



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, April 19th, 2006

REGULAR SESSION 5:45PM

Minturn Town Center
302 Pine Street • Minturn, CO 81645 • (970) 827-5645

MAYOR - Gordon “Hawkeye” Flaherty **TOWN MANAGER** - Ann K. Capela
MAYOR PRO TEM – George Brodin **TOWN CLERK/TREAS** - Jay Brunvand

COUNCIL MEMBERS:

Jerry Bumgarner
Bill Burnett
Tom Sullivan
Kelly Brinkerhoff
Shelley Bellm

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 970-827-5645, 302 Pine St. Minturn, CO 81645

REGULAR SESSION – 5:45 pm

1. Call to Order

a. Roll Call

Mayor Gordon “Hawkeye” Flaherty called the meeting to order at 5:50pm. Those present included Bill Burnett, George Brodin, Tom Sullivan, Jerry Bumgarner, Shelley Bellm, and Kelly Brinkerhoff.

Staff present were Ann Capela, Town Manager; Jay Brunvand, Town Clerk/Treasurer; Wiley Smith, Town Planner; Karen Earley, Economic Development Director; Rod Cordova, Public Works Director; Lorenzo Martinez, Police Chief; Torrey Maxwell, Court Clerk/Admin Tech; and Allen Christensen, Town Attorney

b. Pledge of Allegiance

Mayor Flaherty led the Pledge of Allegiance

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

- Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purpose of consulting with the Town Attorney(s) to update the Council and new Council members on pending legal issues.

Motion by Mayor Pro Tem Brodin second by Council Member Burnett to convene in Executive Session pursuant to 21-6-402(4)(b) C.R.S. for the purpose of consulting with the Town Attorney (s) to update the Council and new Council members on pending legal issues.

Executive session ended at 7:25pm and Mayor Flaherty called regular session back to order 7:34pm.

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.

Council Member Bellm requested that a survey for the water tower be added to the agenda. Mayor Flaherty stated that it would be added as (13a); a public survey to be posted on the website inviting the citizens of Minturn to share their ideas and suggestions on the painting of the Water Tank.

Motion by Mayor Pro Tem Brodin second by Council Member Bumgarner to approve the agenda as amended; all voted in favor.

4. Liquor License Authority

- Minturn Country Club Hotel and Restaurant Liquor License Annual Review; 131 Main St., Tom Ricci, Owner/Manager – by Brunvand

Mayor Flaherty recessed the meeting as Council and roll called as the Minturn Liquor Board; all were present.

Mayor Flaherty introduced the item and referred the discussion to Treasurer Brunvand who clarified that this was an annual renewal that he had no issues with and that Tom Ricco, Owner / Manager was present for questions. Police Chief Martinez commented that because of the timing he had done a report but it was not included in the packet; he thanked the Owners/Managers of the Minturn Country Club for their efforts in the previous year.

Tom Ricco, Minturn Country Club, 131 Main Street, Minturn, inserted that House Bill 1201 passed and he asked that we send an email or letter to our State Senator showing our support. He

reminded Council since Tourism Tax was rescinded back in 1992, our revenues are down and that Colorado went from 5 or 6th in spending on tourism advertising to 48th. For every \$1.00 Colorado spent on advertising it yields \$20.85 in State and Local tax. He also added that tonight is his busiest night of the year, his 2.99 night and that with that there were only about six cars in the Municipal lot that are not from his restaurant.

Motion by Mayor Pro Tem Brodin second by Council Member Sullivan to approve the Minturn Country Club Liquor License Annual Renewal; 131 Main St., Tom Ricco, Owner/Manager; All voted in favor.

Mayor Flaherty asked Town Manager Capela if a letter had been prepared and sent; she was not aware of it being requested. Town Attorney Christensen inquired if the Council would like additional information on the Bill; yes. Mayor Flaherty directed that a letter be prepared, have in packet for next meeting and bring back some additional information. At that time they Council will decided if they want to send letter of support.

Mayor Flaherty adjourned the Minturn Liquor Board at 7:45pm

5. Approval of the Minutes:

- April 5th, 2006

Motion by Council Member Burnett second by Council Member Brodin to approve the Minutes from April 5th, 2006 as presented; all voted in favor.

6. Special Presentations/Citizen Recognition/Project Update

Mike Wheelersburg, 1849 Oden Drive, Silt, CO – presented the Minturn Towne Homes update stating that today they addressed on site issues with runoff and erosion control. Procedures will be addressed and should be in place by Friday afternoon to handle this. They have started Phase 3 of the project starting with Bldg G. We have placed Road base on Taylor St and filling in the pot holes by hand as needed. We are third on list with B&B to start paving; asphalt plant opens up May 1st. We are anticipating no later than the end of May with paving. We are working with our excavator on reducing the grade going up Lyons Lane to the south and hopefully by end of next week we can show what we have accomplished.

Mr. Wheelersberg then introduced John Fitzsum, the on site manager who is on site on a day to day basis. Council Member Burnett inquired of Mr. Wheelersburg once again how much they pay the RR for using their property; Mr. Wheelersburg will get that information to Wiley tomorrow. Mayor Flaherty stated that last year when it got dried out, dusty, that they laid cinders or screened rock on the road. Will you have it paved before we need to worry about that? Mr. Wheelersburg responded that if they don't, they will do the same thing as last year. Mayor Flaherty inquired if it would help with the mud if they used cinders or screened rock instead of just road base? Mr. Wheelersburg said that it would probably cause problems with paving; the road base is actually rotomill and it does help cut down the dust. Mayor Flaherty inquired about the runoff and asked if it will incorporated into their drainage system. Mr. Wheelersburg

responded that that is their intention; to take the runoff to the storm sewer system they have with Phase 1. Mayor Pro Tem Brodin interjected that their house keeping looks good with the fences up. Council Member Sullivan asked if when excavating with Phase 3 do they anticipate going into the right of way up above them? Mr. Wheelersberg; yes, they may have to address that up above Grant Avenue. Council Member Sullivan stated that it is important to him that it gets returned to the state it is now. Mr. Wheelersberg responded that we've got his word; they will revegetate it and get it back to where it was. Council Member Sullivan asked Town Planner Smith to get pictures so we have a base line. Mayor Flaherty asked if it was their crew up clearing off of the snow from the trail earlier this afternoon; yes. They want to take down the over head wires and poles and that is scheduled to happen on Monday. Mayor Flaherty asked if the trail will be open to the public. Mr. Wheelersberg stated yes and that they will still have the signs letting people know there is going to be construction but they should be able to come on down and through. Also there will be a site fence in place on the East side of Lyons Lane so no one wanders in.

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

8. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

9. Reports/Correspondence/Announcements/New Business

a. Economic Development Director

Economic Development Director Earley reported on the Travel Conference which will be this Sunday. There will be over 250 travel counselors there. She would like as many brochures from our local businesses as she can get to stock her booth. Mayor Flaherty inquired if the Market is full; yes. They have 130 applications for 92 spots and expect 25 or so additional applications will roll in and be placed on waiting list. The Market will be more diversified this year with a beer garden, more activities for kids, great music. Council Member Bellm referred to the survey that went out to all businesses in town and wondered how do we know that all businesses received them; emailed, mailed hard copy and then Guy Patterson sent out postcards to each business that does not have an email. With the fifteen (15) or so surveys that she has gotten back it appears business owners want another Chamber or Business Association.

Council Member Burnett inquired on if there was still a Historical Preservation meeting on April 25th or will it be postponed; postponed one week, May 2nd, 2006. Council Member Brinkerhoff added that the concern is how to make the Economic Development Committee and the three sub-committees under it more productive; what deliverables will be, what the time line would be, input from counsel. We have Council Members Brinkerhoff and Bellm on the Events Committee, Mayor Pro Tem Brodin and Council Member Burnett on Historical Preservation Committee, and the third committee no council members are on it at this time. If anyone is interested in that it might be good way to move things along, to have that representation; agreed

and suggested that the Council Member could then give an committeeupdate at the following Council meeting.

b. Public Works

Public Works Director Cordova stated that water audit issues are their main focus; verifying zero reads (40-50) and gradually chipping away at those numbers. Day by day there are more issues they are becoming aware of. Guy is helping with that also and we are keeping him busy. Mayor Flaherty are you working on pot holes; no primary is water issues. Council Member Burnett stated that his problem is that Public Works put all these meter readers in and asked if we are going to move them so you can read them. Cordova We have not been given directions on whose responsibility these are and who picks up the cost, we have been doing them with supplies that are on hand but once that runs out we will need direction on where to proceed. Burnett asked if they are thinking about getting meter readers; yes but they cost about \$100 per address, \$75 if we bought them through the district not including the peripherals. Council Member Burnett inquired if that includes crew to install them; our Public Works crew would do that and Eagle River has volunteered to help install them on their days off and weekends. The main cost would be a Repeater site, old TV repeater site; possible but he thinks it is a long range goal. Mayor Flaherty asked if we have figured out who is responsible for repairs, meters, moving, etc. Town Manager Capela said that council was going to look at policy once meters were purchased and that it might need to be under the Enterprise. Mayor Flaherty stated that if Council needs to set policy they will need to know what policy is now, pros and cons of Town owning versus customers, and assuming financial responsibility. Town Manager Capela inquired if Mayor would like her to bring it before Enterprise or Council; Enterprise is where this project is funded; Enterprise. Mayor Flaherty stated that 30 days is fine to come back before council with this information. Mayor Flaherty asked if PW can come up with a project list for what they will work on this summer; yes, bring it back in front of council in 30 days; yes.

c. Police

New officer started today; he and Officer Rich are doing some arrest control tactics training in Leadville. Mayor Flaherty asked to know when the rifle qualification course will be held, he would like to know about it; yes.

d. Treasurer/Clerk

e. Town Planner

Presented summary of cases that went through Planning and Zoning last month. Council Member Brinkerhoff asked if there is a time line for review of Ch 16. Town Planner Smith wants to start soon but wanted new members to get comfortable first. Mayor Flaherty requested that new information on Chapter 16 be given to new council. Council Member Burnett inquired of the Town Planner how do we get this information to everybody concerned regarding addresses/location if when you assign a plat you just note the lot line? How do you get the address (116 Nelson for example) to the Fire Department, the telephone company, etc. Town Planner Smith responded that most of the addresses are kept by the

county and they are given to the fire district or anyone that request them. He has spoken with Staff and discussed the need to revise the addresses on Nelson Avenue because those addresses were started before 2004, some are not consistent so he is working with the county to readdress some of the home along that street. Council Member Burnett asked how the Racquet Club who gets that application that tells where their property is. Town Planner Smith works that out with the applicant and then gives that to the county so when the Fire Dept rolls out of the fire house they know where they are going, they have maps that they pull out. Mayor Flaherty questioned if we have a follow up plan or do we trust the county to update that information; we do not. Town Planner Smith responded that he has had good experience with the country and trust them that the information is updated timely. Mayor Flaherty does the county automatically forward that to county services or does emergency services have to go down and collect that information; they have to go down and collect it. Mayor Flaherty asked Mike Gallagher, with his years of experience as commissioner, what he thinks. Mr. Gallagher stated that it is the 911 Board that is active within the municipality or you can take control of it. It goes to dispatch and all the emergency folks get their information from dispatch. If they need a street address and can't get it, dispatch helps to get them there. Emergency services do have maps and Chief Martinez probably has a set for the Town; system works well. With computerized phone system, enhanced 911 and reversed 911 dispatch knows who is calling and their address shows up right on the display.

f. Town Attorney

g. Town Manager

Supplied council with various bill information, a copy of CDOT letter, we have invited the particular commissioner to Minturn about Minturn needs, we were heard by commission and the comments are in your record. We provided twelve photographs regarding the hazardous situation we have on Hwy 24 with melt down, rocks falling. We put the State and CDOT on notice that there is a hazardous situation here. Mayor Flaherty inquired did they saw anything about bike path from Dowd Junction; no there concerns were more towards the Hwy 24. Town Manager Capela pointed out that this is a safety matter for the residents and travelers. Mayor Pro Tem Brodin asked about May 20 Clean Up Day Brodin asked if our focus is Seniors; yes and some items have been identified that need to be removed and Little Beach Park cleared up for events. Council Member Bumgarner request that the Town get in touch with the environmentalist about the diesel fuel odor coming from the bone yard. The gentleman that was here said he would be in touch with the State and he feels that this probably has not happened. Request that he comes back and present his findings. Mayor Flaherty agreed and directed Town Manager Capela to contact Jeff Babb. Town Manager Capela also stated that she has already contacted Colorado Dept of Health and is looking into the matter. She will present a formal report next meeting. Mayor Flaherty asked for the Town Manager to invite Planning and Zoning Commission to the next meeting, if that doesn't work then to the following meeting.

h. Town Council

Mayor Flaherty reported on some training or social opportunities that are approaching;

“*What You Need to Know about Public Records and Open Meetings in Colorado*” which will be held June 28, 2006,
“*Special Districts In Land Development in Colorado*” being held June 30, 2006,
“*DOLA: Resources on the Road*” sponsored by CO Dept of Local Affairs in May,
“*84th Annual CML Conference*” in Breckenridge June 20-24th, 2006,
“*White River National Forest: Earth Day*” in Glenwood Springs April 23, 2006. This event is free,
and the Mayors of Aurora, Denver, and Lakewood have sent a challenge to our town to join them in the inaugural running of the Municipal Cup during the Post-News Colorado Colfax Marathon on Sunday, May 21.

DISCUSSION, HEARINGS AND ACTION ITEMS

10. Discussion/Action, Condominium Conversion Final Plat – Minturn Racquet and Trout Club – by Smith

Brinkerhoff excused herself due to conflict of interest as she is the applicant.

Mayor Flaherty declared public hearing open and read the process for those present.

Town Planner Smith noted that this is a request for a condo conversion of a four plex by the applicant, Wind River Land Development also known as the Minturn Racquet and Trout Club. The four plex is located on Lots 15 and 16, the original site was known as the Mize Tract and was purchased by Wind River Land Company and approved by the Town of Minturn on June 18, 2003, final plat and plan was approved March 1, 2006 and recorded April 11 of this year.

Council Member Burnett inquired is Cross Creek Lane is that the name of the road between the buildings we are talking about; yes. Has it been filed with the county; yes. Council Member Sullivan inquired if this building is on its own separate lot; yes, it is on two lots, building A and C are on one lot and B and D are on the other lot. Council Member Sullivan inquired on how large each of the lots are; not available at this moment. Council Member Sullivan suggested we may be setting a precedence since we approved this. Mayor Flaherty interjected that PUD has different rules. Council Member Bumgarner questioned parking; this was all approved and that hasn't changed. Mayor Flaherty was this part of original plan; yes. Planning staff and P&Z both recommend approval of this case with standard conditions.

Town Planner Smith introduced representative of the applicant, Ernie Glessner, 1688 Main, Minturn and Council Member Sullivan asked if he knew the square footage of the lots. Mr. Glessner deferred the question to Cynthia Lepthien, 409 Brooks Lane, Eagle, CO; 1,871 and 1,524 sq ft. Town Planner Smith added that a PUD is not straight zoning; if it were straight zoning that would be a 5,000 sq ft lot. A PUD is negotiable from the beginning; from the Planning Commission and the Council. Every lot does not have to be 5,000 it can be any size, as long as the entire plan is approved with the required set backs, height, everything can be negotiable. He suggest separating straight zoning from PUD, they are not the same and should not be confused with the other. Mayor Flaherty asked applicant what he would like to see happen; approve, sign and let him get it to the county so he can get it filed.

Proponents? Opponents; Mike Gallagher, 475 Pine Street, Minturn, CO not a proponent or opponent, just curious about Cross Creek Lane is that a public right of way; it was considered private. Minturn had a chance to take it over as town and then they would take on the responsibilities of sewer and plowing but we didn't do that, we are taking care of our own plowing and the sewer lines that cross it. Mayor Flaherty how about the water, the Town would have nothing to do with the sewer Ernie that would be ERWSD. Mr. Glessner the water main runs outside of it and it is T in across the road and where it hits our property it is considered our responsibility, part of our service line. We also have two fire hydrants and we are responsible for those. We matched them to the Town's fire hydrants. Mayor Flaherty questioned if the street is private and not a part of town; water main is part of town, street is a private. Treasurer Brunvand added on the west side of the highway and it is all a service line, current code says it is all theirs.

Mayor Flaherty closed the public hearing 8:40pm. Findings of Fact that need to be declared? Similar to a

Motion made by Mayor Pro Tem Brodin to approve the Condominium Conversion Final Plat as requested by the Minturn Racquet & Trout Club's with the following conditions:

- 1. The applicant agrees to address the Planning Commission comments and concerns as identified within this report.**
- 2. The applicant making any modifications to the plan document as requested by the Planning Staff and Building Inspector, Town Clerk, and Eagle River Fire Protection District. prior to Certificate of Occupancy.**
- 3. The applicant shall pay all required fees and charges related to development of the subject property.**

second by Burnett; all voted in favor.

Five minute break so plat could be signed and Council Member Brinkerhoff rejoined the council

11. Discussion/Action, request for consideration to exchange private property between Town of Minturn and private citizens, Mr. & Mrs. Mitchell – by Capela

Town Attorney Christensen stated that we have an issue regarding the Town's lot being used for anything else. If you removed the building you couldn't do anything else with it, it is non conforming use that once changed can't be replaced.

Susan Mitchell, 34 Harrison Avenue, Minturn, CO stated that they have no plans to develop the Town Manager house. Their Main Street house can be developed and it seems it would have multiple uses for the town. Mayor Flaherty inquired as to how big their lot is; double lot, 100' x 50'. Ms. Mitchell stated that the only addition they are considering would be a garage. Town of Minturn Attorney Christensen reminded her that it would have to meet setbacks. Council Member Burnett why do you want to trade. Ms. Mitchell responded that since the gas station went in it is loud, there are gas fumes, and now they are wrapped on three sides of their house,

they are looking for a small house, quiet and private. There was some general conversation.

Mayor Flaherty asked each council member how they felt about the proposal. Council Member Burnett would like to stop talking about it and move on, Council Member Sullivan, opposes it Council Member Bellm does not think it is a good idea, Council Member Brinkerhoff stated she would like to see the river property used as a park or for some other public use library, Council Member Bumgarner opposes it and Mayor Pro Tem Brodin stated that unfortunately it is not fair to the Mitchells but that he would rather see the Town purchase the property, not trade. Mayor Flaherty said he agrees about looking at buying, but trading is not the right thing to do.

Motion made by Burnett to discontinue the study on trading the property, second by Mayor Pro Tem Brodin; all voted in favor.

12. Discussion/Action, Union Pacific Rail Road – “Tax Exempt Status” for local property taxes and related issues to UPRR – by Capela

Town Manager Capela updated Council that Greg Larson, a representative of this railroad property and another individual from Union Pacific will be in Town next week to meet with her. Town Attorney Christensen is suggesting that we keep discussion open with UP, lobby congress and then allow the existing conditional uses to lapse and not renew them. Zone it railroad yard and you can't put anything in there that is contrary to the railroad. We can zone it anything we want to, they still own it, a holding zone, no more conditional uses. Council Member Sullivan suggested that instead of allowing them to rent out as much as they could, limit them to rent where the yard is, not where the right of way is. Council Member Burnett inquired if the little places would lose their conditional use; grandfather the ones that are there now if they come before town. Town Manager Capela has a good relationship with RR and she can tell them that this keeps being brought up by the public, etc. Council Member Bumgarner stated that you wouldn't want them to bring 100 empty cars in here and leave them. They could certainly do that, that is their right. Council Member Brinkerhoff asked if we are aware of other towns in CO doing work on this issue; Avon went forward with something and UP came back very strong with a statement that it is their property. Council Member Sullivan asked the Town Manager to see how the meeting goes and then keep council posted. Mayor Flaherty requested that Staff contact Denver regarding the Baseball Stadium, Elich's. Inquire as to what Denver did with the UP property; can we put financial conditions on Conditional Uses that they pay a fee to the town for using the property. Allen he will talk with Wiley and get back to us. Town Manager Capela plans on driving the UP representatives around the park, cemetery, etc, show them the area affected.

13. Discussion/Action, Resolution No. 6 – Series 2006, A resolution concerning banking practices for the Town of Minturn – by Brunvand

Updating authorized check signers to Ann Capela, Town Manager; Jay Brunvand, Town Treasurer/Town Clerk; Gordon “Hawkeye” Flaherty, Mayor; and George Brodin, Mayor Pro Tem

Motion by xxxxxx, second by Sullivan to approve Resolution No. 6 – Series 2006, A resolution concerning banking practices for the Town of Minturn second by Bellm; all voted in favor.

13a. Discussion/Action - Design to be put on Water Tower

Council Member Bellm suggested we get public comment in regards to repainting of the Water Tank. She feels our citizens are concerned that they will not have a voice. Place a survey on web site for some ideas and take outside suggestions from residents; our community wants to have a voice. Town Manager Capela inquired as to what type of survey; give them options to choose from such as a) Blank, b) Town logo, c) Centennial and Mr. Gallagher suggested a logo of the three railroads that have been active in town and make it clear that C&B is responsible, not the town. Also make sure that residents that don't have internet access can complete a survey at the Town.

14. 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
- Ginn Annexation Public Hearing – September 6, 2006
- Mike Wheelersburg – Minturn Towne Homes Update – May 3, 2006
- Review of Minturn Municipal Parking concerns – May 3, 2006
- **Enterprise Water fund cost to do its work accurate account of what should be charged True Cost of Water Plant**
- **List of Expenses that have been charged to Ginn so far**
- **List of things that hadn't been done that will be completed in the next year as part of the manager's annual**
- **Retreat and include P&Z date (Staff, pz and then council kick around) Capela list and work on them. Brodin Four or five goals that are really important. List, prioritize, Sullivan five or six goals. Burnett Town Hall Sullivan Sidewalk Flaherty review what we haven't gotten finished. Lets look at what we haven't finished. Water Plant, Dedication of the Town Capela all the list, collect and all of the things. Burnett where are we going to go. Town Hall**

15. Set Future Meeting Dates

- 1) Council Meetings
 - May 3rd, 2006
 - May 17th, 2006
 - June 7th, 2006
- 2) Planning & Zoning Meetings
 - April 26th, 2006
 - May 10th, 2006
 - May 24th, 2006
- 3) Other

16. Adjournment

In that there was no further business the meeting was adjourned at 9:26pm

Mayor Gordon "Hawkeye" Flaherty

ATTEST:

Town Clerk, Jay Brunvand