Ginn Development Company**
- 3. Old Town Hall – Future Plans**
- 4. Town of Minturn – General Water Policy, by Councilman George Brodin**
- 5. Town of Minturn Water Storage – Policy Discussion, by Councilman Fred Haslee**

REGULAR SESSION – 7:00 PM

1. Call to Order

a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 7:10 pm. Those present included Mayor Flaherty, Mayor Pro Tem Darell Wegert, George Brodin, Jerry Bumgarner, Fred Haslee, Tom Sullivan, and Bill Burnett (*NOTE: Hawkeye F. left at 8:35 p.m.; Darell W. sat as the Mayor*).

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

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.

Moved Staff reports after item #14. Moved item #4 and #5 to the regular session, under action/discussion items after item #11.

f. Approval of the agenda.

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

3. Approval of the Minutes for February 2, 2005

Motion by Fred H., second by Darell W., to approve the minutes as amended; all voted in favor.

4. Special Presentations/Citizen Recognition

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

6. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

7. Reports/Correspondence/Announcements/New Business

a. Economic Development Director

- Homebuyers Assistance Committee
Nicole M. informed the Council of the responsibilities of the Homebuyers Assistance Committee. Nicole M. expressed her hope to hold a meeting in Minturn this year. She informed the Council that the meetings are being held in English as well as Spanish.
- Community Survey Update
Nicole M. briefed the Council on the survey progress. She stated that staff would like to make sure that all business owners and voters have the opportunity to participate in the survey.
- Recreational Opportunities
Nicole M. updated the Council on the activities provided for the seniors. She informed the Council about the new yoga classes being held in the Town Hall on Tuesday mornings at 8:00 a.m. Ann C. stated that other people had shown interest and would attend the classes if they would be provided in the evening.

b. Public Works

c. Police

- Activity Report
Lorenzo M. informed the Council that it would be receiving monthly Activity Reports again. He asked for suggestions for any information that needed to be included.
- CPR Training
Lorenzo M. announced that a grant had been received for CPR/AED training. He explained that most of the staff was trained and two AEDs were received. He stated that the AEDs would be located in the Town Hall building.

d. Treasurer/Clerk

- Audit Update
- Ordinance Update Discussion
There was some discussion about the requirements for Ordinance 10: Series 2004. Jay B. informed Council that all requirements had not been met. He explained that some phone lines / wires are too low and some residents have not been using bear safe waste bins / dumpsters. Finally, he reminded Council that the Ordinance goes into effect April 1, 2005.

e. Town Planner

- Wiley S. thanked the Chapter 16 AdHoc Committee for its help.
- Nicole M. announced that the staff would be updating the Code Book and would like the Councilmen to turn their Code Books over to the staff so that theirs would be updated as well.

f. Town Attorney

- Council inquired about the snow removal by the fire hydrants. Allen C. stated that he did not know who was responsible for maintaining the snow removal for the fire hydrants. Mike Gallagher stated that no one was required to shovel that snow, but if the Town wanted to require someone to be responsible for the snow removal it would be a good idea.

g. Town Manager

- Ann C. briefed the Council on her report provided in the packet.
- Ann C. stated that CDOT might enter into a contract with the Town regarding public works. Ann C. explained that Public Works had already been doing work for CDOT because residents and businesses needed help with snow removal.
- Ann C. mentioned that the business license application was doing what it should. Ann C. stated that a lot had been brought to the attention of the staff. Jerry B. informed the staff that some business owners had been complaining to him about several questions. Staff explained why it asked the questions it does. Nicole M. stated that the staff compiled the list of questions after viewing business license applications from other neighboring towns.

h. Town Council

DISCUSSION, HEARINGS AND ACTION ITEMS

8. Ginn Company Development – Request for Annexation by Ginn Company.

Mr. Ginn took the podium and asked for questions.

Mr. Pete Vance, 562 Main Street, asked what percentage of the property that would be developed would be considered a superfund site. He also inquired about developing the actual town site of Gilman.

Mr. Ginn stated that the most sensitive was Gilman itself. He continued by stating that the company would clean up the Gilman town property. Mr. Ginn mentioned that the town of Gilman was a minor seven to ten percent of the land in which they would develop. He explained that the clean up would take about five years because it was a very complicated process and that their responsibility to clean up that land would be a part of the annexation agreement.

Bill B. inquired about the other ownership of the property he did not purchase. Mr. Ginn stated that no other company that he was affiliated with owned that property and that a lot of that property (parcels) does not have clear ownership. Mr. Ginn said that he owned between 5,300 and 5,600 acres. Due to the lack of final information about the actual boundaries, the Ginn Development had not and will not ask for an annexation yet.

Ms. Caroline Bradford, 527 Water Street in Red Cliff, stated that she was the Director of the Eagle River Watershed Council and inquired about the ownership of the tramway section. Mr. Larson stated that Mr. Ginn did not purchase that land. Ms. Bradford asked if the Ginn Development would clean up the parts of the property it did not purchase (Example: The tramway). Mr. Ginn stated that they might still buy that property. He explained that he could not promise to clean portions of the land that he did not and does not purchase.

Mr. Pete Burnett, 447 Meadow Road, asked if the Ginn Development had any intentions of connecting with Blue Sky Basin and therefore, going into business with Vail Associates. Mr. Ginn stated absolutely not.

Ms. Karen Briggs, 223 Boulder, inquired about when any impact of the project would show. Mr. Ginn stated that the project would be phased over time and in about three years the project would start to show. Mr. Ginn stated that planning, on the other hand, would begin right away. He hoped to finish the project as soon as possible, but not at the cost of overlooking options, detail, opinions, etc.

Mr. Ginn stated that the Ginn Development would manage and run the property when it was completed. Therefore, it would not build the property and leave. He informed the Council and those attending the meeting that he hoped to be the Minturn's largest Employer and operating for the long term. Mr. Ginn explained that he really cared about the project and the opinions of those it will effect.

Mr. Andy Wiessner, 811 Potato Patch Drive of Vail, asked Mr. Ginn to consider discussing the annexation with Eagle County prior to making any commitments with the town of Minturn. He shared his thoughts of the impact the project would have on the entire county and the reputation of the county. He further expressed his concern for the wildlife on the property and in the Holy Cross Wilderness Area. Mr. Wiessner inquired about hiding the buildings from view in the back bowls of Vail Mountain and if that could be promised. Finally, he asked if there would be a deed restriction that would prevent the Ginn Development from ever connecting with Vail Associates.

Mr. Ginn stated that when the project was approved there would be restrictions written into the contract. Mr. Ginn stated that he had no intention in connecting with Vail. Mr. Ginn stated that the Ginn Development had always conducted its own environmental and wildlife studies, among others, and it would do so with this development as well. He explained that he was aware of the wildlife migration in the area and the importance of it. He further explained that the Ginn Development would keep it in mind during the planning and building process. Finally, Mr. Ginn stated that the company planned on putting higher density into lower altitude and that they were not asking for high density over the entire property. Therefore, there would be little ridge impact and the structures would be hidden from the Back Bowls of Vail to the best ability of the Ginn Development.

Doctor Steinburg, 1022 Eagle Nest Circle of Vail, asked if they were going to use surface water or well water for the units. Mr. Ginn stated that he was not sure at this point. Dr. Steinburg mentioned that if the company decided to drill wells at the top of the mountain they would be providing water from the mine that he was sure no one would want to drink. He explained that there was a problem with asbestos in Gilman and the roads have shifted over the course of fifteen years or so. Dr. Steinburg expressed his concern for Minturn to have a contractual agreement for permanent perpetual easement rights. Mr. Ginn stated that anything that was built would be a part of the development agreement and the town would hold enforcement rights. Mr. Ginn reiterated that he was aware of the problems with Gilman and that his company planned on cleaning it up over a period of time. Mr. Ginn said that research was being completed on the issue of water and that it would be included in the annexation agreement.

Mr. Earl Bidez, 449 Pine Street, stated that he hoped that Minturn could be a part of the annexation because the results would be same no matter if the agreement was with the county or the town of Minturn. Mr. Bidez continued by stating that the annexation would change the town of Minturn dramatically. Mr. Ginn stated that change was inevitable, but that it would not be so drastic that one could not recognize Minturn. Mr. Ginn informed the Council and the community that the Ginn Development had every intention of being a good neighbor. He believed that the project would financially benefit Minturn, provide employment, and improve educational facilities. He expressed his hope for positive change for Minturn.

Mr. Rob Davis, 1796 Main Street, inquired about the golf course. Mr. Ginn stated that the company planned on building a golf course, but it would still require approval. Mr. Ginn explained that the company believed that it found a way to improve the capping and if it could do so, the company would like to complete it with a golf course. He explained that the additional dirt it would need to reinforce the capping would be attained from the removal of the dirt from the Bolts Lake. The removal of dirt from the lake would also provide a larger water reservoir.

Ms. Briggs stated that she felt it was a great opportunity for Minturn. She explained that if Minturn did not do it, the county would. She further explained that she felt that change could be positive for Minturn. However, if the citizens of Minturn want to keep Minturn the way it was in respect to its character, it would be up to the community to maintain it, not Mr. Ginn.

Mr. Ginn explained that the project would provide more employment opportunities for the citizens in the county. He stated that the company was a resort community developer and this development would include private facilities for its customers, which would be charged club dues.

Michelle Horak, 541 Main Street, asked if the club would be membership only and if it would be exclusive. Mr. Ginn stated that the club would be provided for property owners in the community and some outside residents would be able to obtain memberships. Mr. Ginn stated the company was not in the retail business and did not intend on taking any business from the existing companies in town. Mr. Ginn explained that you would either have to be a resident, a visitor of a resident, or an outside member in order to use the facilities, including restaurants and the golf course.

Kelly Toon, 531 Main Street, stated that he would like to preserve the community. He further explained that he would not want to see seniors and those making limited or fixed income be pushed out of town. Jay B. stated that the mill levy is 17.934 and that it cannot be changed without going to a vote. However, the town could apply a temporary mill levy credit. Hawkeye F. explained that the mill levy could be lowered if necessary.

Mr. Wiessner inquired about the total amount of units that would be built on the mountain. Mr. Ginn stated that he does not intend on building more than five or six hundred units spread over 5,000 acres of land. This figure does not include the development at the base of the property or Gilman itself.

Hawkeye F. stated that the question staff would like to have answered by the Council was whether or not the town would like to move forward with planning and developing a pre-annexation agreement with the Ginn Development. Hawkeye F. expressed his opinion to move forward.

Ann C. stated that the request was in the packet and that it would be beneficial for the staff to have conformation of either approval or denial of the request.

Wiley S. asked for any questions or concerns regarding the process of the annexation. Jerry B. inquired about the proper way to move forward without going into a legally binding contract at this time. Allen C. explained that the requests from the Manager are not legally binding.

Darell W. reiterated Wiley's analogy of how the process of annexation with the Ginn Company was like a marriage. He explained that approving a pre-annexation was like creating a prenuptial agreement. He further explained that the pre-annexation process would be next step towards an annexation agreement (marriage).

Motion by George B., second by Fred H., to approve action request #1 – direct Town Manager to proceed with necessary actions for annexation request by Ginn Company Development in accordance with C.R.S. of Colorado Municipal Annexation Act of 1965 as amended and action request #2 – direct Town Manager to take any and all necessary steps in negotiation for a pre-annexation agreement that will include but is not limited to the following: financial assistance for community consultation process,

legal services, one additional planning person (3-5 year limit), contractual planning services, travel, and various engineering services to support the Town's activities in preparation of the annexation agreement and execution of the annexation of Ginn property with Ginn Company Development, as presented; all voted in favor.

