



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, July 20, 2005**

**REGULAR SESSION – 5:45 PM**

Closed Session – 5:50 PM

**REGULAR SESSION 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

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**REGULAR SESSION – 5:45 PM**

**1. a. Call to Order**

Mayor Hawkeye Flaherty called the meeting to order at 5:45 p.m. Those present included Mayor Flaherty, George Brodin, Jerry Bumgarner, Bill Burnett, Fred Haslee, and Tom Sullivan (*NOTE: Mayor Pro Tem Darell Wegert arrived at 5:50 p.m.*).

Staff present were Town Manager Ann Capela, Town Clerk / Treasurer Jay Brunvand, Town Planner Wiley Smith, Town Planner I Derrick Slocum, Attorney Boots Ferguson substituting for Allen Christensen, Town Chief of Police Lorenzo Martinez and Court Clerk / Office Technician Alicia Lynch (*Note: Town Economic Development Director Karen Earley and Town Attorney Allen Christensen were excused absent*).

**b. Pledge of Allegiance**

**EXECUTIVE SESSION – 5:50 PM**

1. An executive session Pursuant to:

- ◆ Colorado Revised Statute (C.R.S.) 24-6-402 (4)(b) Consulting with the Town Attorney on pending legal matters.
- ◆ Colorado Revised Statute (C.R.S.) 24-6-402 (4) (f) personnel matter.

Motion by George B., second by Bill B., to convene in Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of consulting with the Town Attorney on pending legal matters and pursuant to C.R.S. Section 24-6-402(4)(f) for the purpose of discussing a personnel issue. Those to be included in the Executive Session are the Council present EXCLUDING Mayor Hawkeye Flaherty only for the discussion with the Town Attorney (conflict of interest), Town Manager Ann Capela, and Town Attorney designee. *(NOTE: The personnel matter was discussed first, in order to allow the Council to continue without the Mayor after that discussion).*

The Council reconvened at 7:00 p.m. Direction was given to staff and no action was taken.

**2. Discussion of the Agenda**

- a. Items to be pulled from Action Calendar
- b. Items to be pulled from the Discussion Calendar.  
Item 15, Discussion/Action – Letter of Cooperation from Eagle River Water & Sanitation, was removed from the agenda (Tom S., Bill B., Jerry B., Darell W. voted aye)
- 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 Bill B., second by George B., to approve the agenda as amended; all voted in favor.

**3. Approval of the Minutes for July 6, 2005**

Motion by Darell W., second by George B., to approve the minutes from July 6, 2005 as amended (pp 10 of minutes); all voted in favor.

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

- Ginn Clubs & Resorts Update – Mr. Bill Weber

Mr. Weber, 627 Hernage Creek Road in Eagle, Colorado, updated the Council on the recent accomplishments. He stated that they had met with the Town Staff last week to discuss traffic and they would conduct a survey. Mr. Weber stated that survey would be completed to assess the traffic.

Hawkeye F. inquired if the Ginn Clubs and Resorts or the State would be conducting the survey. Mr. Weber stated that the State would be conducting the survey, but they would be participating in the survey as well. He added that they would be breaking the survey process into segments. Hawkeye F. asked if there would be certain segments completed first. Mr. Weber stated that they would start at the north end of Town and work their way south

Mr. Gallagher asked Mr. Weber to explain the type of traffic survey would be conducted. Mr. Weber stated that they would be conducting a traffic survey, not a road right of way survey. In other words, they would be counting traffic and developing recommendations based on the traffic count. Mr. Weber also stated that they would not be resurveying the Town's right-of-way.

Pete Vance, 562 Main Street of Minturn, Colorado, asked about employee housing and the necessity of them. Mr. Weber stated that they do not have an answer for that at this time. Mr. Vance expressed his opinion of the importance for this housing. Hawkeye F. stated that the employee housing could be something to consider including in the annexation agreement when it is developed.

Liz Campbell asked when the survey would be complete. Mr. Weber estimated that it would take about sixty days (*NOTE: The sixty days was not guaranteed*).

Andy Weisner, 811 Potato Patch of Vail, Colorado, inquired about the article in the Vail Daily today, which discussed the ski plans for the property. He asked if the Town Council was going to demand sketch plans.

Hawkeye F. assured the citizens that the Council would handle this situation properly. He stated all of the plans would be released to the Council, staff, and public during the annexation process. Hawkeye F. stated that the plans Mr. Weisner was asking for were not available yet.

Boots Ferguson, sitting in for the Town Attorney, stated that the Town Council could not comment on land use, zoning, or annexation issues until an annexation petition is filed. Therefore, a position by the Town Council cannot be taken at this point.

Dr. Tom Steinberg, 1022 Eagles Nest Circle of Vail, Colorado, stated that a potential life threatening condition of edema in the lungs and brain could result in those that are not otherwise residing in the higher altitudes. He suggested that full time paramedics be stationed at the top of the mountain at all times to help protect the people that would utilize the skiing facilities and residing on the property.

Council thanked everyone for his or her comments. Hawkeye F. asked for any other questions or comments.

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

- Mr. Rohn Robbins (Attorney), 445 Rawhide of Edwards, Colorado, appearing on behalf of Tim and Bernadette Simon, stated that the Council allocated funds for development of a park on Eagle Street (100 Block). He said that his clients were homeowners of 122 and 132 Eagle Street. Mr. Robbins stated that they wish to request for this item to be on the next agenda because they would like an opportunity to speak.

Ann C. stated that it was on the agenda for tonight.

Mr. Robbins stated it was his impression that he needed to be at the meeting tonight to request that it be placed on the next agenda. He then asked for the item to either be on

the next agenda or to be moved up on the agenda for tonight. There was some discussion as to why Mr. Robbins wanted to have the item tabled.

Ann C. stated that the funds for the river improvement were from DOLA and that the Council had directed staff to commit to DOLA that this project would be in substantial completion by the end of August 2005. She asked if this was still the direction of Council? If it was not the direction she would need to send a letter to DOLA requesting an extension on the project because it appears to her that the Town would be far from completion.

There was some discussion about Robert's Rules of Order as it pertained to the item.

- Ms. Liz Campbell, 512 Main Street, announced that the third and final fundraiser for Radio Free Minturn would be on Saturday, July 30, 2005. She explained that there had been an extension on the project because they have not been able to secure a lease on the tower. Finally, she stated that they anticipate finalizing the project in the fall.

Ms. Campbell stated that she met with CDOT to discuss the crosswalks. She said that they were very responsive and came out to paint the crosswalks. However, the crosswalk by First Bank could not be moved because of a lack of a sidewalk on one side of the road. Ms. Campbell discussed the possibility of bright yellow slow down signs and said that the decision to put those up would need to be done on the regional level. She said that she would be updated on that issue. Finally, Ms. Campbell stated that the survey that Ginn Clubs and Resorts is doing is desperately needed.

Ms. Campbell stated that speed limits were not set by CDOT based on density but rather on average speeds and she was concerned about the fast speeds. She suggested an automatic ticketing system. Ms. Campbell added that she felt that the Main Street parking would disappear and that the infrastructure of the Town would not be able to handle it. There was some discussion about the Town's right of ways.

The Council thanked those that spoke.

There was some discussion about the posting of the agenda and if it could be posted in other areas. *(Note for record: the Town's legal posting locations are set by annual Resolution and are in outside bulletin board boxes. Both the boxes and the land they are on are owned by the Town. It would not be advisable to place public notices on private land for a long term solution. Agenda's and Minutes are available at the Town Center and posted on the Town's web site at [www.minturn.org](http://www.minturn.org).)*

## **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. Economic Development Director

Ann C. stated that the staff was trying to get more community involvement and that the market was doing great.

b. Public Works

Ann C. stated that they were looking into purchasing a truck. Jay B. stated that the Water Plant has been cleaned up and keeps getting better in appearance. Eagle River Water and Sanitation District (ERWSD) has been helping out. Fred H. inquired about the rotomill situation. Ann C. stated that we have had some issues with the rotomill pile. She stated that a Notice had been received from Union Pacific and it was determined that the Town was not responsible for it through conversations with Greg Larson of Union Pacific.

c. Police

Lorenzo M. stated that the Town obtained a grant in the amount of \$8,600.00 for police equipment.

d. Treasurer/Clerk

Darell W. inquired about the bear resistant trashcans. Jay B. stated that he felt the Town was pretty much changed over, but a few may not have bear proof trashcans. There was some discussion about the trashcans and what they could do to help keep the bears away.

e. Town Planner

Wiley S. stated that the AdHoc committee met last week and discussed Chapter 16.

f. Town Attorney

g. Town Manager

h. Town Council

Tom S. asked George B. to inquire about having the ECO bus go to the south end of Town as well.

Darell W. stated that he attended a meeting regarding water issues in Ann C.'s place because she was out of Town. Darell W. updated the Council on the meeting.

Jerry B. discussed the lack of help in the Public Works Department because of the non-replacement of the Directors position. Hawkeye F. stated that he would mow the weeds on the 100 block of Main Street.

## DISCUSSION, HEARINGS AND ACTION ITEMS

### 8. Discussion/Action - Advising Quasi-Judges by: Town Manager & Town Attorney.

- a) Bias
- b) Conflict of Interest
- c) Prejudgment
- d) Ex-Parte Contacts/Communication

Ann C. stated that she put this item in the packet as an educational process to assist the Council. She added that she ran it by Allen C.

Boots Ferguson stated that any community making challenging decisions should know all that they can about the situations. He said that the Council needed to be mindful, but not to discuss matters pending the discussions/meetings/decisions. He reminded the Council that there are rules of conduct that need to be followed, especially given the community interest in the current situation. There was some discussion of how to handle certain situations.

**9. Discussion/Action – Ordinance 16 – Series 2005 (Second Reading): Great Outdoors Colorado – authorizing the Town Manager to enter into an agreement with GOCO.**

Motion by Bill B., second by Tom S., to approve Ordinance 16 – Series 2005 (Second Reading) as presented; all voted in favor.

The Council took a break from 8:20 p.m. until 8:28 p.m.

**10. Discussion/Action – Preliminary PUD and Final Plat at Lot 29 and 31 of the Minturn South Addition Subdivision by Wiley Smith.**

Hawkeye F. stated the ground rules for the Public Hearings while waiting for Darell W. to rejoin the meeting. Once Darell W. took his seat Hawkeye turned the meeting proceedings over to Darell W. and stepped down from his seat stating he held a conflict of interest in that he owns land adjacent to the property.

Darell W. opened the Public Hearing and referred the floor to Wiley S. Wiley S. introduced the case to the Council and the public. He explained that the applicants have met all of the conditional requirements for the PUD.

Shelly Mello, 274 Brett Trail South of Edwards, Colorado, stated that this was the third appearance before the Council. She utilized the information provided in the packet and sketches (also available in the packet) to explain the changes and plans for the Preliminary PUD and Final Plat. She stated that the sewer line needed to be replaced and they would do that as part of the project. She said that they were requesting a 21% deviation instead 25% for the open space. Ms. Mello stated that they have exceeded the parking requirements and promised that the garage use as a parking area would be in the HOA declarations. She added that the HOA would maintain the road, including snow and structural maintenance, and cross-easements and declarations would be written to that effect. There would be eleven homes with a maximum of seven accessory units. Through drainage and engineering studies they determined that drainage would not be needed to go onto Forest Service's land. She explained that they were proposing two large concrete vaults that would be sub-surfaced, one at each end of the neighborhood. Ms. Mello stated that they received their CDOT permit last week. Finally, she briefed the Council on the project that remained the same.

Darell W. asked for opponents.

Tom Warzecha, 1191 Main Street, stated that he wanted to discuss the drainage issues. He asked the Council if they could have the engineer explain it further.

Lee Whittington (Engineer), 397 Edwards Village Blvd of Edwards, Colorado, used the sketches to demonstrate the drainage system proposal. He explained that they have created a high spot on the property so that the water would drain in two different directions to both ends of the property. He stated that when then tanks fill up, it would go backwards through the pipe and overflows into the drainage channel.

Ann C. asked for the Applicant to add operable to vehicles in the stipulation for the garage use.

Mr. Warzecha stated that he wanted to address the parking for the accessory units. Ms. Mello explained that the parking provided would accommodate the 11 units and the accessory units. Finally, Mr. Warzecha commented on the open space. Ms. Mello explained that they did not include the decks, the road, or anything in the setbacks in the open space calculation. Therefore, if they had, they would meet the 25% open space requirement. The Council reviewed its packets. Tom S. stated that he felt there would be more open space by approving the project as presented (PUD) compared to a subdivision.

Fred H. asked if the applicant was to install a sidewalk on Main Street how far along they would build it. Ms. Mello stated that they could only commit to building the sidewalk on their property.

Darell W. inquired about the opposition of putting in a sidewalk along the road in the neighborhood. Ms. Mello stated that due to it being a small neighborhood, the kids would be playing in the road.

George B. asked about the lighting. Ms. Mello stated that the lighting would be low-impact lighting so it would provide direction, but would not invade the homeowner's property.

Darell W. asked Wiley S. to make a Declaration of findings.

Tom S. asked if the Town could have the chance to review the Homeowners Association. Ms. Mello stated that was part of the Final Plat requirements. Tom S. stated that he would like to see more single-family homes as apposed to condominiums in Minturn, so in that sense he felt this proposal was beneficial for the Town.

Wiley S. stated that there was no Declaration of findings in the Town Code. He recommended that the Council look at the summary in the staff report and review the motions provided.

Darell W. closed the public hearing at 9:10 p.m.

Motion by Tom S., second by Bill B., to approve the Preliminary PUD and Final Plat at Lot 29 and 31 of the Minturn South Addition Subdivision as presented; five voted in favor, Darell W. voted nay (*NOTE: Hawkeye F. abstained*)

**11. Discussion/Action – Minor Subdivision and associated Variance Request at Lot 10-Block G Booco's Addition by Wiley Smith.**

Hawkeye F. rejoined the Council at 9:20 p.m. and introduced the item.

W. Smith stated that the Applicants asked for the Council to table the item.

Motion by Fred H., second by Bill B., to table the Minor Subdivision and associated Variance Request at Lot 10 – Block G Booco's Addition until August 3, 2005 as presented; all voted in favor (*NOTE: Tom S. was abstain*).

**12. Discussion/Action – Ordinance 17 – Series 2005 (First Reading): An Ordinance entering into an agreement with Lafarge of North American to lease space from the Town of Minturn by: Town Manager.**

Hawkeye F. read the ordinance.

Ann C. briefed the Council on the Ordinance. She explained that Council directed her to negotiate a new proposed lease since the current lease will expire as of October 2005. Ann C. stated that the new terms in the agreement were provided in the packet. She reviewed the terms of the agreement.

Fred H. inquired about the hours of operation. He stated that the hours were from 7:00 a.m. to 7:00 p.m. Monday through Friday and asked if there would be any deliveries prior to 7:00 a.m.

Steve Wood of Lafarge, 252 Ring Neck in Eagle, Colorado, stated that there would be no deliveries prior to the normal working hours unless they were given expressed permission from the Town upon such an occasion.

Tom S. stated that he was confused because Ginn Clubs and Resorts said there would not be a batch plant.

Ann C. stated that there were discussions about where to put the batch plant, but she said that she did not recall Ginn agreeing or disagreeing with anything.

Mr. Wood stated that from preliminary discussions with Ginn, he gathered that they would work on this.

Tom S. stated that needed to be settled before it went any further. He added that the hours of operation were not beneficial for the citizens residing in the south end of Town. In his opinion, starting at 7:00 a.m. depreciates the value of the properties on the River in the south end of Town. Finally, he stated that Ginn said no at the last meeting and this lease proposal states that Ginn affirms.

Jerry B. stated that he agreed with Tom S. because he was not comfortable with moving forward based on the contingencies.

Hawkeye F. stated that they should give an idea as to what the Council expects out of the lease agreement.

Jerry B. asked how many acres the property was. Jay B. stated that it was less than two acres.

There was some discussion about the price change in the lease. Jay B. explained that there was not much of a price difference and suggested that there was not much of a benefit to the Town because more product would be produced compared to that of the past. Mr. Wood noted that the company paid \$33,000.00 during its busiest year, and now they would pay \$60,000.00.

Jay B. stated that the reading of the payments was incorrect. He explained that it would need to be reworded. Council directed Jay B. to make the proper corrections and to put together a spreadsheet with comparisons (past vs. future) of the financial costs/burdens.

There was some discussion about the water and sewage that Lafarge planned to bring up to the property at its expense.

Mr. Gallagher asked if Lafarge had any other plans to build another batch plant in Eastern Eagle County. Mr. Wood stated that they did not intend on building another plant.

Mr. Gallagher asked if Ginn Clubs and Resorts had been informed and given a copy of the proposed agreement. Mr. Wood affirmed.

Tom S. stated that the traffic was a major issue for the Town. He stated that \$5,000.00 a month was not worth the amount of increased traffic because the citizens are most concerned about the traffic. Tom S. stated that projections for the future should be supplied. He expressed his concern for the Town making a poor business decision.

There was some discussion about the option to renew after five years. Tom S. did not like favor giving that option to Lafarge. He felt that should be up to the Town to decide. Fred H. stated that he thought the Council had come to the consensus of a five-year lease and nothing more. The Council decided that it would like to pursue a five-year lease without the option to renew. Staff was directed to renegotiate the terms of the lease with Lafarge.

Motion by Tom S., second by Fred H., to table Ordinance 17 – Series 2005 (First Reading) until August 3, 2005; all voted in favor.

**13. Discussion/Action – Ordinance 18 – Series 2005 (First Reading): An Ordinance entering into an agreement with the Town of Avon – to service the Town of Minturn vehicles and equipment by: Town Manager.**

Hawkeye F. read the ordinance. Ann C. briefed the Council on the ordinance.

Hawkeye F. asked if Ordinance 18 – Series 2005 applied to all vehicles; Ann C. affirmed.

Fred H. praised the work provided by the Town of Avon. Mr. Bob Reed, Director of Public Works, in Avon, Colorado, invited the Council to come to the shop and take a look around. He introduced the Fleet Manager, Dan Higgins. Mr. Reed and Mr. Higgins explained what they currently do and what they could do for the Town of Minturn. There was some discussion about the expenses for work on the vehicles.

Direction was given to Jay B. to provide a projection on the vehicle maintenance costs (Cost Analysis).

Motion by Fred H., second by Tom S., to table Ordinance 18 – Series 2005 (First Reading) until August 3, 2005 as presented; all voted in favor.

Council took a break at 10:05 p.m. and reconvened at 10:12 p.m.

**14. Discussion/Action – Final Work Plan for site Investigation of Bolts Lake and Eagle Mine site OU-1 Development Areas, Battle Mountain North Development by: Town Manager.**

Ann C. briefed the Council on the action item and asked for any questions. Hawkeye F. pointed out that Ginn did this voluntarily.

**15. Discussion/Action – Letter of Cooperation from Eagle River Water & Sanitation District by: Mayor Flaherty.**

Jerry B. requested this item be removed from the agenda. (4 in favor; passed)

**16. Discussion/Action – Reconsideration of motion to “go forward with 100 Block of Eagle Street Park” by: Darrel Wegert.**

Hawkeye F. excused himself due to a conflict of interest.

Motion by Darell W., second by George B., to reconsider the motion; Darell W., Bill B., and George B. voted aye; Tom S., Fred H., and Jerry B. voted nay. Motion failed.

Hawkeye F. rejoined the Council.

**17. Discussion/Action – Ordinance 19 – Series 2005 (First Reading): Encroachment Agreement (first reading) Lot 5 and Lot 6, Block B, Booco Addition – 146 North Main Street, The Saloon by: Town Planner.**

Motion by Tom S., second by Fred H., to table Ordinance 19 – Series 2005 (First Reading) until August 3, 2005; all voted in favor.

FUTURE AGENDA ITEMS / WORK SESSIONS

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

- Mike Wheelersburg – Minturn Towne Homes Update – 8/03/05
- Ginn Clubs & Resorts – Development Update – 8/17/05
- Manager Goals – next agenda – request Council members to bring their copy
- Bring Town Code to the meetings
- Survey results – work session
- Green binder – all of Council needs it except Hawkeye F. and George B.

**19. Set Future Meeting Dates**

- 1) Council Meetings
  - August 3, 2005
  - August 17, 2005
  - September 7, 2005
- 2) Planning & Zoning Meetings
  - July 27, 2005
  - August 10, 2005
  - August 24, 2005
- 3) Other

**20. Adjournment**

As there was no further discussion the meeting was adjourned at 10:20 p.m.

Motion by Jerry B., second by Fred H., to adjourn the regular meeting; all voted in favor.