



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, March 2, 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. Joint meeting with Eagle County Board of Commissioners**

**REGULAR SESSION – 7:00 PM**

- 1. Call to Order**
  - a. Roll Call**

Mayor Hawkeye Flaherty called the meeting to order at 7:55 pm. *(Note: due to the Work Session with the Eagle County Commissioners the Regular Session started late.)* Those

present included Mayor Flaherty, Mayor Pro Tem Darell Wegert, George Brodin, Jerry Bumgarner, Fred Haslee, Tom Sullivan, and Bill Burnett

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, and Director of Public Works Floyd Duran.

**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.
- f. Approval of the agenda.

Motion by Fred H., second by Tom S. to accept the agenda as presented; all voted in favor.

**3. Approval of the Minutes for February 16, 2005**

Fred stated that on page 12 use the Town road standard in the forth paragraph.

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

**4. Special Presentations/Citizen Recognition**

- Mike Wheelersburg – Minturn Towne Homes Update

Mike Wheelersburg, Project manager for the Minturn Towne Homes. Building D is ready for the framing inspection. Building C the first wall package is up and being framed. He stated he was again informed of the parking issues cause by his construction crew parking along the Taylor Street, he is working with the issue and will have it corrected. He understands the concern the Town has as this is part of the agreement struck with the Town.

Michael Boyd, 502 ½ Main Street, asked if it would be possible to have the hiking trail defined so that the public could access it across the site. He stated that he is not able to access it at this point. Mr. Wheelersburg stated that the fencing is up but that it is a construction site. Boyd stated he thought they were to provide access at all times. Mr. Wheelersburg stated he would look into providing a fenced off access path.

- Carol Mulson – Minturn Fire Code Update

Carol Mulson, Eagle River Fire Protection District deputy Chief Fire Marshall. Ms. Mulson stated that she had originally thought the Town was under the 1991 Fire code. However, because we adopted the 2000 International Building Code there is a provision in that code that adopts the 2000 International Fire Code unless it is specifically excluded. Ms. Mulson requested direction for her to investigate this. Fred H. asked if we were looking at the 2000 or the 2003 code; we are looking at the 2000 and then next year go to the 2006 code. The Fire Code is updated every three years.

Direction was given to proceed with the investigation of the 2000 code and if the town is in fact on that code. Mulson stated the new business license process is going very well and thanked the town for the requirement to include the signoff from the Fire District. Nicole explained that we rewrote the business license application and identified the changes. Although this is a new license application the changes have been addressed with the council previously.

Floyd Duran asked of the fire rating for the Town. The town is being audited and because of this change we are now down to a fire rating of 5.

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

Michael Gallagher noted that the Catholic Parish will be hosting the annual St Patrick's day dinner on March 17<sup>th</sup>. The dinner is a fund raiser and serves corn beef and cabbage.

Michael Boyd, 502 ½ Eagle St noted that if we are considering moving the Highway to the other side of the river that he would like to be on the mailing list of this discussion item. He questioned if this was a done deal or where it stands. Fred H. stated that he felt this was a very farfetched idea but that it should still be considered for the future. Mr. Boyd again stated his disapproval of the idea and that it would be better along the western hillside. Fred H. stated that the growing traffic along US Highway 24 is a concern of the future but this is only an idea. The concern was presented that this was an issue for the citizens and would affect the businesses. Lou Meskiman, Minturn business owner, stated that this discussion would hurt his business.

Floyd D. stated that this idea of moving the highway has been discussed for many years. Hawkeye stated that this needs to be thought of very broadly and is a long term idea that may never be a reality.

Lou Meskiman, 2369 hwy 24 (Eagle Vail). This weekend they are bringing a piece of the Freedom wall and requested that the flags be put up. Direction was given to contact Xcel for permission and have Public Works put the flags up.

#### **6. Discussion/action of Emergency Items, if necessary**

STAFF REPORTS AND OTHER ITEMS

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

### **a. Economic Development Director**

- Community Survey

Nicole M. reviewed the Community Survey and stated the next meeting that is scheduled with the community group is March 9<sup>th</sup>.

- Minturn Market

Nicole M. reported the sales tax collections for the markets and noted that the Market is the 5<sup>th</sup> largest business in Town. She stated that the Market accounts for over \$530,000 in sales this is in addition to what is generated in the shops.

The Summer '05 market applications are due by March 31, 2005 and the vendors will be scheduled. She is working on the idea of a food program with the County for the seniors that would allow them to purchase the fresh farm products at a discount. She is working on the details.

There is a Business meeting at 8am on Friday hosted by the VVTCB, she stated that this will be great as we no longer have a business association. The meeting is at Chili Willy's.

She stated that they have been working and moving forward with the grants for the La Playuela park. They have received a \$20,000 one grant and will submit a GOCO grant on Friday.

Nicole M. noted that she is keeping a scrapbook of the town press coverage that is available in her office for review.

### **b. Public Works**

Floyd D. announced that Public Works employee Arnold Martinez's father passed away. Flowers were sent. Floyd D. stated that he has been able to open the drains and they should be flowing well. Lou Meskiman stated that the PW crew has done a great job on the snow removal.

### **c. Police**

Lorenzo M. noted that two council meetings ago we had a vehicle accident that required Lorenzo to leave the Council meeting to attend the accident. Floyd M. also showed up and was the man on the scene. A well done was given and was well deserved.

### **d. Treasurer/Clerk**

### **e. Town Planner**

- Schedule of Development and Annexation Procedures
- Planning Commission Update

Wiley S. updated the Council on some of the issues the P&Z Commission is working on and they are reviewing some of the processes that are currently being followed to see if a better plan can be developed.

Hawkeye F. asked to schedule 30 minutes at the next meeting for Wiley S. to give an in-depth update on the annexation process. This is for the Council to be able to make sure they understand the process and what is expected from the Council in the process.

**f. Town Attorney**

**g. Town Manager**

Ann C. Stated she is talking with the Town manager of Granby on annexations as they have had a huge one recently.

We have applied for a \$200k grant from Fishing is Fun for the river project. She is hopeful for up to 80%

Ann C. has been asked to be a guest chef for the seniors. She is doing an old country dish of Slovak chicken soup.

We have had an offer from Lafarge for the continued lease of the land. This is an opening offer but it will be coming forward. Ann C. stated that she feels we will be able to bring water and sewer across the river with various partners. And that we are working on the possibility of a sidewalk along the Hwy 24 in the South end of town.

Tom S. asked for an update on the park in the 100 block of Eagle Street; it is coming along and is part of the River Project that will be done this spring/summer.

Hawkeye F. stated that we are working with CDOT for sidewalks along the south end of town highway. Grants are available and we will pursue that. The other option is to have the property owner pay for the materials and we do the work. Things are moving forward on this.

Hawkeye F. stated moving the highway to the other side of the river along the Railroad track is not on the CDOT plan and it would take many years to change the approved plan just to get the idea on the plan and then longer to get the project done. He also stated we are looking at the possibility of contracting the snow removal on Hwy 24 through Town rather than having the State do the job. This is still in the preliminary stage.

Darell W. asked if we could work on getting the south end cross walks approved and painted by CDOT.

Allen C. stated that Floyd and the surveyor are walking the water plant property so the water plant land is moving forward.

**h. Town Council**

George B. stated that he attended a Trails meeting and they are going to be engineering from Dowd Junction to the North Bridge along the sewer easement. They discussed ideas for the retreat, and bus turn around assistance with snow removal at the south end of town.

Darell W. stated the open space committee board is about 20 people they are having an educational meeting soon.

Hawkeye F. stated that our Water Attorney was contacted by the Ginn Company water attorney. Anne Castle stated that she had not been directed to discuss the issue. Hawkeye F. stated that we could front some attorney time with Anne Castle and then recover the costs at a later date. Ann Capela stated we are meeting with the Ginn Company tomorrow and this will be addressed where costs and details will be on an up front-pass through basis.

## DISCUSSION, HEARINGS AND ACTION ITEMS

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

Hawkeye F. introduced the item and recommended that we let the water attorney to review. Fred H. stated that this should be done in house by staff. Allen C. stated this is being made much more difficult than it should be. The concern is if it is approved/adopted how will it effect in-town residents when up-zoning is requested. Allen C. stated it is as simple as should we allow this agreement to be enforced on up-zoning issues within the town.

Bill B. stated that Fred H. is the expert and we should listen to him.

Fred H. stated that growth should pay for growth. When use or density is changed on a property then this should apply. Fred H. stated sever developments that should have been required to bring water when they requested for in-town up-zoning. Just because you have property in town does not mean you have a right to do whatever you want without paying for increased demands on the land.

Tom S. stated that he and Bill B. felt that if you live in town and propose up-zoning that you should be able to simply buy additional taps. Darell W. clarified the issue by saying that tap fees pay for capital construction of the water lines, this ordinance would pay for the wet water to fill the pipe. If additional demand is placed on the land by up-zoning the use, then the developer should be required to bring the wet water with them.

Ann Capela stated that the tap fee should go into the capital fund, currently we are utilizing the tap fees to help off set the cost of the water fund. Allen C. stated that with the in-town Forest Service land selling this could be an issue. Allen C. stated that based

on the water lawsuit we have enough water to service what we have now zoned, not for the up zoned.

Darell W. called the question, Fred H. voted no; all other voted yes.

Motion to approve by George B., second by Darell W. to Ordinance 14: Series 2004 (Second Reading): An Ordinance regarding Water Dedication; Darell W. Hawkeye, Fred H., and George B. voted in favor, Bill B., Tom S. and Jerry B. voted no. (*NOTE: motion passed 4-3*)

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

*Note that Tom Sullivan stepped down from the Council due to a conflict of interest as he is one of the three applicants.*

Darell W. stated that he has had some concerns expressed that the units proposed be cognizant and complimentary of the small size of the lots and the size of the houses. Discussion ensued with the applicants that this is a need and they are aware of the constraints of the lots. It is their intention to build complimenting single family houses that will highlight the neighborhood and the lot.

Motion by Bill B. second by Fred H., to approve Ordinance 3: Series 2005 (Second Reading): An Ordinance to subdivide a parcel of land in Minturn, Colorado, in the Game Creek Character Area; all voted in favor (*Note: Tom S. did not vote due to a conflict of interest*)

**10. Discussion/Action – Ordinance 4: Series 2005 (First Reading): An Ordinance to allow three existing dwelling units to be subdivided and converted into condominiums by Town Planner.**

Hawkeye F. introduced the ordinance on first reading. Fred H. asked if the original parking plan is still being applied. Wiley S. stated that the parking plan is still being enforced and will be because the use has not changed.

Motion by Bill H. second by George B., to approve Ordinance 4: Series 2005 (First Reading): An Ordinance to allow three existing dwelling units to be subdivided and converted into condominiums; all voted in favor.

**11. Discussion – Minturn Community Development Team by Town Manager.**

Ann C. introduced the issue and stated that this has been discussed at staff level. Ann C. felt that because of the huge response from the citizens we should have an inclusive process. Ann C. wants allow Nicole M. the use of the task force to separate the taskforce

into groups of interest. This way by the first few meetings information will be gathered that can be disseminated to Council for use in their final decision.

Hawkeye F. stated that at the last meeting it was directed that only Minturn citizens are on this committee so we would miss the out of town stakeholders.

Darell W. stated that we should have a sub group of the task force that includes out-of-towners. These issues would then be brought to the Minturn Citizen Task Force for further review and discussion and then passed to the Council.

Nicole M. stated she has a transcript of the meeting if they would like to review. It was apparent from the tape that direction on the tape was to create a group of citizens that are interested in the committee, want to be on it, and want to be able to give their ideas and concerns to the Council. Nicole M. noted that included in the list of volunteers most are either citizens, land owners, or business owners in town.

Mike Gallagher stated that all should be able to contribute to the committee, hold public hearings and presentations, and then take that information to recommend to the Council ideas for the agreement.

Jerry B. stated that we should not have a task force that negotiates with the Ginn Company; that is the job of the Council. Negotiations are to be between the Council/Staff and the Ginn Company.

Nicole M. stated the task force is to facilitate citizen input and take that input to the Council so that the Council has the information to create an annexation agreement with the Ginn Company. The Council would do the agreement with the assistance of staff for the Ginn Company using the information of all the interested citizens. This committee would have the same direction as the Visioning Committee. They would listen to ideas and take ideas to the Council for direction and action not to make or negotiate the decision for the Council.

Hawkeye F. asked when a pre-annexation agreement would be ready. Mr. Ginn stated that the community meeting tomorrow night was for his company to take public input on issues that the stakeholders think he (Ginn Company) should be aware of. This information will be used to try to build a plan that will address the issues that are pertinent to the development such as traffic, impacts on the schools, etc. Mr. Ginn stated that he felt this was a very fluid plan where ideas would become the working plan for the development.

Tom S. stated that he thinks we will have a lot of public beating on this, including the water issues, in the coming future. Tom's concern and question: is there a way the County can stop this annexation process? Allen C. stated no, he does not know of a way they could. This has been asked at staff level and we are unable to find a way. Mr. Gallagher stated as a former County Commissioner that the County is not required to give

permission so they can not kill the project.

Mr. Ginn stated the fight will be over water issues. The sooner Ginn Company and Minturn Council get the water issue solved the sooner the other issues can be resolved as well.

Tom S. asked could Vail Resorts (VR) sue the Town for the water rights again. Allen C. stated he is not aware of this potential.

Fred H. stated that if in fact we reach an agreement with Ginn Company to build a sewer plant then VR would probably be in agreement because the water would be back in the river upstream from their intake. This agreement could actually be a benefit to the County, Water Authority, and VR because it solidifies where the water will be placed back in the river for years to come.

Discussion ensued as to how the water issues will be handled in the annexation agreement in addition to how the Town, the Ginn Company and the various stakeholders in the county as well as potential litigation that could or might result in the future.

Mr. Gallagher stated the County recognizes the monopoly for water that exists within the county. It was determined that Bolt's Lake is a bucket for water that is not currently utilized for in stream storage. Bolt's Lake is not what the County is necessarily after however, its importance cannot be minimized.

## FUTURE AGENDA ITEMS / WORK SESSIONS

### **12. Items to be added to future agendas / work session**

**Add Wiley to next meeting**  
**Treated water storage requirements ordinance**  
**Construction standards for water lines**

### **13. Future Meeting Dates**

#### **1) Council Meetings**

- March 16, 2005
- April 6, 2005
- April 20, 2005

#### **2) Planning & Zoning Meetings**

- March 9, 2005
- March 23, 2005 has been **CANCELLED**
- April 13, 2005

#### **3) Other**

- **Community Survey Focus Group**  
Wednesday, March 9, 2005 4:00 p.m. – 6:00 p.m.

**14. Set next meeting date – March 16, 2005**

**15. Executive Session:**

- Pursuant to C.R.S. 24-6-402(4)(b) for the purpose of consulting with the Town Attorney on pending legal issues.

Motion by Fred H. second by Darell W. to convene in Executive Session Pursuant to C.R.S. 24-6-402(4)(b) for the purpose of consulting with the Town Attorney on pending legal issues; all voted aye, Jerry B. nay. *(Note: Jerry B. did not agree with the first item on the executive session so did not attend until the second item.)*

**15. Adjournment**

As there was no further discussion the meeting was adjourned at 10:25 p.m.

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Mayor, Hawkeye Flaherty

ATTEST:

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Town Clerk, Jay Brunvand