



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, October 19, 2005**

**WORK SESSION 5:45 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

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 P.M.**

- 1. Discussion of Status of Old Town Hall – Karen Earley**
- 2. Status of Pictures of Mayors and Council Members – Karen Earley**
- 3. Other**

**REGULAR SESSION – 7:00 P.M.**

**1. a) Call to Order**

Mayor Gordon "Hawkeye" Flaherty called the meeting to order at 7:00 p.m. Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Fred Haslee, George Brodin, and Darell Wegert and Jerry Bumgarner (*Note: George Brodin was excused absent.*)

Staff present were Ann Capela, Town Manager; Jay Brunvand, Town Clerk/Treasurer; Karen Earley, Town Economic Development Director; Wiley Smith, Town Planner; Derrick Slocum, Town Planner 1; Allen Christensen, Town Attorney; Lorenzo Martinez, Police Chief; and Rod Cordova, Public Works Director.

**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.

Move Item 12 after item 6 to accommodate the parties.

Emergency Item regarding staff direction on the Minturn Town Hall, 243 Boulder Street.

Motion by Bill B., Second by Tom S. to approve the agenda as presented as modified above all voted in favor. *(Note: George Brodin was excused absent.)*

**3. Approval of the Minutes:**

- September 21, 2005

Motion by Fred H., second by Bill B., to approve the minutes from September 21, 2005 as presented; all voted in favor. *(Note: George Brodin was excused absent.)*

- October 5, 2005

Motion by Fred H., second by Darell W., to approve the minutes from October 5, 2005 as presented; all voted in favor. *(Note: Jerry B. abstained as he was absent from the October 5, 2005 meeting, George Brodin was excused absent.)*

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

Tom S., in response to Bill B. questions, updated the status of La Playuela Park. Karen E. informed the Council that they would be having a party for the kids on Halloween night at the park.

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

Floyd Duran, 645 Boulder Street, commented that he disagreed with what Fred H. had stated regarding the need for all current and future council members to follow the code of ethics. The minutes of the 9/21 as approved reflect the discussion held on September 21. It was noted that

section of the minutes was a transcription of the discussion between Mr. Floyd Duran and the Council.

Mr. Duran distributed a letter for the council to review indicating his request of the Rail Road for property lease for his business.

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

Council directed staff to proceed as follows on storage use of the Old Town Hall (243 Boulder St.):

- Obtain a price and if reasonable have the siren removed from the roof.
- Continue to clean the interior and haul the accumulated junk to the trash.
- Review and organize the records stored
- Remove the concrete that was placed to reduce mud in various places including the south side of the building.
- Repair the outer siding as necessary and as cost allows.
- Once the snow stacks on the roof no one is to enter the building.
- Maintain snow removal and landscaping as required for the seasons.

## STAFF REPORTS AND OTHER ITEMS

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

#### a. Economic Development Director

Karen E. informed the Council and Citizens of upcoming Economic Development meetings and the information that will be presented at the workshops.

#### b. Public Works

Rod. C. stated that he had a leak detection company out and found no significant leaks in the Town water system. He stated they had found and corrected several small concerns and would continue. He stated that he did not have any real large water loss areas. He stated that the next step is the actual home usage numbers. This is being addressed.

The rotomill pile is being addressed, if anyone would like some rotomill let him know and they will make sure they get it. Public Works are addressing pot holes as they find them, if you find some potholes let the Town know so that they can fix them. They also will begin to work on coldpatch material for the winter repairs. Rod C. stated they are working on rebuilding the sand filters, the rotomill pile and the torn flags about town.

#### c. Police

The department conducted three interviews for a new police officer, he would keep them informed. Lorenzo showed the Council and Citizens of the slowing down for children signage and thanked the Ginn CO etc for their support. He also stated they had been working on the Halloween events for the kids.

d. Treasurer/Clerk

Jay stated that he would have a stirring presentation on the budget in the form of a list of funded and unfunded requests for the Public Hearing for the Council this evening and encouraged all in the audience to stay for the hearing. *(Note: this report was taken up last and flowed directly into agenda item 8.)*

e. Town Planner

Wiley informed the Council that the questions that were directed to be answered at the last meeting are answered in his staff report regarding what can be extracted from a PUD process. Wiley stated he could not ask for offsite improvements because we do not have a method to handle such requests. This is being addressed for future needs.

f. Town Attorney

g. Town Manager

Ann C. thanked the staff for the work on the public safety and economic development work.

Ann C. stated that she had attended the previous School Board meeting last week regarding the possible annexation of the School/Maloit Park area into the Town of Minturn. Their staff was directed to work with the Town as to this potential.

h. Town Council

DISCUSSION, HEARINGS AND ACTION ITEMS

**8. Public Hearing – Fiscal Year 2006 Budget, By: Town Treasurer.**

Hawkeye introduced the agenda item and referred it to Jay B. for detail. Jay B. noted that tonight would be a Public Hearing and an opportunity for Council direction and comment on the budget.

Hawkeye formally opened the Public Hearing stating this would be a public hearing on the Fiscal Year 2006 Annual Budget. Anyone wishing to comment on the budget should state their name and address for the record.

There were no comments.

Hearing no citizen comments Hawkeye closed the Public Hearing and opened the discussion for Council comments. Jay B. noted the items included in the packet. As directed by Council a list of items was compiled indicating the various budget requests, if the request was funded and where and who made the request.

Hawkeye made some general comments on the report supplied by Jay B.

Darell W asked about the request to irrigate the parks; it is covered. It was clarified that the irrigation for the Town Center was the property located at 302 Pine Street not the property located at 243 Boulder Street.

Tom S. stated his request is for the 100 block of the sidewalks and the lights in that area. This request, although not specific, is to be addressed out of the Streets and Sidewalks line item, account number 01-06-5352. This request will be reviewed as part of this line item in conjunction with all Streets and Sidewalks needs.

Ms. Cissy Olsen, 261 Main St, asked about her sidewalk. She noted that her sidewalk is not tall enough and the sidewalk ices over in the winter due to melted snow in the gutter. Fred H. stated that the policy of the Town has been the citizen maintains and repairs the sidewalks because they are in CDOT's right of way. This policy has been applied town wide in the past. Ms. Olsen asked what could be done as the highway is increasing in height each time it is overlaid thus effecting the sidewalk. Ann C. stated the policy has been on the property owner's dime. Fred H. stated that perhaps the Town can orchestrate a reduced cost for citizens for concrete through Lafarge.

**9. Discussion/Action - Minturn Re-cycling proposal – Matt Scherr.**

Hawkeye stated the issue and introduced Matt Scherr of the County Recycle program. This is not part of the County however, the County has committed to funding a portion of their budget. Mr. Scherr is asking the Town for funding assistance and drop off areas to address the continuing need. Mr. Scherr stated his organization is going to take over the sites, maintain and manage them, and clean the sites up. Mr. Scherr stated that every citizen using Waste Mgmt and Honeywagon has recycle service available for free.

Mr. Scherr stated the drop off site in Minturn is needed until the word can get out of the free service and allow his organization to get up and running.

Darell W. asked if the campaign would be educating on the pickup service or what; a media campaign will be targeted at the curbside and the drop off center. Mr. Scherr stated the service is provided by the garbage companies not by calling the Town or the District (they handle our billing) as this would not be part of the bulk contract that we have with Waste Mgmt.

Motion by Tom S., second by Darell W., to fund this request in the amount of \$1,500 in the FY2006 budget; all voted in favor.

Jay B. stated in response to questions this money request would come from the Water and Trash fund, Waste Mgmt contract line item (02-06-5353). This line item is funded by trash revenues and should cover this additional expense. Jay B. noted that the proposed budget does include a 5% increase in fees for FY2006.

**10. Discussion/Action – Parking Lease Renewal, Tim Simon (100 Block of Eagle Street)  
By: Town Manager**

Hawkeye introduced the issue and introduced Mr. Rohn Robbins, attorney representative for Mr. Tim Simon. Ann C. stated this agenda item is a request for Council to review the existing parking contract issues and direct Staff to renew or not the Simon parking contract.

Mr. Robbins stated he would be educating the Council on the events and sequence of events surrounding the proposals and the packet information as well as the time line of the events leading up to tonight's presentation. Mr. Robbins noted his key concerns with the information in the packet.

- It is noted in Ann C.'s October 19 memo that there was no additional financial commitment either from Mr. Simon. Mr. Robbins stated that it is given the appearance that all this happened at one meeting; in fact this is not the case.
- Mr. Robbins stated that he is quoted as saying they would be bringing a law suite against the Town if this is not settled in their favor, this is not the case either.
- Mr. Michael Gallagher is quoted as a representative of the Ginn Group. The Ginn Group is willing to assist the Town by guaranteeing any lost money due to the DoLA money being lost due to a time over run and that they would assist in other parking issues in that area, although that was not clear of the extent.
- Mr. Robbins also stated that, although the Council directed Staff to work toward a resolution, after the previous Council meeting Staff refused.
- Mr. Robbins stated an additional concern was that of the 30 foot set back. He stated that, by definition, a structure (MMC 16-17-22) does not a parking surface.

Mr. Robbins requested the Council to once again direct staff with clear and specific direction as to what Council's desire is for the parking in this area.

Hawkeye asked what his purview would need to be as a conflict due to his residence on Main Street and backs to Eagle St. Discussion ensued as to defining what would be discussed so as to address Hawkeye's concern of conflict.

Darell stated that he felt this was a discussion of the Eagle St parking not just the Simon Parking Contract. It was determined the entire stretch of the 100 block of Eagle Street would be addressed, with that Hawkeye stated he would step down and turn the meeting over to the direction of Mayor Pro Tem Darell.

Mr. Michael Gallagher addressed the Council on the actual offer agreed to by Mr. Ginn and his Ginn Club and Resorts. Ginn C&R stated they would guarantee the \$45,000 in question in the event it was lost due to the Park Contract running past completion. Additionally Ginn C&R stated it would also assist in other parking in the area. Allen C. stated that the Town's legal team has recommended that this would be a difficult predicament for the town to accept the Ginn funding.

Mr. Randy Milhoan, 146 Williams St, addressed the Council as the person that presented the parking petition to Council at a previous meeting. Mr. Milhoan noted the amount of the parking and the need for commercial and residential parking in the area. He stated that the petition addresses and indicates the direction the individuals and businesses in that area desire the parking to be maintained and considered a standing need. The petition requests the consideration and the discussion with those involved in the area of the parking issue. Mr. Milhoan read the petition question. He stated he was asking the Council to hear the petition signers and listen to the citizen's request by re-hearing the parking concern.

Allen C. clarified for the record that this petition was an expression of the signers of the parking concern; it was not a petition asking the Council to consider an Ordinance or Resolution.

Ms. Marka Brenner, Minturn Realty, addressed the Council. She said she had a significant amount of files that represent the parking in the specified area extending over 30 years. She stated the DoLA grant was originally for a restroom and information area not for a park that would remove parking. She stated the removal of the parking spots would not directly effect her however it would generally affect her in that parking in that area is very important. Darell W. confirmed by question that Ms. Brenner was not against the proposed park but only the removal of the parking spaces in the area.

Mr. Gallagher stated that Mr. Ginn is only interested in removing the issue of the \$45,000 so that the Council could review the issue without that burden.

Jerry B. addressed the lease noting the parking along Main St. was not in conflict. He stated that parking would continue to exist down closer to Toledo St and in the Municipal Parking Lot and that this would not change. He did not feel it was an over burden to ask for the leasee to walk a block. Jerry B. stated that he felt the parking issue was a carry forward of other concerns and that it was unfair to address this issue as not working with the citizens.

Bill B. stated the parking at the Basketball court was for the Wasmer Building parking lease (SW corner of Toledo and Main St). Mr. Milhoan noted for the record the point was the overall loss of parking spaces, not the specific parking leases in the area. The parking in question is for a commodity.

A short recess was called in order to obtain the leases being discussed.

Mr. Rohn Robbins stated that, per our town code, parking must be within 100 feet of the property.

Mr. Tim Simon, property owner, addressed the council of what he leases along Eagle Street. He also stated that the Town uses these spaces for daily and market parking. He stated that he has maintained the lease since 1991 and that it is essentially the exact same parking being discussed. He did not threaten to sue the town and the parking is defined not as a structure therefore does not conflict with the setback concern. Mr. Simon stated he felt the park would be a wonderful addition to the area but not at the expense of the parking space loss.

Allen C. stated the lease is clear and read the lease provisions for both the Wasmer and Simon parking agreements. Ann C. stated the consideration for the Council is to give Staff direction on the Simon parking. Darell stated he felt the request directed at council is to shoot out the possibility of parking in that area. He stated that he felt the intention is to upgrade the river area and the number two thing is to not eliminate the parking in the concerned area. Darell W. stated that if we go with the lease we are back in the same boat and that we need to address the need of the park and that the parking would be determined from that. Mr. Robbins stated the discussion is both issues: the park and the parking. Allen C. stated the letter in question does address both the park and the parking.

Fred H. stated it boils down to what is the best for the community. Fred H. stated that because we have limited access to the river other than the parks it is important that we maintain the 100 block and ½ of the 200 block because that is the area the Town owns. This access to the river is the most important, not the issue of the parking.

Discussion ensued as to how accessible is the river due to the steepness of the river bank. Mr. Robbins stated they are not opposed to the park. Council has previously directed Staff to work with the Simon's on the park and parking which Staff refused.

Tom S. stated that he felt the parking along the river was the wrong direction and the park was an asset to the buildings where the parking was a detriment to the buildings. He felt the Town residents and businesses would be better off with the park and not have the parking in that area.

Bill B. stated that if the Simon's had a plan that includes parking they have prepared and would like to present it to the Town Council he would like to listen to that plan even if it meant postponing the decision for a meeting or so.

Allen C. stated his discussion with the attorney's is that we as the town can not take the \$45,000 guarantee from the Ginn C&R and that should weigh in their consideration.

Darell W. asked what the enforcement problems would be if parking was removed; Lorenzo stated it would be a question of supply and demand, his office would be issuing tickets but he felt a number of violations would be done. Ann C. stated that the park construction should begin in the next week or so and last about a week. If we waited on the decision she would need to go back to DoLA to explain and request more time to complete the project.

Fred H. asked about the proposed parking concept prepared by the Simon's. Did Troy Thompson, ERC, see the design; yes. Ann C. stated the letter addressing the parking concern from ERC was in the packet. Fred H. stated he felt it important to allow ERC and the Simon's to meet to address the parking and that we would go with the proposal of ERC.

Jerry B. stated and informed the Simon's and the audience that this is their notice the subject will be on the November 2<sup>nd</sup> agenda and that will be the final decision date.

Tom S. felt this was not necessary and that it went against Roberts Rules of Order. Allen C. stated he can work with Roberts Rules to allow or disallow as Council desires.

Motion by Fred H., second by Darell W., to defer the decision until November 2 when ERC can review and recommend the Simon's parking proposal and that ERC's recommendation would be complete with financial and time costs and who bears those costs; all voted in favor, Tom S. and Jerry B. voted no (Motion passes). (*Note: George Brodin was excused absent.*)

At this time Darell W. turned the meeting over to Hawkeye who resumed his seat.

**11. Discussion/Action – Request to Vail Resorts to deed VR property located below Lionshead/above Minturn Towne Homes to the Town of Minturn by: Mayor Flaherty.**

Hawkeye introduced the item. Hawkeye asked permission to write a letter or have a letter prepared to request permission to dedicate the land in question on the hill side behind the Minturn Towne Homes to be a dedicated open space easement. Jerry B. was directed to contact Jim Gonzalez of the local Rocky Mountain Elk Foundation to request they write the letter or advise the Jerry B. would report back to Ann C. for follow up. Ann C. would report back to Council as information became available.

**12. Discussion/Action – Report on crosswalks in Minturn, CDOT reply to Minturn's request by: Town Manager.**

*Note: This was handled first on the Discussion/Action Item section of the agenda.*

Hawkeye introduced the item and turned the discussion over to Ann C. Ann C. introduced Mr. Charles Myer, CDOT-Grand Jct. Mr. Myer introduced the CDOT representatives that had accompanied him. He stated the importance to maintain the signing, striping, and maintenance of the highways. Along with the responsibility comes the liability. He thanked the opportunity to work with the Town staff on the needed crosswalks and signage both existing and proposed.

Mr. Myer introduced Mr. Bill Crawford, CDOT Region 3 representative. He stated he has been to Minturn to meet with the staff and citizens. The locations that currently exist are the best locations. They are installing and moving the signage to better highlight the crosswalks. He is requesting in-street pedestrian signs to be placed on 30lb bases in the street in the double yellow line at two of the cross walks. These signs are best for this area because they will inform the driver of the state law and the existence of the crosswalks. The work will be assessed and if necessary future work will be completed once it is determined if this fix is working. The signs will be maintained by the Town. A spare will be given to the Town.

Ms. Liz Campbell, 512 Main St, thanked the staff and CDOT for the response to her complaint; they have been very responsive. Ms. Campbell stated one issue unaddressed is that some of the seniors are crossing anywhere they can and not using the crosswalks. She stated some communities place flags on the sides of the streets and those that J-walk do so with a flag and then replace it on the other side of the street in a bucket of sand for the next person.

Mr. Michael Gallagher, 475 Pine St, asked questions of the placement of the crosswalks and that several crosswalks are not new but that they have been worn away. CDOT stated they would

review the historical data and determine if the most, best and greatest use is being derived from the existing and proposed crossing areas.

Mr. Robert Martinez, 800 S. Main, clarified the speed limits and the conflicts with the cross walks through the south end of Town. He stated that something should be done to help the children in that area and asked if this could be addressed this fall rather than in the spring. Mr. Meyer stated they would do what they could with the weather conditions changing. Hawkeye asked if the Town supplied the paint could we address it ourselves; no they should be approved by CDOT. The historical cross walks that have been removed, again, will be reviewed. School Crossing and school bus stop signage would also be addressed.

Ms. Brenner, Minturn Realty, asked about the first corner coming into town at the Eagle Street/Bellm Bridge area would be addressed; yes they could be worked with signage and paint.

Mr. Jeff Houston, 164 Rail Road, the Eagle Street Cross walk is very dangerous. He stated if you have crutches vehicles will stop.

Ann C. thanked CDOT for their fast action on the signage and solutions.

**13. Discussion – Town Office renovation, update by: Town Manager.**

Bill B. asked where we would store the equipment that would be removed. Ann C. stated that the washer/dryer, stove and refrigerator would be the only items removed. These would be placed in storage or used at the Public Works office and did not see this as a huge obstacle.

**14. Discussion/Action – Union Pacific letter. By: Town Manager**

Fred H. stated this doesn't "smell" right. He asked how the rotomill pile was placed and on who's authority. Ann C. was directed to pursue the issue for answers. She was further directed to remove Town property so that we would not incur a lease cost from the Rail Road.

Ann C. stated the intent was to clear the concerns addressed and at the least cost to the Town. It was noted that she had no intent to harass Mr. Floyd Duran.

EXECUTIVE SESSION

**15. EXECUTIVE SESSION:**

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

Motion by Fred H., 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 water and legal matters. Those to be included in the Executive Session are the Council present, Town

Manager Ann Capela, and Allen Christensen, Town Attorney, Town Water Attorney Anne Castle as needed by phone. Mayor Hawkeye Flaherty is to be excluded due to a conflict of interest.” (Note; George Brodin was excused absent.)

## FUTURE AGENDA ITEMS / WORK SESSIONS

### 16. Items to be added to future agendas / work session

- Mike Wheelersburg – Minturn Towne Homes Update – 11/02/05
- Public Hearing on the Presented Budget: Budget adoption (first reading), Mill Levy adoption (first reading), Town Fee Schedule (first reading), and FY 2005 Supplemental Appropriation. – 11/02/05
- Conditional Use Review for 421/431 Main Street – tabled until November 16, 2005
- Budget adoption (final reading), Mill Levy adoption (final reading), Town Fee Schedule (final reading), and FY 2005 Supplemental Appropriation. – 12/07/05
- Ordinance 26 – Series 2005 (First Reading): An Ordinance authorizing the Mayor to enter into a lease agreement with the Radio Tower Contract. – Tabled until completed
- Personnel issues at the November

### 17. Set Future Meeting Dates

#### 1) Council Meetings

- November 2, 2005
- November 16, 2005
- December 7, 2005

#### 2) Planning & Zoning Meetings

- October 26, 2005
- November 9, 2005
- November 23, 2005

#### 3) Other

### 18. Adjournment

In that there was no further business the meeting was adjourned at 10:25pm.

---

Mayor, Hawkeye Flaherty

ATTEST:

---

Town Clerk, Jay Brunvand