



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, March 1, 2006**

**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**

Mayor Pro Tem Darell W. called the meeting to order at 5:45pm. Those present included Darell Wegert, Bill Burnett, Tom Sullivan, George Brodin, and Jerry Bumgarner. (*Note: Fred Haslee was excused absent. Hawkeye arrive at 5:50pm*)

Staff present were Ann Capela, Town Manager; Wiley Smith, Town Planner; Derrick Slocum, Town Planner 1; Rod Cordova, Public Works Director; Lorenzo Martinez, Police Chief; Allen Christensen, Town Attorney; Jay Brunvand, Town Clerk/Treasurer; Karen Earley, Econ Dev. Dir., Boots Ferguson, Town Land Attorney; Ann Castle, Town Water Attorney; and Torrey Maxwell, Court Clerk/Admin Tech.

- a. Roll Call
- b. Pledge of Allegiance

*(Note: Council recessed as Town Council and convened as the Town of Minturn, Water, Sanitation and Recreation Activities Enterprise ("Enterprise").*

*"Enterprise" Chairman, George Brodin, will take the chair and request a motion to proceed into executive session.*

Motion by George B., second by Bill B., to recess as Town Council and convene as the Town of Minturn, Water, Sanitation and Recreation Activities Enterprise ("Enterprise"); all voted in favor. *(Note: Hawkeye abstained from the Executive Session due to a conflict of interest.)*

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

- CRS Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purposes of consulting with the Town Attorney and special counsel, Anne Castle and Boots Ferguson for discussion pertaining to the proposal to construct a wastewater facility.

Motion by George B., second by Bill B., to convene in Executive Session pursuant to Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purposes of consulting with the Town Attorney and special counsel, Anne Castle and Boots Ferguson for discussion pertaining to the proposal to construct a wastewater facility; all voted in favor. *(Note: Hawkeye abstained from the Executive Session due to a conflict of interest.)*

*(Note: Town Council will close the meeting as Minturn Water, Sanitation and Recreation Activities Enterprise and convenes as Town Council)*

Motion by George B., second by Bill B. to convene as the Town of Minturn Town Council; all voted in favor.

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

Motion by Tom S., second by Bill B., to approve the March 1, 2006 agenda as presented; all voted in favor.

## **4. Approval of the Minutes:**

- February 15, 2006

Motion by Bill B., second by George B., to approve the minutes of February 15, 2006 as amended; all voted in favor.

## **5. Special Presentations/Citizen Recognition/Project Update**

- Mike Wheelersburg, 1849 Oden Drive, Silt, CO from Minturn Towne Homes presented his monthly update to the Council noting that with the warm weather they had laid down a road base to help with runoff, utilities are in for Bldg E, and in Bldg D 90% of inspections have been completed. Bill B. inquired about the leased land from the Union Pacific Railroad for storage of their vehicles. Bill B. stated he would like to know what they are paying per square foot; Mr. Wheelersburg would obtain and provide that information.

- Chief Lorenzo Martinez proudly announced and awarded certificates of appreciation to several Vail Dispatch staff and their families for their wonderful time and effort in the 2005 Christmas Toy Drive, Chief stated that the Toy Drive had been in effect since 1997 and this past year, with the help of these volunteers, 21 children received needed Christmas gifts.

Thank yous were extended to Stephanie Braga, Charlene Erickson, Marc Wentworth, Julie Anderson, Shanlynn Prater, Steve Blair, Jennifer Kirkland, Jen Mitchell, Shannon Cordingly, Beth Dobransky, Emily Massie, Shelby Massie, and Lane Dobransky.

## **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

Karen E. referenced the Economic Development Workshop summary handout and that a Historic Preservation Committee has been formed and will assist her in labeling the pictures down in the lobby.

### b. Public Works

Rods C. noted that all street drains should be cleared and open now.

### c. Police

Lorenzo M. provided an ISC Emergency Training Course Outline to council as requested by council. He stated the course is available online but it has been recommended that a classroom setting is the preferred presentation.

### d. Treasurer/Clerk

Jay B. reminded council and public that the last day to turn in election packets is Friday, March 3, 2006 by 5pm.

### e. Town Planner

Wiley S. announced that Derrick S. had been selected as one of two winners of the 1<sup>st</sup> Annual Carole R. Bloom Award through the APA Resort & Tourism Division. Two awards were offered this year – one for a team project and one for an individual project (Branson). The award will be presented at the Resort & Tourism’s annual business meeting April 25<sup>th</sup> in San Antonio, Texas. Congratulations Derrick for your work on Branson’s history.

f. Town Attorney

g. Town Manager

Ann C. let council know she would be serving as an Election Judge for the Special District’s Election to be held in May, 2006.

h. Council Members

George B. had attended the Eagle County Transit Board meeting and provided a brief update

Tom S. attended the Eagle River Water Sanitation Board meeting and provided a brief update on the possibility of selling the sewage plant in Vail. He also questioned Ann C. on if a clock had been purchased as requested by Council. Ann C. stated the clock had been purchased but the Mayor had removed it prior to the last Council meeting. Tom S. reminded Ann C. that council had voted on it and had requested it. Hawkeye stated that there was no reason for the clock at the previous meeting because of Ginn’s presentation so he requested it to be removed from the table. Hawkeye stated that he was the Mayor, in charge of running the meetings, and he wasn’t going to use it unless it was necessary.

Hawkeye F. read a letter from Pinnacol Assurance to Ann Capela and Jay Brunvand for a job well done due to no Worker’s Compensation Losses for the 4<sup>th</sup> quarter of 2005. A Certificate of Achievement and job well done.

## DISCUSSION, HEARINGS AND ACTION ITEMS

### **9. Discussion/Action, Union Pacific Rail Road – “Tax Exempt Status” for local property taxes and related issues to UPRR, by: Mr. Harry Gray.**

Harry Gray, 291 Main Street, Minturn, CO started by referencing the RA Nelson Conditional Use Permit which would provide parking for the Vail Village Construction Site employees. Mr. Gray stated that the further you dig you get more questions not answers. That land is zoned as rail yard but the rail yard has been leasing it out for different uses; landscaper yard, welding shop, woodshop, lumber yard. Special use permits have been issued for storing spraying chemicals, etc. In the early 80’s the area was used as a car park for our Minturn Restaurants to compensate for a lack of parking to include the restaurants and The Turntable Motel and Restaurant. The Railroad Act granted land to railroads as an incentive, it was meant to develop the land west and it was meant to “run a railroad.” But now we have a railroad that is not running a railroad.

*(Mr. Gray referenced the Union Pacific Property Map on the easel)*

This property is worth somewhere from \$10 to \$60 million. With the recent sale of a gravel pit \$6 million gross \$12 million for 72 acres, the Union Pacific Railroad property in Minturn is 61 acres, \$10 million would be a low value. Plus the added value of being on the river. Game creek is not so far from Beaver Creek, can you see a tram going over Meadow Mountain. Look at the recent land transaction that took place between the Vail Resorts and the Forest Service. Mr. Gray stated his goal is to ask some questions and have us as a community think about them:

- What is the tax value of \$60 million in land?
- Stewardship of the river.

Mr. Gray stated he spoke with Bill Andre, State Dept of Wildlife, and asked him if RA Nelson had done any studies regarding the Elk herd in Minturn. He stated he hadn't seen anything yet. Mr. Gray emphasized the Minturn water quality and the millions of dollars that has been spent enhancing the water quality of the river in Minturn including the EPA Super Fund monies and we now we are planning parking lots along that same river. Mr. Gray suggested comprehensive studies for the entire rail yard property. The Town Planner is prepared to recommend Council to approve the RA Nelson car park, but Mr. Gray stated there are still too many questions that need to be answered. What is needed is a better dialogue with Union Pacific. It is necessary to learn what is going to happen or not and their plan is unclear.

- Talk to other towns with railroads in them to see what action is being taken there.

Look at all the projects with tower cranes by them, a year or two down the road and all of the different tradesmen that have and will work there; where are they going to live? Project it out and what Vail's needs will be in the future. Imagine the red on the map (*referencing the Union Pacific Property Map*) as parked cars. Ginn is currently paying for experts regarding conditions and environmental studies and they are happy to do it. But there are no requirements on the rail yard? They are in our front yard, the first thing you see when you come into Minturn.

- What does special use do for the Town of Minturn; is it an asset or a debit?

Hawkeye F., with agreement of the other council members, requested that the Town Staff look into the specific questions Mr. Gray presented and bring the information back to council.

**10. Discussion/Action, request for consideration to exchange private property between Town of Minturn and private citizens, Mr. & Mrs. Mitchell by: Mrs. Susan Mitchell.**

Susan Mitchell, 34 Harrison Avenue, Minturn, CO. Ms. Mitchell explained that she was interested in trading her home at 34 Harrison for the Town owned house at 210 Eagle St (Town Manger's house). She believes it would be beneficial to both parties. The Harrison property she feels is a more useful, versatile property, it is zoned mixed use, the manager's housing could be within the home and other town amenities such as a library could be included due to the larger square. The traffic patterns have changed around their home and this is the impetus for the request. Bill B. asked if she was thinking a trade straight across? Ms. Mitchell responded that there would be an appraisal and that it would be based on the appraised value, not the market value. She would entertain owner financing if there was a balance owed to them or the Town could throw something into the trade so there is no cash out at all.

Hawkeye F. inquired of the Town Attorney how the Town would go about something like this; Town Election. Jerry B. asked Ms. Mitchell if there was any part of this house encroaching or non-conforming; not that she is aware of. He also inquired the size of the lot; she did not know off hand. Bill B. stated the lot is 50' x 100'; the Harrison lot is bigger than the river lot. Wiley S. stated he would have to get an ILC and he could determine better then the exact lot size and lay out. Ms. Mitchell stated that the home will be 100 years old this year. Hawkeye F. inquired of the Council their feelings on the proposal; Bill B. said we would have to remodel the Harrison property and it would be difficult due to set backs etc. Tom S. stated it would be one of the worse trades due to our land being on the river. Hawkeye F. directed the town to gather information on if this proposal of a trade is worth taking a better look at. Council directed Staff to gather the necessary information to better assist Council in their decision making process. Hawkeye F. said no appraisals necessary at this time, just research and then we will work on it from there.

*(Note: Council switched Agenda Item 12 with 11 in order to accommodate the Town Water Attorney who would be traveling to Denver after the meeting; all agreed to switch)*

*Hawkeye F. called for a 2 minute break*

**11. Discussion/Action Items – Review of Chapter 16: Article II, Definitions and Illustrations Article VI, Old Town Character Area, Article VII, South Town Character Area, Article XIX, Sign Regulations, Article XXII, Legal Nonconforming Uses, Structures, and Lots – by Wiley Smith**

Hawkeye introduced the item and referred it to Wiley S. for presentation.

Wiley S. stated this was an effort to bring current the Council on the various changes that his office and the Planning and Zoning Commission were considering. He then reviewed what had occurred to date regarding revisions, changes and additions. Bill B. requested a hard copy book with these pages in it; he has a CD, but would like the hardcopy he had asked for. Wiley S. stated that the reason one has not been provided is because all of the changes. Tom S. inquired as to where the additional definitions come from; Colorado Springs, Telluride, Durango and other like communities. Hawkeye F. reiterated that building height, when dealing with slope, continues to be an issue. He shared that when the committee, in the late nineties designed and rewrote the Chapter, the people said they didn't want tall buildings. And now look at the Molly G. building (Nelson and Williams). Where did they measure 35' from? There was general discussion between council and Wiley S. on this issue of height and Wiley S. offered to do more research with other mountain towns and see how others have dealt with this issue. Hawkeye F. asked Wiley S. to also inquire to how deep builders are allowed to dig; do we need codes to set how deep someone can dig? Bill B. asked if council could have time to look over the handout that Wiley S. had provided and then come back to it at a later date; that would be a lot easier. All agreed.

*(Note: at this point Council switched Agenda Item 13 with 11; all agreed to switch)*

**12. Discussion/Action Items – Ordinance 1 – Series 2006 – (First Reading) An Ordinance Authorizing the Mayor Pro Tem to sign an agreement between the Town of Minturn, acting by and through Town of Minturn, Water, Sanitation, and Recreation Activities Enterprise and Ginn Battle North, LLC, Ginn Battle South, LLC and Ginn-LA Battle One, Ltd., LLLP for the design and construction of a Waste Water Treatment Facility – by Allen Christensen**

Hawkeye F. referred the proceedings to Darell W. in that Hawkeye F. has a conflict of interest and stepped from the Board. Darell W. introduced the item and referred it to Town Water Attorney Anne Castle.

Anne Castle, 1549 Genesee Vista Road, Golden, CO, Water Attorney for the Town of Minturn explained the ordinance and that it was first reading. A copy can be made available to anyone who would like to read it. Ginn Clubs and Resorts (Ginn) is to fund and design a Wastewater Treatment Plant. It will be sized to provide service for the Ginn development of 1700 units, some associated commercial development, the existing Minturn population and expected future growth of Minturn. With the proposed agreement for the Wastewater Treatment Plant, Ginn would have a certain capacity allowance for development. It does not obligate the town to annex or to approve any number of units and it does not obligate the town to provide service. Anne C. noted there are a number of protective provisions. Anne C. stated it is up to the Council on whether the Enterprise Fund enters into the agreement. Anne C. noted that this Ordinance is First Reading and that other instructions can be discussed before final passage of the Ordinance.

Pete Vance, 562 Main Street, Minturn, CO, asked if they build this Wastewater Treatment Plant and build it to capacity, what happens if the town decides not to allow annexation? Would there be a problem with maintenance with this additional capacity? He also asked if it was known where it will be built. Part of the contract stated it may be built on property that is not owned by the town? Anne C. responded that if the Ginn property is not annexed then no obligation would exist. The Ginn development would still have the option and they would be charged the same amount as anyone else who would be receiving the services out side of town limits. Ginn would have a capacity within the plant which they are entitled to; the Town would then have approval rights. Ginn Company would be responsible for the first year of operation; operational cost won't pass on greater operating cost to the public. Where is it going to be built; not sure? Normally you put a plant on a lower point, probably not on Ginn property due to the mountains. Possibly south of the main part of town, current property?

Darell W. inquired would the Town, the Enterprise or Ginn operate the plant; it would be the Town's asset the Town could operate or contract out the operations.

Mr. Vance asked if once you get this built could you then go around the annexation; Anne C. reminded the Council that she is the Town's Attorney not Mr. Vance's or Ginn's. However, if the annexation does not occur, the Wastewater Treatment Plant would have the capacity for the development to continue in the County with capacity rights for the development. If they are in the county, the county has a 1021 Regulation that could make it possible but can be pretty hostile and difficult. Darell W. stated that due to a previous court settlement in 1998 we lost the use of some of our water rights. If we built the Wastewater Treatment Plant within the requirements of that settlement then we would be allowed full use of our water rights.

Motion by George B., second by Jerry B. to approve Ordinance 1 – Series 2006 – (First Reading) An Ordinance Authorizing the Mayor Pro Tem to sign an agreement between Town of Minturn, acting by and through Town of Minturn, Water, Sanitation, and Recreation Activities Enterprise and Ginn Battle North, LLC, Ginn Battle South, LLC and Ginn-LA Battle One, Ltd., LLLP for the design and construction of a Waste Water Treatment Facility; all voted in favor. *(Note: Hawkeye reqused himself from the discussion, Board and vote due to a conflict of interests.)*

At this point the Mayor resumed his seat to complete the meeting.

**13. Discussion/Action items – Ordinance 2 – Series 2006 – (First Reading) An Ordinance to amend Chapter 2 of the Minturn Municipal Code by repealing and re-enacting Section 2 – 52 establishing and providing for compensation for the Town Council and the Mayor of the Town of Minturn – by Allen Christensen**

*(Note: At this point Darell W. excused himself from the meeting to attend a prior engagement.)*

Hawkeye F. introduced the agenda item and inquired if any of Council was interested in giving upcoming Council members a raise? Bill B. said yes and recommended \$100.00/month for Mayor and Council. Others on council disagreed and felt it should stay the same.

Motion by Bill B., second by Tom S. to table indefinitely Ordinance 2 – Series 2006 – (First Reading) An Ordinance to amend Chapter 2 of the Minturn Municipal Code by repealing and re-enacting Section 2 – 52 establishing and providing for compensation for the Town Council and the Mayor of the Town of Minturn; all voted in favor. *(Note: by this action the Ordinance has been effectively killed.)*

At this point Hawkeye F. brought up parking issues, delinquent customers and the big yellow truck parking along the 200 block of Boulder Street and recommended that they be put on the agenda for next meeting. Bill B. reminded council that the old Town Hall has 18 parking spaces which still belong to the building. George B. stated he had had a conversation with Mr. Storey, the owner of the deliver truck in question. He said he approached him as a citizen and asked him if he would park somewhere else due to the stress he was putting on the neighborhood when it was not parked in front of the Old Town Hall (243 Boulder St). He stated Mr. Storey was cordial about it and has been parking in front of Old Town Hall since. Hawkeye F. asked Ann C. to please get with Chris Manning, 293 Boulder St, before the next meeting and talk with him regarding his concerns as he was the citizen who wrote the letter bringing the matter to the attention of the Town. Tom S. requested that a copy of all Town parking contracts be part of the next agenda packet and also to notify tenants and Marka Brenner that they are going to be on the agenda for discussion and possible action.

Direction was given to place the concern of parking town wide and the specific parking agreements in the 100 Block of Main St. on the March 15, 2006 agenda and to contact those involved to inform them of the pending discussion.

**Discussion/Action items – Direction to Staff regarding the Town Manager employment evaluation – by Jay Brunvand**

Motion by Hawkeye F., and second by Darell W. to approve pay increase for Town Manager and direct the Mayor to forward a letter to the Town Treasurer and the Town Manager of the approved changes to the Town Mangers contract; all voted in favor.

FUTURE AGENDA ITEMS / WORK SESSIONS

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

- 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
- Mike Wheelersburg – Minturn Towne Homes Update 4/5/06
- Ginn Annexation Public Hearing, continued until – 9/6/06
- Chapter 16 review of changes – update by Smith
- Discussion and action on Parking issues – 3/15/06 – by Smith
- Discussion and action on Harry Gray/Railroad concerns – update by Capela

## 16. Future Meeting Dates

### 1) Council Meetings

- March 15<sup>th</sup>, 2006
- April 5<sup>th</sup>, 2006
- April 19<sup>th</sup>, 2006

### 2) Planning & Zoning Meetings

- March 8<sup>th</sup>, 2006
- March 22<sup>nd</sup>, 2006
- April 12<sup>th</sup>, 2006

### 3) Other

In that there was no further business the meeting was adjourned at 9:10pm

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Mayor Hawkeye Flaherty

ATTEST:

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Town Clerk, Jay Brunvand