



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, June 1, 2005**

**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

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

**WORK SESSION – 5:45 PM**

1. Council Retreat (4:30 p.m.- 9:00 p.m. June 14, 2005 Tues.)
2. Capital Improvement Plan (CIP)
  - a) Use Tax – work on it
  - b) Bed Tax
  - c) Real estate Transfer Tax(\* Darell Wegert wishes to add soundless resurface on hwy 24)
3. Ginn Clubs & Resorts Development – Annexation agreement on June 15, 2005
4. Economic Development – Youth Activities – Committee chaired by Hawkeye F.
  - a) Bike Tournament
  - b) Dirt & Mountain Bike track
  - c) Fishing Tournament – August/Sept.

5. Other

- Decision to send Tom S. and Darell W. to ERWSD meeting. Staff directed to obtain a copy of minutes from ERWSD meeting.
- Mr. Troy Thompson of ERC – Discussion on Eagle River Project

## REGULAR SESSION – 7:00 PM

### 1. Call to Order

#### a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 7:10 p.m. Those present included Mayor Flaherty, Mayor Pro Tem Darell Wegert, George Brodin, Jerry Bumgarner, Bill Burnett, Fred Haslee, and Tom Sullivan.

Staff present were Town Manager Ann Capela, Town Clerk / Treasurer Jay Brunvand, Town Planner Wiley Smith, Town Economic Development Director Karen Earley, Town Attorney Allen Christensen, Town Director of Public Works Floyd Duran and Court Clerk / Office Technician Alicia Lynch (*Note: Chief of Police Lorenzo Martinez was excused absent*).

#### b. Pledge of Allegiance

### 2. Discussion of the Agenda

- Items to be pulled from Action Calendar
- Items to be pulled from the Discussion Calendar.
- Items to be pulled from the Consent Calendar.
- Emergency Items to be added.
- Order of the Agenda Items.  
Added Section 24-6-402 (4)(b) to the Executive Session.
- Approval of the agenda.  
Motion by Bill B., second by George B., to approve the agenda as amended; all voted in favor.

### 3. Approval of the Minutes for May 18, 2005

Motion by Jerry B., second by Fred H., to approve the minutes from May 18, 2005 as presented; all voted in favor.

### 4. Special Presentations/Citizen Recognition/Project Update

- **Citizen & Corporate Recognition – Minturn Clean Up Day**  
The Town Council recognized the following people for their help on May 21, 2005 at the Minturn Town Clean-Up: Eagle River Fire District, Dave Knutson – Lafarge, Jody Bernal – Lafarge, Scott Lorenz – Lafarge, Art Prater – Lafarge, Wesley Ryden – Lafarge, Steve Fisk – Lafarge, Bruce Yankee – A-Peak, Ginn Clubs and Resorts, Lafarge – North America (Western Slope), Joe Duran – Minturn Public Works, Karen Earley – Minturn Economic Development Director, Arnold Martinez – Minturn Public Works, Gordon Flaherty – Minturn Mayor, Darell Wegert – Minturn Mayor Pro Tem, Jerry Bumgarner – Minturn Councilman, Tom Sullivan – Minturn Council man, George Brodin – Minturn Councilman, Father Hugh Guentner, Lynn Feiger, Wiley Feiger, John “Woody”

Woodruff, Mason Babcock, Liz Campbell, Shane Sorensen, Wendy Sapuntzoff, Eric Andler, Lisa Fox, Dave Clapp, Nate Lacross, Justin Lacross, Michael C. Meyer, Steve Johannes, Julie Johannes, Valerie Wegert, Jeff Houston, Michael Gallagher, Randy Quintana, John Rosenfeld, A-Peak, Lafarge Corporation, Master Sealers, and the Turntable Restaurant.

Hawkeye F. pointed out the other members of the staff and thanked them for their contributions.

- **Mike Wheelersburg – Update on Minturn Towne Homes**

Mr. Wheelersburg briefed the Council on his progress report, which was provided in the packet. He asked if he should put a sign up where the trail starts to inform bikers/hikers that the trail is closed Monday through Friday, 8:00 a.m. – 5:00 p.m. Direction was given to Wiley S. to assist Mr. Wheelersburg with that. He asked for any questions or comments.

Darell W. informed the people that the closing of the trail would not benefit those whom work irregular hours. Mr. Wheelersburg stated that it would cause a major liability if the trail would be kept open while they were working. Finally, he added that they were handling their utilities and would either put a barricade around the hole or fill it in before evening sets in. It was concluded that closure of the trial would take place for about six weeks during normal working hours.

Floyd D. inquired when the completion of the pavement for the road would take place. He mentioned the frustration of the citizens living in that neighborhood. Mr. Wheelersburg stated that would take place within that six-week period.

Ann C. asked about paving the Fire District's lot and if he would still consider helping with the water tower. Mr. Wheelersburg affirmed.

Hawkeye F. thanked Mr. Wheelersburg for keeping up the good work and following regulations. Mr. Wheelersburg thanked him for the recognition.

- **Ms. Wendy Swanhorst – Swanhorst & Cutler LLC: Town of Minturn FY2004 General Purpose Financial Statements**

Ms. Wendy Swanhorst, Greenwood Village, stated that she was here to explain the facts and figures provided in the report about the FY2004 Financial Statements for the Town of Minturn. She reviewed the report with the Council and stated that interpretation of the numbers was premature.

Hawkeye F. asked if the business activities were the enterprise funds. Ms. Swanhorst affirmed.

She stated that overall the Town had a good year financially. However, the bad news was that it was primarily due to a one-time transaction. Finally, she informed the Council of the debts the Town owes.

Hawkeye F. inquired if the Water fund was paying back the debt. Jay B. stated that it came from the General fund.

Darell W. stated that in the cover letter there was a disagreement with management concerning financial accounting, reporting, and auditing matters that could be significant to the financial statements.

Ms. Swanhorst stated that there was perhaps a misuse of wording. She said that she felt it meant that if there were those types of issues they would tell the Council about it. She added that if the Council notices any irregularities or problems with accounting practices or control issues, they should inform them.

Ms. Swanhorst stated that Jay B. was doing a fine job. Jay B. thanked Ms. Swanhorst for the complement.

George B. inquired about the necessary steps that needed to be taken in order to complete the buildings. Jay B. stated that the Town retained about ten percent (10%) of the cost of the buildings (and retainage) and because we have not settled on the Public Works building we have not finished paying for it to the insurance company. Allen C. provided a run-down of the situation. He stated that there was around \$60,000 in retainage being held in the bank until the situation was settled. Jay B. informed the Council that the Town has about \$61,200.00 in the bank at this time.

Ann C. informed the Council that she had been in e-mail communication with Brett Gross, Holland and Hart, and that they were handling that. She stated that she was directed to acquire more free estimates and various other requests by the insurance company. She said that she and Floyd D. would complete the figures and pass the information along as soon as possible.

Jay B. stated that the Management Discussion Analysis needed to be read, especially because it discusses a topic that was questioned about yearly. He added that the Town has a relatively safe cash balance, but he does not want the Town to take that as an incentive to spend. He pointed out that this was the beginning half of the year and that debt would be due in the next few months. Jay B. reviewed the debt the Town owes.

The Council thanked Ms. Swanhorst for her attendance and hard work. They also acknowledged Jay B.

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

Liz Campbell, 512 Main Street in Minturn, thanked the Council for the opportunity to speak. She stated that Bravo! Had a wonderful Radio rally a couple of weeks ago for Radio Free Minturn, which was held at Harry's Bump and Grind. Ms. Campbell said that nearly one hundred people attended and supported the event. Due to the great turnout, she stated that there would be an Open DJ Night at the Saloon on Thursday June 9, 2005 at 7:00 p.m. Ms. Campbell informed the Community that with a ten-dollar (\$10.00) donation at the door you would receive a beer ticket and a

chance to win great prizes. She stated that the Wal-Mart foundation would match the donations collected, up to five hundred dollars (\$500.00). Finally, she mentioned that they have been looking at spaces to rent for the project.

Andy Vigil, 432 Taylor Street in Minturn, shared his concern about the condition and use of the leased railroad property. He also expressed his concern for the size of the leased property. Hawkeye F. stated that the staff has been working on it for six months. Ann C. stated that Union Pacific Railroad leases the property and the Town has requested a copy of the leases as a part of their business application. It became known that the property was to be used for storage. Mr. Vigil inquired if there was an ordinance to contain the storage. Allen C. stated that yes there is an ordinance and yes the Town has been taking the appropriate steps to handle the situation. Mr. Vigil explained his concern further. The Council assured Mr. Vigil that the Town was and will follow up on this issue. Darell W. asked if the Town was required to follow up on the regulations. Wiley S. explained that what can and cannot be done on that property was an issue and that the staff has started a file on the property. He added that he would like to require the leased land to be brought before the Planning and Zoning Commission and the Council as a conditional use. Ann C. stated that the staff was addressing the issue as a business license problem and handling it in the same manner. Allen C. stated that he felt the Town should handle it as a Public Nuisance, in addition to everything else.

It was mentioned by Lou Meskimen, 23698 Highway 24, that June 14, 2005 was Flag Day.

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

There were no emergency items discussed.

**STAFF REPORTS AND OTHER ITEMS**

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

- a. Court Clerk / Office Technician
- b. Economic Development Director  
Karen E. informed the Council that Minturn would hold its Fourth of July Celebration on July 1, 2005 (Friday). She also informed the Council that Avon's celebration would be held on July 3, 2005 (Sunday) and Vail's celebration would be held on July 4, 2005 (Monday).
- c. Public Works
- d. Police
- e. Treasurer/Clerk
- f. Town Planner
- g. Town Attorney
- h. Town Manager
- i. Town Council  
Hawkeye F. stated that the boulders located around the basketball court (near Ann C's house) were dangerous and should be moved. The staff stated that they would look into it.

DISCUSSION, HEARINGS AND ACTION ITEMS

**8. Liquor Licensing Authority – Special Events Liquor License for the Town of Minturn Independence Day Celebration on July 1, 2005 by Town Treasurer.**

The Council adjourned and convened as the Liquor Licensing Authority at 10:27 p.m.

Hawkeye F. opened the public hearing at 10:28 p.m.

Hawkeye F closed the public hearing at 10:29 p.m.

Motion by Fred H., second by Tom H., to approve the Special Events Liquor License as presented; all voted in favor.

The Council reconvened at 10:30 p.m.

**9. Discussion/Action – Presentation and direction to Troy Thompson of ERC as Relates to the Final Stage of the Eagle River Project (100 Block of Eagle Street) by Town Manager.**

Troy Thompson of the Ecological Resource Consultants, 35715 US Hwy 40 Suite D 204, explained the plans for the project (*NOTE: He handed out a Conceptual Design to the Council and Town Staff*). He reviewed the budget and three different alternatives. He utilized two maps (also provided in the Conceptual Design on pages 3 and 6) to show a visualization of two of the alternatives. He explained that by the use of a line of boulders, it would provide for a barrier and keep people from crossing into the river. After explaining the different alternatives, he discussed the benefits of each. He stated that in first alternative the benefits were as follows: 1) within remaining DOLA budget, 2) Street drainage will irrigate vegetation, 3) vegetation will provide some pollution uptake 4) aesthetically more “natural” than curb and gutter. He stated that the benefits to the second alternative were as follows: 1) storm water gets into a drainage system, and 2) water quality vault. Staff and Mr. Thompson briefly discussed the cost of each alternative.

There was some discussion on the different alternatives and the opinions of the staff and citizens.

Mr. Thompson stated that option number three was very similar to option number one. He explained that the cost difference is less than \$1,000.00. He stated hat the following were the benefits of option number three: 1) Within the DOLA budget, 2) Street drainage will provide irrigation to the vegetation, 3) the vegetation will provide some pollutant uptake, 4) most natural in appearance, and 5) more plant numbers and other amenities over option one. He stated that he would recommend to select option three.

Hawkeye F. expressed his concern about the parking. He said that all of the homeowners would be forced to relocate their vehicles and he did not approve.

An unknown citizen suggested that there should not be too many trees planted due to the beavers in the areas.

Motion by George B., second by Tom S., to approve forward movement to fine tune alternative number three: five voted aye, Bill B. voted nay (*NOTE: Hawkeye F. was abstain due to a conflict of interest*).

**10. Discussion/Action – Ordinance 11 – Series 2005 (Second Reading): An Ordinance of the Town of Minturn, Eagle County, Colorado granting by franchise to Xcel Energy of Colorado its affiliates, successors and assigns, the right to use the streets within the town to furnish, sell, transmit, transport and distribute gas and electricity to the Town and to all residents of the Town, granting the right to acquire, construct, install, locate, maintain, operate and extend into, within and through the town all facilities reasonably necessary to furnish, sell, transmit, transport, and distribute gas and electricity within and through the Town, and granting the right to provide street lighting service to the Town; and fixing the terms and conditions thereof by Town Treasurer.**

Motion by Fred H., second by Bill B., to approve Ordinance 11 – Series 2005 (Second Reading); all voted in favor.

**11. Discussion/Action – Ginn Club & Resorts Annexation and Development Agreement – Minturn Town staff preparedness: Town Manager, Town Planner & Town Attorney.**

Ann C. reintroduced the chart demonstrating the timeline for the annexation process. She stated that the Town was currently in the first stages, with an Advisory Committee developed. She added that in order to move any further a letter of intent from Ginn Clubs & Resorts would need to be submitted. She reminded the Council that the newly hired Planner would begin his journey with the Town on June 13, 2005. She added that the Town staff has collected all of the RFQ's that it will review. She stated that the staff would make a selection from the candidates that were provided in the handout (as she handed out the information). She gave a brief synapses on the candidates.

Ann C. updated the Council on the agreement with Ginn Clubs & Resorts to renovate the two-bedroom apartment (located in the Town Center) into an office. She stated that the staff was currently reviewing bids for the project and hoped to have the project completed by the end of July or the beginning of August.

Ann C. discussed the Capital Improvement Plan and informed Council that it was up to them to give direction to staff on how to pursue it. She said that the developer may agree with the ideas, but there might also be a possibility of negotiation.

Ann C. mentioned that Holland and Hart, as well as the Town Attorney Allen C., would be reviewing the conditions for the annexation proposal as soon as it received the letter of intent from Ginn Clubs and Resorts. She stated that the staff was prepared for the upcoming events. Finally, she asked for direction from the Council.

Darell W. inquired what she meant by the Town was ready to go. Ann C. stated that she would first like to give the Council the opportunity to review the RFQ's and voice it's opinion. As soon as that was accomplished, then the staff would be ready to move forward.

Hawkeye F. inquired about the infrastructure of the Town offices. Ann C. explained that there would be a new office for the Town Planner, the newly hired Planner, and other hired help.

Ann C. asked Council if they would like to set aside some time to interview the RFQ candidates. The Council agreed and discussed when they would all be available to meet. There was no decision made on the date.

Mr. Bobby Ginn, Palm Coast, stated that the delay regarding the letter of intent was his fault because he continues to change his plans. He explained that he does not want to offer a letter of intent without exploring other options and coming to a decision that would be beneficial to the community. Overall, he expressed his concern to consider all options and develop the "right" plan rather than a generic plan. There was some discussion about the project time limits.

**12. Discussion/Action - H.R. "4700" – Minturn Town Council Position Paper by: Town Manager.**

Ann C. stated that based on Council's direction she drafted a proposal and noted that it was provided in the packet. She asked Council for their input.

There was some discussion about the bill. Some Councilmen were in opposition and some were in favor of the bill.

Motion by George B., second by Fred B., to support the H.R. 4700 with the exclusion of Dowd Junction as a part of it and verification that it could be included and not for sale; all voted in favor.

Direction was given to staff to set up a meeting with Congressman Udall to further discuss the bill.

**13. Discussion/Action – Request for comment/support for Forest Service Eagle River Restoration project at Camp Hale by: Town Manager.**

Ann C. informed the Council that she spoke with Cal Wettstein from the Forest Service that afternoon and he made it clear that the Forest Service would not be

requesting NERDS funds for this project. They would be requesting funds elsewhere.

There was some discussion as to what the plans for the river would be. Bill B. noted that this was a good idea and has been in the works for too long.

Motion by Bill B., second by George B., to support the Forest Service in its River Restoration project; all voted in favor.

**14. Discussion/Action – Council representation for ERWSD, Minturn & Ginn Sewer Plant discussions: Mayor Flaherty.**

It was decided that Darell W. and Tom S. would represent the Council at the upcoming meeting.

**15. Discussion/Action – Possible purchase of dump truck for Public Works Department by: Mayor Flaherty.**

There was some discussion about the limitations for the cost of the vehicle. Floyd D. informed the Council about the inquiries he has made regarding the purchase of a dump truck.

Hawkeye F. directed staff to make sure that an inspection was complete on the dump truck and to pursue a maintenance agreement. Ann C. stated that the two options would be the Town of Avon or the Town of Vail.

Motion by Bill B., second by Fred H., to approve the purchase of a dump truck that does not exceed the cost of \$60,000.00; six voted in aye, Tom voted nay.

**16. Discussion/Action – Carry over of items from 06.01.05 Council Work Session by: Town Manager.**

EXECUTIVE SESSION

**17. Executive Session:**

- An Executive Session pursuant to Section 24-6-402(4)(a) for the purpose of discussing the potential acquisition of real property and pursuant to Section 24-6-402 (4)(b) for the purpose of consulting with the Town Attorney and Town Water Attorney regarding water issues. Those to be included in the Executive Session are Council present, Town Manager Ann Capela, Town Attorney Allen Christensen, and Town Water Attorney Anne Castle.

Motion by Fred H., second by Bill B., to convene into Executive Session at 8:58 p.m.; all voted in favor.

The Council reconvened at 10:10 p.m. No action was taken and direction was given to staff.

FUTURE AGENDA ITEMS / WORK SESSIONS

**18. Items to be added to future agendas / work session**

- Mike Wheelersburg – Minturn Towne Homes Update – 7/6/05
- Preliminary PUD and Preliminary Plat at Lot 29 and 31 of the Minturn South Addition Subdivision – 6/15/05
- Ginn Clubs & Resorts – Development Update – 6/15/05
- Council Retreat – 6/14/05 @ 4:30 p.m.– include the meeting with the Ginn Development
- Meeting with ERWSD and Council on bill

**19. Set Future Meeting Dates**

- 1) Council Meetings
  - June 15, 2005
  - July 6, 2005
  - July 20, 2005
- 2) Planning & Zoning Meetings
  - June 22, 2005
  - July 13, 2005
  - July 27, 2005
- 3) Other

**20. Adjournment**

As there was no further discussion, the meeting was adjourned at 10:32 p.m.

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Mayor, Hawkeye Flaherty

ATTEST:

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Town Clerk, Jay Brunvand