



Regular Meeting of the Minturn Town Council - **Wednesday, September 20, 2006**
Minturn Town Center, 302 Pine Street • Minturn, CO 81645 • (970) 827-5645

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, Council meetings are tape recorded and are available to the public (tapes are disposed of after 180 days) for listening at the Town Center Offices from 8:30am – 4:30pm, Monday through Friday, by contacting the Town Clerk at 970-827-5645, 302 Pine St. Minturn, CO 81645

WORK SESSION – 5:45 PM

1. GOCO funding request outline by: Councilwoman Brinkerhoff
2. Minturn Town Staffing and Staff Compensation by: Capela
3. Town of Minturn Nuisance Ordinance; Process for Enforcement by: Capela
4. Alpine Building Consultants Building Inspection/Planning issues by: Mayor Flaherty
5. Rail Road Discussion by: Capela

REGULAR SESSION – 7:00 PM

1. Call to Order

Mayor Hawkeye Flaherty called the meeting to order at 7:09p.m. Roll call: Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff, Jerry Bumgarner, and Mayor Pro Tem George Brodin. Hawkeye F. led everyone in the Pledge of Allegiance.

Staff present was Town Manager Ann Capela, Town Treasurer/Clerk Jay Brunvand, Town Planner I Derrick Slocum, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova, and Court Clerk/Office Technician Torrey Maxwell.

2. Approval of the Agenda

- a. Items to be pulled from Action Calendar - *None*
- b. Items to be pulled from the Discussion Calendar - *None*
- c. Items to be pulled from the Consent Calendar - *None*
- d. Emergency Items to be added - *None*
- e. Order of the Agenda Items – *Kelly B. requested that Discussion/Action Item 15 & Discussion/Action Item 16 be moved up in the agenda and be placed after Discussion/Action Item 9 as she would be leaving the meeting early due to Winter Storm Warnings regarding snow during her travel this evening to Denver.*
- f. Approval of the agenda

Motion by Tom S., second by Bill B. to **approve** the agenda as amended; **Motion passed on a voice vote 7-0**

3. Liquor Authority

Hawkeye F. recessed Council and took roll call as Liquor Authority; roll call showed all in attendance.

- Minturn Mile Liquors, Inc Retail Liquor License annual renewal; 341 Main Street; Gail Crowder, Owner/Manager

Hawkeye F. introduced the item and referred the discussion to Jay B. who clarified that this was an annual renewal that he had no issues with and that Gail Crowder, Owner/Manager was present for questions. He also noted that the request for a delivery permit had been pulled and was no longer a part of the annual license renewal application. Police Chief Martinez commented that his staffs report is on page 12.

Motion by Tom S., second by George B. to **approve** Minturn Mile Liquors, Inc. 341 Main Street Retail Liquor License annual renewal; **Motion passed 7-0**

Hawkeye F. inquired if the violation that the applicant had this year, which was taken to the State, had the Town been notified of that violation? Lorenzo M. stated yes the Town was actually the initial agency investigating it. Minturn PD talked with Liquor Enforcement, turned the case over to them and they finished the investigation. Hawkeye F. inquired if there was anything that the Liquor Board needed to do? Lorenzo M. responded that today they have an opportunity if there is something; but no sir. Hawkeye F. asked for clarification as he was under the impression that anytime there was a Liquor violation, that Staff would advise Council. Lorenzo M. responded that prior to him (Lorenzo) assuming charge, every violation was suppose to be reported to Council. But his understanding from their discussion once he had assumed Chief that they would be at his discretion, most of them, since then he has been reporting in this annual report.

Tom S inquired about JB's BBQ Liquor License. Jay B. responded that there were a couple of problems; one being that they did not have the Fingerprints back and the second problem was the building map versus what was actually going to be in there. He assured Council that it would be on the October 4 meeting agenda unless something comes up and it would be bumped to the October 18th meeting. Tom S. inquired if Jay B. has the Fingerprints back at this time; no, but he will send a reminder to Lorenzo M. to check with the company if they haven't come in by end of this week.

Hawkeye F. adjourned the Liquor Board and reconvened Town Council; roll call showed all in attendance.

4. Approval of the Minutes

- September 6, 2006

George B. noted that on Page 25, 3rd item down should read Wastewater Treatment Plant.

Motion by Bill B., second by George B. to **approve** the minutes of September 6, 2006 as amended; **Motion passed on a voice vote 7-0**

5. Special Presentations/Citizen Recognition/Project Update

John Fitzthum of C&B Development, Minturn Towne Homes Monthly Update, 130B Morgan Drive, Edwards, CO

- Bldg G drywall phase, siding almost complete, will begin painting after this snowstorm, installation of the siding after the storm,
- Bldg H in the mechanical and rough in stages, installation of the siding will begin after this snowstorm
- Bldg I is same status as Bldg H moving along with the siding
- Bldg J the fourth and final building of the project is in the foundation stage, hope to be framing second week of Oct
- Phase notes in general; all deep utilities have been installed, storm sewer for Phase III will begin installing that next week, shallow utilities to the buildings to follow, asphalt is scheduled for Phase III, curb and gutter for last week of October, first week of November.
- Public Works had a couple of issues; infrared repaired the asphalt and widened the road down by the railroad tracks behind Bldg D, which is complete. The balusters still need to be installed for the electric transformer; they arrive on Monday and will be installed between Bldg A and B middle of next week so there will be no issues with transformer on the property. Traffic or a car getting astray.
- General project notes as a whole; this week they graded the railroad property and they hope to not be using the railroad property across the street from the Town homes after the next couple of weeks and manicuring the cut that we have made there. He has met with the landscaper, they will begin on Monday. The concentration will be on the backside of Bldg D, on the Taylor Avenue side where the two retaining walls with hydro seed and shrubs, Aspen on the backside and trees and planters of the 18 units will be installed as well. Installation and reconfiguration of the irrigation system that is in the common area behind Phase I will be in place and replacement of trees and shrubs they lost in Phase I. They are about 7-10 days out on sod and that leaves him about 7 days before they will blow out the irrigation system with compressed air for the freeze. Sod is a question in the common area.
- That is the update; please call John Fitzthum at 445-7181 if you have any questions.

George B. said that where the trail comes down it looks like it might be to your best interest to finish it off so it doesn't become a mud run down across your pavement. The pavement looks nice. Mr. Fitzthum responded that they will put erosion control blankets down at the mouth of the trail for the time being. We need to add a boulder retaining wall to hold the soils and we also need to move the mouth of the trail over so that we have more of a gradual entrance if you will; per Tom S. request. Also regarding their landscaping plan above Bldg D they will hydro seed and erosion control blanket to the west of trail itself to the telephone pole up high. Hawkeye F. inquired if the Town should do something with C&B so that the trail doesn't become a mud path; is there something we could put in there, a walking material or something?

Mr. Fitzthum responded that C&B could hydro seed, it has been his understanding that they have to maintain that cut so it is a visible trail, but they could hydro see so the road is not so wide and that would control erosion. 4th of July the Fire Department (FD) had concern stating that they needed access to that in case of fires.

Direction to Staff (Ann): Hawkeye F. inquired from Council if they wanted to look at improving the entrance to trail so it isn't just a mud scar going up the hill; agreement was verbalize. Ann C. responded that she would need to look at property ownership first.

Jerry B. inquired how they are going to differentiate from where the street ends and where your property, where you did the asphalt repair, where is the road and where is the driveway. Mr. Fitzthum responded that Wiley had suggested some type of paint striping, to have a line of demarcation on there. They will discuss with Public Works regarding plowing; Wiley has suggested a curb stripe. Jerry B. said I mention this because I don't think people know where they are parking and they need to know that.

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

Michael Gallagher, 475 Pine Street, Minturn, CO mentioned that as Cross Creek Consulting, one of his clients has offered free firewood to the citizens of Red Cliff and Minturn. Dump trucks full of cut firewood, split and it is up to the citizens to go fill up their trunk, trucks, etc. It is offered to the residents of Minturn and Red Cliff; it is not for commercial use. There are two locations where the firewood can be collected from in the next week or two. Ann C. stated it will be posted on the Minturn website.

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. had left meeting earlier due to injured back and difficulty sitting)

Ann C. noted that Karen's report was on page 34 and that Karen was working on certificates for people who have helped out substantially with the different events held recently. Shelley B. inquired of the three (Historic Preservation, Activities, and Business) committees that had been created she asked about status on Activities and Business. Ann C. noted that she will pass that inquiry to Karen who will provide Council with an update.

b. Public Works

Rod C. updated Council on the pipe replacement south of Maloit Park; 100' has been replaced so far, water, ground water, trash pump and weather make it tough going. Pipe is in poor condition, three noticeable holes found so far. Also they are approaching sewer line so they must be careful. No projection of when it will be done.

c. Police

Lorenzo M. noted that his report is on page 35. Crime Stoppers report last Wednesday 9am w lady was walking her dog along Fourth Avenue when she bent over to straighten the leash a vehicle past by, hit her and left the scene. If anyone has any leads or knows anything about this please call, the police need the community's help as the lady was injured. * New patrol truck is

here and ready to go; it has a computer inside that is linked to county wide system, can download to office computer, criminal histories and driver histories can be run from the vehicle. *Good news, hired a police clerk/records clerk and bad news, still in recruiting process for additional officers. * The Minturn Police Department will be working with the local High School, Battle Mountain in regards to their Homecoming Parade which will be at 6pm October 4th.

d. Treasurer/Clerk

Nothing additional to report at this time.

e. Town Planner

No staff report. Currently working on a Design Review approval for an accessory building south of town and also continue to review current engineering standards. Hawkeye F. inquired if Minturn Lofts plan includes underground parking; no. He continued by asking if the Town might be interested in putting in underground parking under the Minturn Lofts? Shelley B. responded that it would create more traffic on Boulder Street. Bill B. added that his experience was that there is too much water, not enough pumps for underground parking.

f. Town Attorney

Not audible

g. Town Manager

Ann C. noted her report begins on Page 52. Kelly B. inquired on the Eagle River Restoration project and suggested putting together a committee which can hear the community's thoughts on the project. She feels there is a lot more opposition then what has been stated here (report). Joining together with Department of Wildlife (DOW), Trout Unlimited etc who are experts in Fish and their habitat. Ann C. authorization approved in 2004 by Town Council shortly after she came to the town, Troy Thompson has been in front of Council on this project a couple of times, Trout Unlimited is the Town's partner as is the Forest Service and DOW (she will confirm this). She herself has not seen any letters of concern although people have come up and asked questions about the project. She did add to our Minturn *Express* newsletter that an ad hoc committee would be formed for citizens to hear the summary of Mr. Thompson's report, the expert that was hired to handle Phase I. The direction Council has given Ann and Troy is to continue with the project and the submission of the grant, unless Council has changed its mind. Hawkeye F. added no, that was the direction that was given. Shelley B. added that a committee of citizens might not be a bad idea as she has heard so much opposition to Phase II regarding challenges that came up during Phase I that there are some pretty unhappy people out there. It would be good to have a place where people could voice their concerns. Ann C. added that she has received one call from a business industry person who is interested in kayaking and had concerns/questions. As a representative of the Town of Minturn she applied for \$1.7 million for Phase II. If people are interested we need community leaders, community representatives, volunteers to help on this committee. Kelly B. stated that kayaking is an important recreational amenity and brings a lot to this town. It would be good if we could incorporate that with the park and other activities. It would be helpful to know why people are opposed, what are their reasons. Ann C. responded that she did offer for the gentleman to come to the Town and look at the project information on file and she notified Troy Thompson. Hawkeye F. inquired when the next meeting is that citizens can share their thoughts on this project, what is the cut off date. Ann C. informed Council that she is not aware of the cut off date but she does have NRDS forms for citizens input to be submitted. The citizens have already had two opportunities to share their thoughts. Jerry B. added that they must have had a dozen meetings for Phase I, good information

was provided at that time. Allen C. noted that there was also an onsite visit held at that time. Ann C. noted that the public can go to the Colorado Public Health, <http://www.cdphe.state.co.us>, website where all of the information on the ongoing projects is listed; also the Town of Minturn is a repository for public information on this.

Hawkeye F. inquired the time line for the Public Works building to be completed; Sibley Plumbing & Heating completion is projected at two weeks. Virgil from Yampah Builders was out and has ordered the materials he will need. Hawkeye F. inquired if Kelly B. was in agreement with the report they were given on Affordable Housing; yes. Ann C. inquired if Council was comfortable with her brief summaries on each of the topics; yes (verbal from Council stated approval).

Michael Gallagher, St. Patrick's Parish, asked from his seat in the audience if he could speak to Council again and Hawkeye F. agreed. He reported that the bell is fixed and it will be ringing at 12 noon and 6pm for the Angelis and then 7:45am and 8:00am as well at 9:15am and 9:30am on Sunday mornings calling people to Mass.

h. Town Council

Bill B. inquired if the Old Town Hall will be heated during the winter; Rod C. responded that the water is off (Rod C. responded from his seat in the audience and is not audible on the tape).

Direction to Staff: Hawkeye F. directed that Rod C. make the call regarding whether the heat is to be kept on or not noting that Rod C. is more aware of what is in the Old Town Hall and if there are things that need protecting with the heat then it will be Rod's call to keep it on. Hawkeye F. directed that Rod C. let Council know when he makes his decision.

George B reported that Tuesday, September 19th, 2006 that Town Council held an extra meeting where they adjourned and reconvened as Water & Recreation Enterprise, went into Executive Session under CRS 24.6.402.4(b) and CRS 24.6.402.4(e) about specific legal questions and strategy. We exited the Executive Session and reconvened in an open meeting. What this pertained to is that there was a meeting scheduled with the Upper Eagle Valley Water & Sanitation District and there is some misunderstanding on terms of the subject and structure of that meeting so we had the extra meeting to allow as much time as possible for all parties to reschedule. Direction was given to Staff in regard to the meeting with the District, preparation of the site application for the proposed wastewater treatment plant, and further study of the river qualities. The meeting was adjourned and lasted a little over an hour. Hawkeye F. inquired if the meeting with the District was rescheduled; George B. responded that staff has been given direction.

Hawkeye F. updated the Town that Battle Mountain suffered their first loss in Football last weekend against Delta and they take on Monte Vista this week. Boy's Soccer team avenged their loss against Steamboat at Steamboat this week. And the High School Girl's Volleyball team suffered their first loss of the season against Daughtery. The sports schedule is in full swing, the students enjoy having a crowd at their games, so come on out and watch. Hawkeye F.

reminded Council that it has been a tradition to have the Work Session at the parade or at least start the Work Session and then go to the Parade.

Shelley B. notified Council that the Eagle County Child Safety Committee has taken a 180 degree turn; the promotion they are working on is "Spot the Tot" which has been adopted nationally by Safe Kids. Wild West Days Fundraiser is this Sunday for the eight local schools and the Wild Wine Testing tomorrow night.

Kelly B. updated everyone on "Live in Minturn" concert series which will be starting this Friday, September 22, with Mango's Restaurant hosting the first one. Every Friday night will be a different location except for the last concert won't be held on a Friday but a Monday instead. The schedule is posted on the Town website and in the Minturn *Express* Newsletter with concerts starting at 9pm.

DISCUSSION, HEARINGS AND ACTION ITEMS

9. Discussion/Action – Meadow Mountain Business Park Water Billing - by Town Treasurer/Clerk

Jay B. introduced this topic noting that he had Fred Haslee go out from Eagle River Water & Sanitation (ERWSD) go to the site and provide a count on fixtures. I do not know how it was set at 20 or 25 sfe. That is what it has been as far back as he can locate records. There are a couple of issues; the fixture count alone says that they could use 1.5 "meter but they have a 2" meter. Public Works went to the site and inspected and recalibrated what ever they needed to do to make sure it was matching. Jay B. suggested we hear from Meadow Mountain Business Park (MMBP) and then decide what we are going to do. Kelly B. inquired if the Park were to install the 1.5" meter, wouldn't they automatically get the 5.8 Single Family Equivalent (sfe) calculations which would significantly reduce their water cost. Jay B. responded that when Fred did the fixture count it went from 25 to a 10.5 and if they reduced the meter size to a 1.5" it would go to 5.8. There are two steps they could do and either would lower it. Kelly B. interjected that it would reduce by about 1,300 a month. Jay B. responded yes, if they went down to the 5.8. Hawkeye F. inquired if instead of making them tear out their meter and replace it, can't we just give them a credit? They aren't using anymore water if it is running through a 1.5" or 2" line. Jay B. replied we can do whatever Council directs but ERWSD will not do it. Hawkeye F. stated that ERWSD only does the billing for us. Jay B. added that they control the sewer end of it. Kelly B. stated that there are probably people with bigger meters and then you would have to do that for everybody. Hawkeye F. suggested notifying ERWSD and asking them to recognize that meter as a 1.5 instead of a 2" to save the business the cost of buying and replacing the meter. Jay B. responded that from what he has heard, they will not. He has already asked that question. A 1" meter is roughly \$500; he stated a 1.5" is probably a little more. The other problem is that if they reduce down to a 1.5 feed tap, they bought a two inch tap when the building was built. They are going to lose an asset as the sfe are reduced going from a 2" to a 1.5" if they wanted to develop something there. Kelly B. asked if they were to sell it or if they were to add businesses with higher water usage? Jay B. responded that they would have to come back in and buy more water tap.

Lew Meskimen, 4021 Big Horn Road, Vail, CO and his business is located in the MMBP and that is who he is representing. He inquired immediately of Jay B. where does a six inch line come in? Jay B. responded that a 6" line comes in regarding fire suppression and we don't count that. We looked at June 21, 06 we used 56k for three months and they were billed \$5,500. There has been an offer of a credit from January 06 but MMBP would like to see more than that, they believe that a 40 month credit is fair. They have been paying this higher rate for 20 (twenty) years and most of the tenants have only been there 8 (eight) years. When Fred from ERWSD came out he stated that once the town put in the 1.5 meter (or read it that way) they would be dropping their rate because the water coming in equals the water going out. Everything we get billed from ERWSD is strictly from what the Town bills us. Hawkeye F. inquired when ERWSD bills is it used or the gallons we say you can use; gallons they can use, not on what they actually use. Mr. Meskimen stated that they are billed on 500k gallons a month, therefore the sewer is based on that amount, not on the 20 or 30k actually used. Hawkeye F. noted that paperwork says they use 750k. Mr. Meskimen responded that the way it was explained to him, if you look at the charts, it is between 500-750k. Jay B. clarified that the way he bills the water, amount he bills is from a manual read, it is based on if they were to go over 750k, a base rate was set per cfe and then any water in excess of 30k per commercial sfe, is charged \$3.25 per thousand gallons. They haven't been charged for the excess use because they have never exceeded the 750k. They are allowed a base rate based on the sfe. The first question is what is the correct sfe? When ERWSD went out and checked it they came back and said 10.5. If they request to go down to 1.5 tap then it would go down to 5.8 and then that is going to multiple by \$76 per sfe. Kelly B. inquired whose responsibility is it to install or change out a meter? Jay B. responded if it is on the main line it is the Towns and if it is on the service line it is theirs and in this case it is on the service line. Kelly B. added that that appears to be the key right there. Mr. Meskimen noted that MMBP has no problem changing meter to 1.5 which the ERWSD recommended. Kelly B. asked if the only thing they are concerned about is the compensation or credit; yes. Mr. Meskimen said that the structure is still at some 100+ gallons or 80% deduction of what we have (or 20% of what we have) so that is double or triple of our monthly consumption. We are still paying more than what we are consuming. Tom S. inquired why not install individual meters. Mr. Meskimen noted that they could do that. It is set up as a condo association and they don't turn around and do individual meters anywhere in the state that he knows of. Jay B. added that the condo association exist because when it was sold, the owner wanted to know what he needed to do in order to not go through the expense of taking a 20 year old building and not having to retro fit it with water taps and meters on each one. We allowed them to go with one meter if they did an HOA. Hawkeye F. asked Jay B. to explain why the size of the meter regulates the sfe? Jay B. summarized by stating that a certain amount of flow goes through, is allowed through. The standard meter for a house is 3/4" and if they go for a 1" line it is a larger sfe. If they go over 3k square feet in the house it is a larger sfe. Hawkeye F. stated he wants Jay B. to show him where in the Town Ordinances we calculate that and why we do it that way, it is just not reasonable. Jay B. questioned the sfe? Hawkeye F. responded no, that we change the water size it changes the sfe. The size of the building does not change, the amount of the water going into the building does not change, you will use the same amount whether it goes through a 1" or a 2" meter so it isn't reasonable that we are basing the sfe on the meter. Maybe we could have Fred H. come and explain it. What year did we implement the base rate? Jay B. responded that we have always had a base rate for water. When we went to meters which he believes was in 2000 they went to base rate +. The argument at that point was what about the

people who bleed their lines during the winter, what would be the affect. The allowance was set very high (15,000 residence and 30,000 commercial gallons per month) and anything over that they are charged per 1000 gallons. ERWSD starts charging at 1,000 gallons. Mr. Meskimen inquired why the town set it higher for commercial (Allen C. requested that the Mayor have Mr. Meskimen direct his questioning to the Mayor, not the Treasurer) when it is usually just a toilet and sink. Jay B stated that is the way the ordinance was passed. Commercial water is a little more expensive with public restrooms. *Allen C. spoke but his microphone was off and he was not audible.* Does MMBP want to go with the 10.5 or the 5.8? Mr. Meskimen responded 1.5" meter. Jay B. reiterated that he needs to know, does MMBP want to go with a fixture count that ERWSD came up with, in which case it would go to 10.5 sfe or do they want to actually physically reduce the size of the meter which would take it to a 5.8 sfe? Understanding that if you choose to go to the 1.5" line you will lose the access to that size tap. It will be reduced from the 25 sfe to at least 10.5 or possibly 5.8. Mr. Meskimen responded but was not audible on the tape. Hawkeye F. stated that he does not know why the town would have required a 2" meter or maybe he just decided to put in a 2" meter. How hard would it be Jay, could you show us a spreadsheet over the six years what those rates have been and the increases? Before 2000 we charged everyone a flat rate and then after the meters were put in we charged a base rate +. Jerry B how are the other buildings billed such as Dr. Werner's place? Jay B. responded that each one has its own meter, gets read monthly and is billed on the sfe provided based on ¾ or 1". Jerry B. restated the building there, if all they have is a sink he is billed the commercial rate 30k whether he uses it or not. Jay B. suggested looking at Johnie's Garden he has his office on Main, he fills up his water truck there and he uses it to water his plants because he has two locations that he operates out of but one place that has water. Jerry B. restated that anything over 30k that he hauls down to the second location is more expensive; yes and it is based on the sfe he has for that location. Tom S. interjected that MMBP needs to decide what they want to do and do it. In reference to the refund or credit he does not agree to either. General discussion ensued regarding the credit being requested and Jay B. stated that historically they will go back to the beginning of the fiscal year they are in, but not farther then that. Kelly B. said that MMBP could have changed out the meter years ago, it was their choice. General discussion ensued on whether the Town required the 2" meter or if MMBP owner's choose to put in that size. Tom S. shared that when he lived in his 800 sq ft cabin that the line there was 1.5" and it was put in years and years ago. Hawkeye F. insisted that we should find out why a 2" was put in (Town's requirement or MMBP's decision) instead of a 1.5". Kelly B. added that it is MMBP's responsibility to check on that. Jay B. said that MMBP has always questioned the bill.

Motion by Tom S., second by Bill B. to **deny** the credit/refund of water bill; **Motion passed 6-1 by voice vote and show of hands**; Hawkeye F. voted nay. During discussion Jay B. stated that he will be preparing a letter and agreement that states they will be losing that portion of the asset which can be significant if they choose to reduce the size of the meter. Discussion amongst council on sfe and how the size of the meter affects that and it was decided that Jay B. does not have to research this. Jay B. reminded Mr. Meskimen that he needs to notify the Town when the change of meter is made; Mr. Meskimen responded that he would.

15. Discussion/Action – Minturn Town Staffing/Budget and Staff Compensation – by Capela

Ann C. reported impacts to the budget, etc and as Chief stated he has hired for his position and we would like to move forward and hire the additional staff and that report is on page 118 and 119.

Motion by Shelley B., second by Kelly B. to **approve** the increase in staff presented by the Town Manager; **Motion passed by voice vote 6-0**

Note: Bill B. stepped out of the room 8:34pm and was not present for this vote

16. Discussion/Action – Motion to reconsider Town Manager’s Compensation – Direction by Town Council

Motion by Shelley B., second by Kelly B. to increase the Town Manager’s salary by 10% of her base salary for the remainder of 2006; discussion ensued. Jerry B stated he had agreed to 70k.

Note: Bill B. returned to the room 8:35pm

Bill B. stated that we should go by the contract; her base rate, raises, etc. Kelly B. amended the motion to \$70,000. Hawkeye F. asked for point of order and Allen C. approved of Kelly B. requesting that Shelley B. amend the motion to \$70,000. Shelley B. **amended** the motion to \$70,000 as of September 2006, Kelly B. seconded; discussion ensued. Jerry B. noted that he did not agree that manager should be reviewed in January when her contract renews in April. Hawkeye F. reminded council that the manager is reviewed in January along with all staff for budgeting purposes. **Motion passed 5-2**; George B. and Hawkeye voting nay

Note: Kelly B. left the building at 8:40pm due to weather and travel to Denver

10. Discussion/Action – Town of Minturn Nuisance Ordinance; Process for Enforcement – by Capela/Christensen

Investigating cost of printing, everyone will sign, and we are going to move forward.

11. Ordinance No. 26 – Series 2005 (Second Reading) An Ordinance authorizing the Mayor Town of Minturn to Sign an Agreement with Pilgrim Communication, Inc. For Lease of Real Property for a Radio Tower – by Christensen

Allen C. summarized that Pilgrim has agreed to all conditions and changes suggested by Council. Two issues do remain; removal of the copper wire from the ground after the contract expires and the amount of the performance bond. We have a letter from Pilgrim suggesting the amount to remove the tower as \$15,000 and that the industry standard is to leave copper line in the ground. Allen confirmed that the line has been there since 1982. Allen C. suggests \$25,000 and Ann C. is asking for \$50,000. Hawkeye F. noted that the questions are should we leave the copper wire

in and what the bond should be. Jerry B. questioned if the copper wire is a danger to the environment; Ann C. responded that she does not know if it is environmentally a danger and she stated that it is an individual decision on if someone leaves it in the ground. Hawkeye F. inquired how deep they are buried; Allen C. responded anywhere from 6 - 18" deep. Jerry B. inquired if the Radio Tower is considered a Trade Fixture; Allen C. responded yes. Jerry B. shared that Colorado Law on leases states that Trade Fixtures have to be removed the day before the lease expires. Allen C. said he has always known it to be subject to negotiation. Jerry B. reiterated that is what the law is. Hawkeye F. directed that Allen C. needs to look into that and answer that question. Tom S. added that as with any contract anything can be negotiated. Allen C. stated his answer is no, it is not law unless he sees different; as he has never put that in the contract, it has never been on any of these leases and the prior meeting stated 30 days after the lease expires. George B. is the bond enough to remove the tower or are we going to be left carrying the balance? Ann C. does not believe the fixture will be removed for \$20,000. Tom S. inquired of Allen C. if Pilgrim left the tower and did not remove it and we have the bond but it does not cover the entire cost, can the Town then sue Pilgrim for the balance; Allen C. read from paragraph 15 of the contract that yes we can. Hawkeye F. suggested \$25,000, Tom S. suggested \$30,000, Jerry B. \$25,000 to \$30,000.

Motion by Tom S., second by George B. to **table** Ordinance No. 26 – Series 2005 (Second Reading) An Ordinance authorizing the Mayor Town of Minturn to Sign an Agreement with Pilgrim Communication, Inc. for Lease of Real Property for a Radio Tower; discussion ensued. Hawkeye F. requested that they be required to hold a Business License; Allen C. responded that the MMC dictates that. Hawkeye F. inquired if Pilgrim needs to pay taxes; Allen C. he and Jay B. have discussed this. They have never received them but if they receive them, they will pay them. Hawkeye F. noted that in 5d a reasonable time to him is one year, 5e there is no sense in making them put in tress because they don't have water to keep them alive. Also 7b dogs? If we are going to make them enforce this they are going to need to put up signs "no pets." And last 7f "Pilgrim to allow soil conditions prior to the use." What is going to happen if the say the Minturn Community Fund can't park there? Do they have that right? Pilgrim is unprotected. Allen C. inquired of Council that these are the Mayor's questions, does council want Allen C. to continue answering them; no. **Motion approved 7-0 to table** until bond amount can be agreed on by Pilgrim.

12. Discussion/Action – Ordinance 14 – Series 2006: An Ordinance authorizing the Mayor to sign an Inter Governmental Agreement with Eagle County Animal Control Services – by Capela/Chief Martinez

Allen C. this is renewal of a contract that has been in affect for many years.

Motion by Bill B., second by George B. to **approve** Ordinance 14 – Series 2006: An Ordinance authorizing the Mayor to sign an Inter Governmental Agreement with Eagle County Animal Control Services; **Motion passed 6-0** (Note: Kelly B. not present)

13. Discussion/Action – Resolution 8 – Series 2006: A Resolution of compliance with Senate Bill 06-090 concerning local government cooperation with Federal officials regarding the immigration status of persons in the State of Colorado – by

Capela/Christensen/Chief Martinez

Allen C. informed that a State Law was passed requiring the Police Department to compile the policy for cooperation with Federal Immigration Officials. Chief Martinez wrote this within the requirement of the Senate Bill.

Motion by Tom S. second by Shelley B. to **approve** Resolution 8 – Series 2006, A Resolution of compliance with Senate Bill 06-090 concerning local government cooperation with Federal officials regarding the immigration status of persons in the State of Colorado;
Motion passed 6-0 (Note: Kelly B. not present)

14. Discussion/Action – GOCO funding request outline – by Brinkerhoff

The town is the applicant, the Minturn Community Fund is helping, and it is the town that gets approved. What we are requesting is that the Council allocates up front money towards the application which it was agreed to be \$15,000.

Motion by George B., second by Tom S. **approving** \$15,000 to fund the GOCO request for the Town of Minturn designating the Town of Minturn as the applicant; **Motion passed 6-0**.

17. Discussion/Action – Hazardous Trees report on Main St. & Harrison Street – by Capela
Ann C. retained the firm of Cut Above Forestry who examined the tree and the report is on page 127. This is a risk management issue to the town as the trees are more on the Town property than on personal property.

Tom S. excused himself and left the room as the trees are located on his property.

Ann C. continued by stating the arborist suggest taking the tree down. Hawkeye F. consulted Allen C. that we have a councilman who had to excuse himself because he owns half the tree, should we only cut down half of the tree. Allen C. stated you can do this under Public Safety. He visited the site with Alan Lanning six years ago and that tree has fallen since that time. Jerry B. inquired as to the cost; Ann C. stated she does not see that the cost was included.

Motion by George B., second by Hawkeye F. to approve obtaining two estimates on having the trees removed, take lowest bid and get them removed; **Motion approved 5-0**

18. Discussion – FY 2007 Budget Review – by Capela/Brunvand

Review it please, you won't be approving at next meeting, you will be accepting it. If you have any questions please contact him prior so he can address.

19. Discussion/Action – Amendment 38, Colorado General Election Initiatives & Referenda

Allen C. stated it is a bad idea. He stated that we have Municipal Charter and State Law has these provisions and these dramatically alter them and allow a minority of citizens to frustrate

any action taken by Town Council. CML, you're lobbying and information group has asked you to support, or pass a resolution opposing it.

Direction to Staff: Ann C. to come back with resolution and vote on it at 10-4-06

Railroad Committee: Hawkeye F. inquired if anyone was interested in serving on the committee.

Motion by Tom S., second by George B. **to approve** Bill B. and Shelley B. to serve as Railroad Committee volunteers, with Jerry B. as an alternate; **Motion passed 6-0**

Ann C. noted that the Chairman of the Enterprise requested that we discuss the policy for water meters on 10-04 (work session only) George B. responded that in light of the Homecoming Parade that it be moved to the second meeting in October. Hawkeye F. suggested putting it on for the Work Session for October 4, 2006 just in case there is time to get to it.

Jerry B. received a call from a business owner who leases parking and he wanted to know when we are changing this ordinance. We have been told we are waiting on the landlord submitting a plan. Where do we stand on this? How can we move this forward? Hawkeye F. responded that the landlord will have it by this Friday. Hawkeye F. suggested Council look at condemning and taking ownership and using the property as parking; Ann C. recommended taking this up in closed session and Hawkeye F. agreed.

FUTURE AGENDA ITEMS

- Ginn Annexation Continuation of Public Hearing – February 21, 2007
- Old Town Hall
- Minturn Municipal Code building height limitations for new construction
- Old Town – Minturn Municipal Code Parking Regulations
- FY2007 Budget Review – Brunvand – October 4, 2006
- Mike Wheelersburg – Minturn Towne Homes Update – October 4, 2006
- Eagle County School District presentation on October 4, 2006 – 11/07/06 School Bond Issues
- Resolution 9 – Series 2006: Endorsing the US Mayors' Climate Protection Agreement

20. Set Future Meeting Dates

1) Council Meetings

- October 4th
- October 18th
- November 1st

2) Planning & Zoning Meetings

- September 27th
- October 11th
- October 25th

3) Other

21. Adjournment

Motion by Tom S., second by Shelley B. to adjourn the meeting.

Hawkeye Flaherty

Mayor Hawkeye Flaherty

ATTEST:

Jay Brunvand

Town Clerk, Jay Brunvand