9. Discussion/Action – Minturn Development Action Group by Economic Development Director.

Nicole M. stated that she provided a list of the names of people that expressed their interest in participating in a community group regarding development in the Town. She also explained that the Ginn Task Force would be comprised of people on staff, elected officials, and a citizen representative. She stated that the community group would meet, discuss, and develop its own priorities. This group would also elect one member to serve as the citizen representative on the Ginn Task Force. She explained that the goal was to get as many people with expressed interest involved and to keep them engaged. These people would be able to provide information for other citizens and would advise the Ginn Task Force through one spokesperson.

Fred H. stated that he felt the citizen representative on the Ginn Task Force should be from Minturn.

Jerry B. and George B. agreed with Fred H. However, they both mentioned that input from anyone would be appreciated and given the same treatment as a citizen of Minturn.

Darell W. agreed with George B. and Jerry B. He added that the input from people from surrounding towns could be helpful.

Bill B. stated that Minturn should do this on its own, but pay attention to everyone's needs during the process. He mentioned that the development would affect other people besides those in Minturn.

Tom S. stated that he felt it should be citizens of Minturn making the decisions.

Nicole M. mentioned that she would like to set a date for the first meeting.

Ms. Caroline Bradford inquired about Red Cliff being included because the Ginn property was so close to their town. There was some discussion as to how Red Cliff would be involved. Wiley S. stated that he had been keeping Red Cliff updated on the Ginn Development and would continue to do so. Hawkeye F. informed the audience that Wiley S. was also the Planner for Red Cliff.

Ms. Elaine Turnbull, 0423 West Edwards Village Boulevard in Avon, inquired if the citizen member could be a property owner. Hawkeye F. affirmed.

Ann C. mentioned that a citizen survey was being prepared.

Charles Ovary, 77 Meek, stated that he felt there would be a lot of resources and skills from elsewhere in the valley that would be shut out if they could not be included in the community group. He suggested that these people be allowed to be a part of the group.

Fred H. stated that he felt Mr. Ovary misunderstood the role of the Task Force. He explained that the Task Force would utilize advice and so forth from others outside of Minturn and that the Town would not be going at this alone. He mentioned that Minturn had made mistakes in the past and did not intend on doing that again. The expressed advice and concerns of all would be heard and considered.

It was decided that on Thursday March 3, 2005 at 5:30 p.m. the first meeting would be held at the Town Hall.

Hawkeye F. encouraged the audience to give their email addresses to the staff, so that they could be updated about the meetings. He asked the audience to spread the word and help the Staff and Council inform the public about events, policies, changes, etc. occurring in Minturn.

Mr. Ramon Montoya, the Mayor of Red Cliff, inquired about Red Cliff being excluded from the Task Force and the Advisory Committee.

Fred H. stated that Red Cliff would not be excluded. He continued by stating that just because Red Cliff would not be on the Task Force or the Advisory Committee, did not mean it would not be included. He assured Mr. Montoya that Red Cliff would be involved in the process. Hawkeye F. and the other councilmen expressed their opinions to include Red Cliff in the process as well.

Nicole M. stated that she felt the Mr. Montoya made a great point and that the group could possibly be expanded or another group could be formed. There was some discussion as to how Minturn planned on including Red Cliff.

Direction was given to staff to come up with some ideas as to how to include people outside of the town's boundaries.

10. Discussion/Action – Condominium Conversion – Final Plat for 245 Main Street by Bill Sisk and Town Planner.

Wiley S. stated that the application was ready to be heard tonight and that the applicant had met all of the requirements. Wiley S. briefed that council on the application.

Wiley S. stated that the applicant would like to discuss the recommendation from Town Council in regards to an improvement in the subdivision agreement. He explained that the improvement was to include a new sidewalk in front of his property. He informed the Council that the staff recommends approval the application. Finally, he clarified that the applicant would not retain any of the common ground on that property, but instead it would convert to the Homeowners Association.

Mr. Sisk stated that he would put a sidewalk in the front of the property, but that he felt paving the street to the property line would be more beneficial.

Tom S. agreed with Mr. Sisk and stated that paving would be more beneficial to the town compared to a sidewalk.

Bill B. and Fred H. agreed with Tom S. Fred H. inquired if the asphalt would be completed at the Town's road standard. The Council agreed that would be a condition of the pavement.

Tom S. stated that snow removal should be required and included in the agreement. Mr. Sisk stated that it was already included in the agreement.

Darell W. asked for questions from audience.

Mrs. Elaine Turnbull, property owner of 231 Main Street, stated that she did not approve of the condominium conversion. Mrs. Turnbull asked for the Council to require Mr. Sisk to install a fence between their properties. The Council agreed that a fence be installed. Mr. Sisk stated that he made a verbal agreement with staff to install a fence. Darell W. inquired about the legal right of the town to make it a condition. Allen C. advised the Council to stay out of civil disputes. The Council agreed. Mr. Sisk verbally assured Council that he would install a fence because he wanted one as well.

Mr. Boule, 242 Main Street, thanked the staff for its proper quotation of his statements and opinions in the previous minutes. Mr. Boule reiterated his feelings of future parking problems at this location. There was some discussion about the parking requirements for the condominium conversion. It was also noted that the property would remain as a residential zone.

Motion by Jerry B., second by Bill B., to approve the condominium conversion with all conditions as amended; all voted in favor (*NOTE: Hawkeye F. was excused absent*).

11. Discussion/Action – Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication For The Town of Minturn by Town Attorney – To be tabled to a later date.

Fred H. suggested that Ordinance 14: Series 2004 be tabled and discussed simultaneously with the Treated Water Storage Requirement, Water Rights Dedication, and Water Standard Specifications at the next Town Council meeting.

Fred H. mentioned that Mayor Hawkeye F. would like to know what Ann Castle's views were on the water issue policies.

Motion to table by Fred H, second by Tom S., to table until March 2, 2005; all voted in favor (*NOTE: Hawkeye F. was excused absent*).

12. Discussion/Action – Ordinance 3: Series 2005 (First Reading): An Ordinance to subdivide a parcel of land in Minturn, Colorado, in the Game Creek Character Area by Town Planner.

Councilman Tom Sullivan stepped down from his position as a councilman due to a conflict of interest because he was the applicant the ordinance was written for.

Wiley S. briefed the Council on the ordinance.

Motion by Fred H., second by Bill B., to approve Ordinance 3: Series 2005 (First Reading) as presented; all voted in favor (*NOTE: Hawkeye F. was excused absent and Tom S. was abstain due to a conflict of interest*).

Tom S. rejoined the Council.

13. SB – 062, RICD's – Senator Jack Taylor's response, information only.

Ann C. informed the Council about the Senator's response of approval to the bill. Ann C. explained that the letter was included in the packet. She further explained that it was important for the Council to have an approving and disapproving view on the bill in order to make a sound, informative decision.

14. Discussion/Action - Resolution 3: Series 2005 (First Reading): A Resolution in Opposition of proposed legislation SB 05-062 for Recreation In-Channel Diversion Water Rights (RICD's) by Town Manager.

Motion by Fred H., second by Tom S., to approve Resolution 3: Series 2005 (First Reading) as presented; all voted in favor (*NOTE: Hawkeye F. was excused absent*).

FUTURE AGENDA ITEMS / WORK SESSIONS

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

- **March 2, 2005 – Joint meeting with Eagle County Board of Commissioners**
- **Presentation by I – 70 Coalition**
- **Dana Spigener, Alpine Engineer – Work Session**
- **Carol Mulson – Possible update for uniform fire code**

16. Future Meeting Dates

1) Council Meetings

- March 2, 2005
- March 16, 2005
- April 6, 2005

2) Planning & Zoning Meetings

- February 23, 2005
- March 9, 2005
- March 23, 2005

3) Other

17. Set next meeting date – March 2, 2005

18. Adjournment

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

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand