



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, December 21, 2005

REGULAR SESSION 5:45

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

REGULAR SESSION – 5:45 P.M.

1. Call to Order

a. Roll Call

Mayor Pro Tem Darell Wegert called the meeting to order at 5:48p.m. Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Fred Haslee, George Brodin, and Jerry Bumgarner
(Note: Hawkeye was absent)

Staff present were Ann Capela, Town Manager; Wiley Smith, Town Planner; Derrick Slocum, Town Planner 1; Allen Christensen, Town Attorney; Boots Ferguson, Town Land Attorney, and Anne Castle, Town Water Attorney.

b. Pledge of Allegiance

2. Executive Session (5:45pm – 6:55pm)

- Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purposes of consulting with the various Town Attorney's regarding Water Issues.

Motion by Tom S., second by George B., to convene in Executive Session pursuant to 21-6-402(4)(b) C.R.S. for the purpose of discussing pending water and legal issues. Those to be included in the Executive Session are the Council present, Town Manager Ann Capela, Allen Christensen, Town Attorney, Boots Ferguson, Town Land Attorney, and Anne Castle, Town Water Attorney; all voted in favor. (*Note: Hawkeye was not included due to a conflict of interest Hawkeye arrived at 6:15.*)

The Council returned from Executive Session at 7:06 no decisions were made as a result of the Executive Session. Darell W. turned the meeting over to Hawkeye.

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.

Jay B. noted a revised agenda had been placed at their desks and recommended consideration of that agenda which reflected the updated Ginn Annexation items.

Motion by Tom S., second by Bill B., to approve the revised agenda as presented; all voted in favor.

3. Approval of the Minutes:

- December 7, 2005

Motion by Darell w., second by George B., to approve the minutes from December 7, 2005 as amended below; all voted in favor.

- Page 10, name of Todd should be Ty.
- Page 8, Dir of PW and Transportation

5. Special Presentations/Citizen Recognition/Project Update

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

7. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

8. Reports/Correspondence/Announcements/New Business

- a. Economic Development Director
- b. Public Works

Fred H. noted the cars parked on Pine St. all night so that the snow is not being removed. Could they make an effort to clean up in the 200 block of Pine; yes they will take care of it.

Kudos to the PW's for their work during a tough season. Rod C. stated that they would be working to form a routine to develop a snow dump removal process.

- c. Police

Hawkeye noted the Christmas wish that was included from the Police Dept.

- d. Treasurer/Clerk
- e. Town Planner

Hawkeye asked when do we plan on having the new P&Z codes updated; Wiley stated that he would have the updates past out. Wiley stated that he has forwarded the final drafts but would make sure that they get the updates in their boxes.

- f. Town Attorney

Allen C. stated that Andy Weisner of Vail requested the concerned citizens contact their Council Members; Allen C. stated that all information should come through Staff due to the fact we have a petition request that has been turned in and a process needs to be followed to allow all the opportunity to review the concerns as a council.

- g. Town Manager

- Update Council on School Bus signage and cross walks

Ann C. updated the Council and stated that the School District is in support and that she would be getting with the state for their issues.

Ann C. introduced Torrey Maxwell the new Admin Tech. She will begin January 3, 2005.

- h. Town Council

Bill B. asked the status of the heat tape around the building; Rod C. stated that some of the heat tape is not working they will be worked on as time allows.

Jerry B. noted that Chuck Weister a former member of the P&Z Commission and town citizen passed away last week.

DISCUSSION, HEARINGS AND ACTION ITEMS

- 9. Discussion/Action – Ginn Annexation – Resolution 11 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).**

Allen C. stated that the preliminary resolution was handed out over the weekend, the packet before the Council this evening represents the final and actual copy for approval. Hawkeye called for a 5 min recess to allow the Council time to read the formal resolutions.

Hawkeye called the meeting back in to session at 7:35 and read Resolution 11-Series 2005 Boots gave a short presentation noting that the State requires the Council to move forward in a timely manner to approve the resolutions stating substantial compliance. Boots noted that 9 separate petitions have been submitted, one for each parcel, covering 3 actual Ginn companies covering a total of 4300 acres. Boots referred to a map of the property to orient the Council and Citizens as to the annexations requested.

Boots stated the petitions were filed on Nov 17 with the Town Clerk, on Dec 7 Council referred them to Staff for determination of substantial compliance and tonight we will move forward by confirming that each petition is in substantial compliance with the relevant Colorado Revised Statutes (CRS) and setting the date which the Public Hearings will begin. The Town has received 36 total maps along with the petitions which detail the property to be annexed. According to CRS, 1/6 of the annexed property must be contiguous to the Town. Boots detailed on the map how this contiguous land determination works. The cause for the 9 petition requirement is substantially for legal reasons; the Statutes only require one hearing that would cover all 9 petitions. Boots noted this action tonight is not a formal hearing; it is simply to allow the Council to approve the substantial compliance and initiate annexation proceedings. Several things will be done tonight, a date, time, and place to be set being 7pm on February 15, 2006. Specific notice requirements will be assigned in conformance with the resolutions. A map is required to be filed by the applicant which will show zoning, water needs etc which has been done by the applicant. Once Council sets the hearing any citizen can comment and question the application. It is recommended this comment period be done during the formal Public Hearing times in person or in writing. Once done the Town can consider both zoning and land use for the proposal.

The annexation, land use, and zoning will all come together at the end of the hearings. This will give us a complete package for the town to consider approval. The Annexation Agreement will cover all the issues that come forth from the hearings and the negotiations. Boots went on to detail the use of the PUD process for this project. This will allow the Town to create a PUD guide for set backs, uses etc for the annexation. The final section is the approval of conditions that are deemed necessary for the annexation.

Bill B. asked if the statute numbers refer to a statute that is so long that it can't be read; Boots noted the items in the statute and stated that the staff recommendation before the Council considers each component of the statute and that each component is addressed in the petition.

Tom S. asked Boots regarding the time frame; the hearing will begin on 2/15. That hearing will take at least an hour, it can then be continued over several meetings until all questions on zoning, land use, etc are addressed. Due to the size and complexity it is not unreasonable to extend this process into the summer of 2006. Tom S. asked at the end we then vote to approve or deny; the first part of the process is the negotiation of the annexation agreement. The first vote will be to annex or not, second the zoning and third the PUD. These votes will not be on the same night but over months of work and negotiations.

Darell W. asked why just 1-9 and not the rest; 1-9 represents 4300 acres. The statute allows you only to annex the three mile limit from town unless less than 50% of the parcel is left out, then you can annex that as well. The first hearing will be to vote; no, we are committed by law to act on the annexation in a timely manner. On February 15th we will hear testimony from the applicant on the applications; it will not be to make decisions at that time. It will also be a first chance for the public to actually hear the proposal in detail and ask questions regarding the applications. Boots stated his advice is to comply with the statute but to be able to assess the full impact of the proposal.

Andy Vigil, Taylor St., how will the private sector factor into this; both as part of the annexation, zoning and subdivision processes both written and verbally. Would flyers or information be distributed to inform the community of the meetings; Boots stated that Minturn is not a large town, what we do here tonight is important. The public will be noticed so the Town Council can hear from the citizens. All will have an opportunity to advise the Council of their concerns and to ask questions of the proposal. Hawkeye stated the Town will use the web site, the newspaper, etc. We will do what we can to get the word out and assured this was not to be a secret.

Allen C. noted that we have 9 petitions and each requires a Resolution. Each resolution is essentially identical showing how each conforms to the Statutes. They need to be read by title. Hawkeye asked if we need 9 public hearings; No. Allen C. referred them to section H which outlines the statute and the publication information. During the public hearing the Town Council may consider all nine petitions at the one hearing. Allen C. noted that a minor change stating petitions 1-9 rather than 2-9. This amendment will need to be made in two places in each resolution. Allen C. referenced the findings stated in the resolutions that prove substantial compliance with the Statutes and reviewed the Resolutions in detail with the Council.

Darell W. asked in paragraph H and in Section 1 should the motion be corrected to say 1-9 not 2-9; yes. The Feb 15 hearing should be pretty big; the hearing will begin with a presentation by the petitioner to evidence the support of the allegations set forth in the petition requests. Will this room be big enough; once the time and location is set it can be modified as needed and noticed. Is this room big enough to hold the hearing; the first hearing will be rather boring; at the subsequent hearings you may need a larger room. In the future we will recess the hearing and schedule the next setting to be at the following time and place. That will allow the Town to change the place in the event of an overflow.

Motion by Fred H., second by Darell W., to approve Resolution 11 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #1 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

10. Discussion/Action – Ginn Annexation – Resolution 12 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by George B., second by Bill B., to approve Resolution 12 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #2 and setting February 15, 2006 at 7:00pm for the date and time for

required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

11. Discussion/Action – Ginn Annexation – Resolution 13 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Jerry B., second by Darell W., to approve Resolution 13 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #3 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

12. Discussion/Action – Ginn Annexation – Resolution 14 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Bill B., second by Fred H., to approve Resolution 14 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #4 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

13. Discussion/Action – Ginn Annexation – Resolution 15 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by George B., second by Darell W., to approve Resolution 15 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #5 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

14. Discussion/Action – Ginn Annexation – Resolution 16 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Gorge B., second by Jerry B., to approve Resolution 16 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #6 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

15. Discussion/Action – Ginn Annexation – Resolution 17 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Bill B., second by Fred H., to approve Resolution 17 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn

Annexation Petition #7 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

16. Discussion/Action – Ginn Annexation – Resolution 18 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Jerry B., second by Darell W., to approve Resolution 18 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #8 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

17. Discussion/Action – Ginn Annexation – Resolution 19 - Series 2005: a Report to Town Council regarding substantial compliance with state statute C.R.S. 31-12-107(1) and setting dates for required public hearings – by Town Attorney(s).

Motion by Jerry B., second by Darell W., to approve Resolution 19 - Series 2005: a Resolution setting forth Substantial Compliance with state statute C.R.S. 31-12-107(1) as regards to Ginn Annexation Petition #9 and setting February 15, 2006 at 7:00pm for the date and time for required public hearing as amended to reflect Petitions 1-9 in section 1(h) and section 2; all voted in favor.

18. Discussion/Action – Conditional Use Request: A Cut Above Forestry, North Minturn Road – by Slocum.

Hawkeye introduced the item and referred the item to Derrick S. Derrick S. requested this be tabled until January 18, 2006.

Motion by Fred H., second by Hawkeye, to table until January 18, 2006 the Conditional Use Request for A Cut Above Forestry, North Minturn Road as presented; all voted in favor.

19. Discussion/Action – Conditional Use Request: Rocky Mountain Custom Landscapes, North Rail Road Ave. – by Slocum.

Hawkeye introduced the item and outlined the process to be followed during the hearing. Hawkeye opened the hearing. Derrick S. introduced Bobby Head and identified the project location on the Rail Yard as well as the uses. Derrick S. showed pictures of the property showing the use and the orientation. Derrick noted the Planning & Zoning and Staff conditions as follows and recommended approval with those conditions:

Planning Commission:

- Fenced and screened (Green covering) property
- Supplies and equipment within fenced area
- Park Trailers outside fenced area neatly and mark space to be used
- Proper fuel containment / Inspected by fire chief

Staff:

- Bathrooms at the site for daily employee usage.
- All parking must be done within the fenced yard and/or building
- Any chemical storage will require material safety data sheets
- Emergency access of 20' through the yard and at both access gates
- Any refuse/trash material must be stored on property and must be properly screened.
- Letter stating the hour and dates of operation to staff
- Off-season use will require site storage of snow and keeping emergency access cleared.
- Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.

Bobby Head stated his business is a design and create landscaping company that operates county wide. He stated they have been on the site for 2 years.

At this time Hawkeye opened the meeting to citizen comments; their were none.

George asked about fuel storage; it is contained in a 40mil fabric with earth burms for spill protection. Hawkeye stated that it should be a condition that they maintain this to Fire District standards. Mr. Head stated that no sales take place from the site, this is a storage facility for his operation.

Motion by Fred H., second by Darell W., to approve the Conditional Use Request for Rocky Mountain Custom Landscaping, North Minturn Road with the findings and conditions stated below as presented; all voted in favor.

Findings:

- That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.
- That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- That the proposed use will comply with each of the applicable provision of this Chapter.

Conditions:

- Fenced and screened (Green covering) property
- Supplies and equipment within fenced area
- Park Trailers outside fenced area neatly and mark space to be used
- Proper fuel containment / Inspected by fire chief
- Bathrooms at the site for daily employee usage.
- All parking must be done within the fenced yard and/or building
- Any chemical storage will require material safety data sheets
- Emergency access of 20' through the yard and at both access gates
- Any refuse/trash material must be stored on property and must be properly screened.
- Letter stating the hour and dates of operation to staff
- Off-season use will require site storage of snow and keeping emergency access cleared.

- Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
- Must comply with local fire regulations for fuel storage and containment
- Town staff inspects the site for compliance semiannually.

20. Discussion/Action – Ordinance No. 37 – Series 2005 (Second Reading): An Ordinance adopting a Lodging Tax and setting forth details in regard thereto – by Brunvand.

Hawkeye introduced the item and referred to Jay B. for update. No changes.

Motion by Fred H., second by Darell W., to approve Ordinance No. 37 – Series 2005 (Second Reading): An Ordinance adopting a Lodging Tax and setting forth details in regard thereto; all voted in favor.

21. Discussion/Action – Ordinance No. 38 – Series 2005 (Second Reading): An Ordinance authorizing the Mayor to sign an IGA with the Eagle County Government for the contracting of animal control services – by Martinez/Brunvand.

Introduced and read by Hawkeye. No changes.

Motion by George B., second by Jerry B., to approve Ordinance No. 38 – Series 2005 (Second Reading): An Ordinance authorizing the Mayor to sign an IGA with the Eagle County Government for the contracting of animal control services; all voted in favor.

22. Discussion/Action – Ordinance No. 39 – Series 2005 Contract for Records Retention and Maintenance of Town Records - Capela.

Introduced and read by Hawkeye and referred to Ann C. for update. Darell W. asked if this would be designed to fix the condition and locations of the Town records; Yes, in accordance with our newly adopted Retention Schedule.

Motion by Fred H., second by Bill B., to approve Ordinance No. 39 – Series 2005 (First Reading) Contract for Records Retention and Maintenance of Town Records; all voted in favor.

23. Discussion Action – Ordinance No. 40 – Series 2005 an Ordinance to extend the existing Town of Avon Fleet Maintenance contract – Cordova

Introduced and read by Hawk. Ann C. stated all are pleased with the service that the Town of Avon has provided. This Ordinance and contract will simply move the agreement to a calendar year.

Hawkeye asked if the CDL information is maintained by Avon under this contract; this would be followed up on with Rod C. *(Editorial Note: Discussion with Rod C. on 12/22/05 it was confirmed that the Town of Avon does maintain this information as part of the contract.)*

Motion by Tom S., second by Fred H., to approve Ordinance No. 40 – Series 2005 (First Reading) an Ordinance to extend the existing Town of Avon Fleet Maintenance contract; all voted in favor.

24. Discussion/Action – NWCOG request for input on revisions to the Colorado discharge permit system regulations - Capela.

Hawkeye introduced and referred to Ann C. Ann C. asked for direction, Anne Castle has recommended that we not be involved.

Motion by Tom S., second by Darell W., to not pursue NWCOG's request for input on revisions to the Colorado discharge permit system regulations; six voted in favor, Hawkeye voted Nay.

25. Discussion/Action – USFS request for comments on the Management of Undesirable Plant Species – Capela

Motion by Tom S., second by Bill B., to support this in the form of a letter by Ann C. to write a letter in support of the USFS request for comments on the Management of Undesirable Plant Species; all voted in favor. Hawk voted no

FUTURE AGENDA ITEMS / WORK SESSIONS

14. Items to be added to future agendas / work session

1. Resolution 1 – Series 2006 Setting Public Posting Sites – 1/18/06
2. Annual Evaluation for Town Manager – 1/18/06 (Meeting will begin at 5:30pm)
3. Mike Wheelersburg – Minturn Towne Homes Update – 2/1/05
4. 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

15. Set Future Meeting Dates

- 1) Council Meetings
 - January 18, 2006
 - February 1, 2006
 - February 15, 2006
- 2) Planning & Zoning Meetings
 - January 11, 2006
 - January 25, 2006
 - February 8, 2006
 - February 22, 2006
- 3) Other

26. Adjournment

In that there was no further business the meeting was adjourned at 9:51pm.

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand