



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, December 7, 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 Gordon “Hawkeye” Flaherty called the meeting to order at 5:50p.m. Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Fred Haslee, George Brodin, and Jerry Bumgarner (*Note: Darell Wegert was absent*)

Staff present were Ann Capela, Town Manager; Wiley Smith, Town Planner; Derrick Slocum, Town Planner 1; Allen Christensen, Town Attorney; and Lorenzo Martinez, Police Chief.

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 Bill 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 and for 24-6-402(4)(f) for the purpose of discussing personnel issues related to the Town Manager's annual performance review. Those to be included in the Executive are the Council present, Town Manager Ann Capela, Allen Christensen, Town Attorney, and Town Water Attorney Anne Castle as necessary by phone; all voted in favor. *(Note: Hawkeye was not included due to a conflict of interest and Darell W. joined the meeting at 6:16pm at 6:35 Hawkeye was asked to join the meeting.)*

The Council returned from Executive Session at 7:17 no decisions were made as a result of the Executive Session.

3. 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.

Add Discussion/Action on the R.A. Nelson parking lease between items 10 and 11 on the agenda.

- e. Order of the Agenda Items.
- f. Approval of the agenda.

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

4. Liquor Authority:

- F M Saloon, Inc Hotel/Restaurant Liquor License annual renewal; 146 Main Street; Andy Kaufman Owner/Manager

Hawkeye introduced the agenda item and referred it to Jay B for discussion. Jay B. stated that Staff had no concerns and introduced Mr. Andy Kaufman, Owner/Manager. Mr. Kaufman had nothing to add other than to answer questions the Council may have.

Motion by Bill B., second by Tom S. to approve the annual renewal of the F M Saloon, Inc Hotel/Restaurant Liquor License located at 146 N Main St; all voted in favor.

5. Approval of the Minutes:

- November 16, 2005

Motion by Jerry B., second by George B. to approve the minutes from November 16, 2005 as amended below; all voted in favor. *(Note: Darell W. and Tom S. abstained as they were not present at that meeting.)*

6. Special Presentations/Citizen Recognition/Project Update

- Mike Wheelersburg – Minturn Towne Homes Update

Mike Wheelersburg gave a brief update of the process at the Minturn Town Homes development (100 Block of Taylor St). Mr. Wheelersburg stated they had laid down a nice road base and filled the potholes but due to the weather they had not been able to pave, this would be done next spring. The construction vehicles are being parked on leased land so as not to interfere with the snow removal. Bill B. asked if the logo was going to be painted on the Old Water Tank or just the name “Minturn”; this will be given as clear direction from the Council at a time in the future prior to the painting.

Several of the units are occupied by the owners.

Rod C. stated they have been working well with the company and things are going well.

- Hawkeye requested a moment of silence in recognition of the 64th anniversary of Pearl Harbor Day.

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

Matt Shoerr, 511 Main St gave a well done for the snow removal for Public Works

8. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

9. Reports/Correspondence/Announcements/New Business

a. Economic Development Director

Karen E. noted that, due to the weather, the market was canceled on 12/3. This week the market will go until 3pm and they will be having lots of live entertainment. The market is sporting approximately 50 booths and this week will feature a Chili Contest. Friday the seniors are having a Tea for the Town Staff and Bill Burnett will be signing his book and sharing stories. The public is invited to purchase a book and hear the stories.

b. Public Works

Rod C. stated the snow removal has been huge (45 Inches in three days, snow every day for two weeks). Koodoo’s to the staff and the extra help of the new employee. Rod C. stated he will be meeting with the CdoT regarding how the new agreement for the Town to maintain Hwy 24 is working. He will ask about the signs per Fred H. along Main Street at Toledo. Hawkeye asked about the water plant and if the outside filters have frozen over; it is going well (no pun).

c. Police

d. Treasurer/Clerk

- e. Town Planner
- f. Town Attorney
- g. Town Manager
- h. Town Council

Hawkeye introduced Greg Hall the Director of Transportation for the Town of Vail who is visiting.

DISCUSSION, HEARINGS AND ACTION ITEMS

10. Discussion/Action – Ginn Annexation Proposal referral to Staff for calendar and compliance review – By Allen Christensen

Allen C. stated Staff had received nine petitions for annexation of a large portion of the Ginn Property (Battle Mtn). Allen C. recommended each petition to be referred to staff to verify they are in compliance and at the next meeting (12/21/05) staff will present a report.

Allen C. stated in answer to a question from Tom S., that he had received a map from Ginn Clubs and Resorts (large color map was posted on the Council room wall. Tom S. asked if someone would be able to explain the maps at the next meeting; yes, however Staff will need to be directed by Council to proceed with the compliance check before we can move forward.

Darell W. asked if maps would be in the press or what not; at this point no, however plenty of meetings will be offered for individuals to see, learn and comment on the proposal.

Andy Weisner: My name is Andy Weisner, I reside in the Town of Vail, 811 Potato Patch Drive. When I was here at the meeting this summer, I asked a question whether when this annexation petition was submitted whether the Town would start acting on it and holding hearings or would they require a specific development plan to be submitted before anything was considered and I was wondering and the answer I believe that was given by several Council Members was that you wouldn't act on the petition until the public had seen Mr. Ginn's specific development plan with the number of houses here and up there, the number of ski trails, ski lodges, that sort of thing. Is that still the plan? And then the question number 2 that I have is what is the schedule and have any hearing dates been set yet for the public to find out about the annexation and the proposed development plan?

Allen C.: I guess I'll answer that for lack of anything better, since we haven't received a land use application, I don't have an answer. Secondly, what will happen is if the petition is found in substantial compliance the public hearings will be set on the annexation petition.

Hawkeye: We'll try to get you an answer to that second question, we got some people that can probably answer it. Boots Ferguson, from Holland and Hart, is our Land Use Attorney, can probably answer that question for you and we'll see if we can get an answer by the next meeting for you. Could we send him the answer?

Allen C.: We'll announce it at the next meeting.

Andy Weisner: So did I understand Allen (C) to say that you may hold a hearing on the annexation without having a specific development plan in front of you?

Allen C.: I haven't said anything like that, Andy. What I said was we will have a report from the staff to advise Council if the annexation petition is in substantial compliance with state law.

Hawkeye: and if it is we have to set a hearing date ?

Allen C.: Yes, but we don't envision that to be probably...It will be within 60 days, I believe, is what the statute requires.

Hawkeye: Okay and we'll have to get an answer to your second question from Mr. Ferguson.

Andy Weisner: So the hearing may occur with or without a specific development plan, it's hard to say which one?

Hawkeye: Yes.

Bill B.: We're in the same boat as you are, we'd like to know too.

Motion by Fred H., second by Jerry B., to refer the Ginn Annexation Proposals to staff for calendar and compliance review; all voted in favor.

11. Discussion/Action – Approval of a Conditional Use for R.A. Nelson for a parking lease on Rail Road property – by: Derrick Slocum

Hawkeye introduced the agenda item to reconsider the parking request. Wiley S. stated that he had been instructed to put this back on the agenda after he had requested it be taken off due to a miscommunication. Because the motion originally failed to approve the parking use at a previous meeting, it would take one who voted to deny the application at that prior meeting and a second to bring the matter before the Council for further consideration at this time.

Motion by Darell W., second by Hawkeye, to reconsider the parking request conditional use that was previously denied; all in favor, Tom S. voted nay.

Jerry B. stated for the public record this is a request to have the Council reconsider and that no comments from the public will be accepted. Wiley S. referred the item to Derrick S. for reporting. Discussion ensued as to if this should be open to public comment or if this was restricted to the Council only; Jerry B. clarified that the public can ask questions of the Council but that at the previous meeting the audience was allowed to cross examination of the applicant, which would not be allowed.

Derrick S. stated the issue and that it was very similar to the previous application. RA Nelson has a lease on the property in question from the Union Pacific Rail Road (RR). Mr. Mike Cuthbertson stated they had listened to the Council and noted that he would be addressing the concerns of the Council. As such they would be staggering the pick up and drop off times in the morning and evening hours so as to minimize the impact on the traffic along Hwy 24. In the event a traffic event does occur they would be willing to reimburse the town for police action and assistance. No use of the lot for overnight parking etc will be allowed this should cut down

on inappropriate use or over night parking. Visibility was addressed as a concern. Mr. Cuthbertson noted, although the land is across the river, the land sits below the grade of the Hwy causing the visibility concern. RA Nelson will be installing fencing etc to mitigate that concern and a snow berm will be constructed with the snow removal process as further mitigation. Mr. Cuthbertson stated the Town will see a positive economic benefit due to the parking patrons visiting our establishments. Additionally, they would be willing to work with the Town staff for the purpose of assisting with town wide projects. With that Mr. Cuthbertson stated he would be open for questions.

Bill B. stated he had had a discussion with Mr. Nelson (RA Nelson) regarding the efforts that Vail will do. The Town of Vail has created a parking task force to deal with the huge construction projects being undertaken over the next five years and the resulting construction parking issues. It was noted throughout by both Messrs Cuthbertson and Goulding that the purpose of the off site parking consideration proposal is to insure that the limited parking spaces available in the Town of Vail are used by guests rather than construction workers when at all possible. Bill B. stated years ago the Town was given some land with restrictions up by the cemetery (aka The Lease Lot); would Vail Resorts be willing to consider the removal of the use restrictions on that land.

Mr. Ty Goulding, Vail Resorts (VR), stated VR is working with the Town of Vail for the purpose of the construction impact. Mr. Goulding stated because of the development within the Town of Vail the parking is a premium both in the parking structures and throughout the Town. Mr. Goulding stated the land the Lafarge Batch plant is sitting on is the land in question with the restrictions. This was a benefit to Minturn. Bill B. asked why VR can't lift the restrictions from the land; Mr. Goulding stated he would be willing to look into the issue and get back. Bill B. stated he would be more inclined to reconsider this proposal; Mr. Goulding stated he is not able to agree to that condition for VR as he does not have the authority.

Tom S. agreed with Bill B's concerns. Tom S. felt many of those agreements such as the Town Homes and the Batch Plant were mutually beneficial. This parking will grow as the need and the knowledge of availability grows.

Fred H. stated the Town of Vail does not allow on-street parking other than along the frontage roads during heavy use. This proposal is a huge benefit for the Town of Vail and VR. If the RR property opens up for parking this could be a huge impact against the town. The question is, for the benefit of parking consideration, would VR be willing to lift the restrictions completely? It was noted that VR has never said no to allowing uses on the Lease Lot they have only asked for a building plan (the RV Park) to better judge the impact. In fact the RV proposal died prior to any need for restriction consideration. Mr. Goulding stated this site is only one option and they could go further down valley for the parking.

Jerry B. stated he felt the RR property would need a parking cap to limit the number of vehicles and the visual impact of the site.

Darell W. stated he appreciated the working relationship that Minturn has with VR and Vail. He felt the direction given from the Council to limit the parking sprawl and address the land restrictions was good.

Hawkeye stated that recently the Town had contacted VR asking for land owned by VR below Lion's Head Mountain to be designated as a Conservation Easement which he felt should be addressed as well with this consideration.

Fred H. stated perhaps we should work with all the Contractors at once to have this discussion only once, set the cap now for what parking would be allowed in Minturn. Mr. Cuthbertson stated they had already had the conversation with them and the cap is already being set. Additionally, Mr. Cuthbertson noted the proposed site can not hold more than 120 vehicles. RA Nelson does not want to be a burden and intends to be a good neighbor to Minturn if they can.

At this point the Mayor called for a brief recess.

Hawkeye opened the floor to the public for comments and questions to the staff or the Council. *(Note: Due to the presence of a large audience, the Mayor allowed an open dialogue.)*

Mr. Gary Hall, Town of Vail Dir. Of Public Works and Transportation, noted he was in the audience to answer concerns as well.

Dianna Shuerr, 511 Main, works for RA Nelson but feels this is a positive for the Town and RA Nelson. Working together is the best solution.

Jerry B. stated they might need to act on this tonight by adding condition. This would open the parking for the holiday period. Fred H. stated the week between Christmas and New Years. Allen C. stated they might consider reviewing the November 2nd to see the Planning recommendations and conditions. Mr. C noted the land next to the old Depot was available that would open up parking for near 500 more cars. Greg from Vail felt that 500 is more what the Town of Vail would like to see.

Allen C. recommended the Council review only the proposal currently on the table and review other applications when they come in. He further advised any motion to include the original conditions set forth by Planner Derrick W.

Motion by Tom S., second by Bill B. to approve the conditional use for R.A. Nelson for a parking lease on Rail Road property with the following conditions

- The parking lot would be limited to no more than 120 cars at any time
- Vail Resorts will lift all restrictions on the land by the cemetery other than the Town will not sell the land and approve the request for the land behind the 100 block of Taylor Street to be designated Open Space
- RA Nelson will reimburse the Town of Minturn for unreasonable expenses incurred by Minturn Police and Public Works for monitoring, traffic control, plowing, etc.
- Additional permit fee to cover any additional town costs.
- Copy of the checklist that inspectors use to inspect the sediment fence, river runoff, and other possible pollutants.
- No storage and no trailers, only employee passenger vehicles.
- A list stating the hours and days the lot will be used.
- Prevent the removal of any trees from the site
- Access site from the north bridge near Dowd Junction, limit and/or prevent access from downtown Minturn.

- Only employee vehicles will be permitted to use the site.

12. Discussion/Action – Ordinance No. 34 – Series 2005 (Second Reading): Emergency Management IGA – by: Lorenzo Martinez

Introduced by Hawkeye, no comments.

Motion by Tom S., second by Bill B., to approve Ordinance No. 34 – Series 2005 an ordinance authorizing the Mayor to sign an Emergency Management IGA on second reading; all voted in favor.

13. Discussion/Action – Ordinance No. 35 - Series 2005 (Second Reading): An Ordinance proposing changes to Chapter 16, Article 15 Planned Unit Development Overlay Character - Zones – Chapter 16, Article 21 Administration and Procedures – Chapter 17, Subdivision Regulations – by: Wiley Smith

Introduced by Hawkeye. Hawkeye asked about the Preliminary Plan wording; that is correct, previous PUD's had implied vested rights. The Adhoc committee created to review Chapter 16 and 17 stated the developer can not build until the Final Plan is approved by Council. What time restraints are placed on the vested rights; 2 years from preliminary to final and three years to build after final is granted with extension provisions. Tom S. stated this revised wording corrected his concerns. Wiley S. clarified that changes can be made by Council up until Final approval.

Motion by Fred H., second by Darell W., to approve Ordinance No. 35 - Series 2005 (Second Reading): An Ordinance proposing changes to Chapter 16, Article 15 Planned Unit Development Overlay Character - Zones – Chapter 16, Article 21 Administration and Procedures – Chapter 17, Subdivision Regulations; all voted in favor.

14. Discussion/Action – Ordinance No. 36 – Series 2005 (Second Reading): An Ordinance to authorize the Mayor to sign an agreement with Yampah Builders, Inc. for costs of construction services for the remodeling of the Town Center – by: Ann Capela

Introduced and read by Hawkeye. Ann C stated the contract had been added under separate cover. Virgil Howard stated the price for the blinds was included as an allowance. Mr. Howard answered Council concerns and questions.

Motion by Tom S., second by Darell W., to approve Ordinance No. 36 – Series 2005 (Second Reading): An Ordinance to authorize the Mayor to sign an agreement with Yampah Builders, Inc. for costs of construction services for the remodeling of the Town Center; all voted in favor.

15. Discussion/Action - Ordinance No. 30 – Series 2005 (Second Reading): An ordinance amending the 2005 Budget, recognizing additional general fund revenues in the amount of \$615,172.00, and appropriating general fund expenditures of \$405,672.00 and recognizing additional Conservation Trust fund revenues in the amount \$300,000.00, and appropriating Conservation Trust fund expenditures of \$300,000.00.

Hawkeye introduced and read the Ordinance for the record.

Motion by Fred H., second by Bill B., to approve Ordinance No. 30 – Series 2005 (Second Reading): An ordinance amending the 2005 Budget, recognizing additional general fund revenues in the amount of \$615,172.00, and appropriating general fund expenditures of \$405,672.00 and recognizing additional Conservation Trust fund revenues in the amount \$300,000.00, and appropriating Conservation Trust fund expenditures of \$300,000.00 as presented; all voted in favor.

16. Discussion/Action - Ordinance No. 31 – Series 2005 (Second Reading): An ordinance levying general property taxes for the year 2006, to help defray the costs of government for the town of Minturn, Colorado for the 2006 budget year.

Introduced and read by Hawkeye

Motion by Jerry B., second by George B., to approve Ordinance No. 31 – Series 2005 (Second Reading): An ordinance levying general property taxes for the year 2006, to help defray the costs of government for the town of Minturn, Colorado for the 2006 budget year as presented; all voted in favor.

17. Discussion/Action - Ordinance No. 32 – Series 2005 (Second Reading): An ordinance annually setting, amending and approving town fees as set forth in the following attachment to be included in appendix A of the Minturn Municipal Code for the town of Minturn, Colorado fees commencing January 1, 2006.

Introduced and read by Hawkeye.

Motion by Tom S., second by Fred H., to approve Ordinance No. 32 – Series 2005 (Second Reading): An ordinance annually setting, amending and approving Town fees as set forth in the following attachment to be included in appendix A of the Minturn Municipal Code for the town of Minturn, Colorado fees commencing January 1, 2006 as presented; all voted in favor.

18. Discussion/Action - Ordinance No. 33 – Series 2005 (Second Reading): An ordinance recognizing revenues, appropriating expenditures, approving transfers and adopting the town of Minturn budget for the period beginning on the first day of January, 2006 and ending on the last day of December, 2006.

Introduced and read by Hawkeye.

Motion by Darell W., second by Jerry B., to approve Ordinance No. 33 – Series 2005 (Second Reading): An ordinance recognizing revenues, appropriating expenditures, approving transfers and adopting the town of Minturn budget for the period beginning on the first day of January, 2006 and ending on the last day of December, 2006 as presented; all voted in favor, Hawkeye voted nay.

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

Introduced and read by Hawkeye.

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

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

Introduced and read by Hawkeye.

Motion by Tom S., second by Bill B., to approve Ordinance No. 38 – Series 2005 (First 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.

21. Executive Session

- Colorado Revised Statute (C.R.S.) 21-6-402(4)(f) for the purpose of discussing personnel matters involving the Town Managers performance evaluation.

This item was not necessary as it was covered in the Executive Session held at the beginning of the meeting.

FUTURE AGENDA ITEMS / WORK SESSIONS

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

1. Mike Wheelersburg – Minturn Towne Homes Update – 2/1/05
2. 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
3. Ordinance 37 – 2005 Lodging Tax on Second Reading – December 21, 2005
4. Ordinance 38-2005 Animal Control IGA – December 21, 2005
5. Resolution #1 – 2006 Setting Public Posting sites. January 18, 2006
6. Update on School Bus signage and cross walks – December 21, 2005
7. Annual evaluation for town Manager – January 18. Meeting will begin at 5:30.

21. Set Future Meeting Dates

- 1) Council Meetings
 - December 21, 2005
 - January 18, 2006
 - February 1, 2006
- 2) Planning & Zoning Meetings
 - December 14, 2005
 - January 11, 2006
 - January 25, 2006

3) Other

Hawkeye noted that the Town Manager has proposed an annual bonus for the staff in her memo. Hawkeye recommended that an additional amount above and beyond the Managers annual bonus be given to each staff member, both full and part time, from the Council in the amount of \$100.00 representative of a Christmas Bonus. *(Note: both the Manager's and the Council's will be included in the December 15, 2005 payroll.)*

Motion by Hawkeye, second by George B. to award each Staff member a Christmas bonus from the Council in addition to the proposed annual bonus recommended by the Manager. All voted in favor.

22. Adjournment

In that there was no further business the meeting was adjourned at 9:07pm.

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand