



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
Minturn Town Center, 302 Pine Street • Minturn, CO 81645 • (970) 827-5645  
**Wednesday, October 18<sup>th</sup>, 2006, 5:45pm**

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

**REGULAR SESSION – 5:45 PM**

**1. Call to Order**

Mayor Hawkeye Flaherty called the meeting to order at 5:49pm. 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 Wiley Smith, Planner I Derrick Slocum, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Economic Development Director Karen Earley, Public Works Director Rod Cordova, and Public Works/Planning Department Assistant 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 – **Wiley S. requested that Item 15 and 16 be moved to the beginning of Discussion/Action Items.**

Motion by Bill B., second by Shelley B. to **approve** the agenda as amended moving Items 15 and 16 in front of Item 10; **Motion passed on a voice vote 7-0**

**3. Town Council will convene as Minturn Water, Sanitation and Recreation Activities Enterprise (the “Enterprise”)**

Hawkeye F. recessed as Town Council and convened as Minturn Water, Sanitation and Recreation Activities Enterprise.

George B. called the Enterprise to order and roll call showed all present.

Motion by Jerry B., second by Shelley B. to **convene** in Executive Session; **Motion passed 7-0**

The "Enterprise" adjourned Executive Session and convened into Open Session and announced that direction was given to the Attorneys to set up and meet with the Ginn Company Attorney's.

Motion by Hawkeye F., second by Tom S. to **approve** joint agreement presented by Town Attorneys, page 5, the Enterprise. Hawkeye asked if the signature to sign the agreement was appropriate and Ann C. responded that she checked with Anne Castle and it is correct. **Motion passed 7-0**

George B. adjourned Enterprise and re-convened as Town Council; roll call showing all present.

Hawkeye F. recessed as Town Council and convened as the Minturn Liquor Authority. Roll call showed all present.

#### **4. Liquor Authority**

- Terry and James Marcum Partnership DBA Shop n Hop #12 3.2% Beer License; 401 Main Street; Terry Marcum, Owner/Managing Partner.

Lorenzo M. commented that he appreciated the support and cooperation this year received from the Marcum's and their staff, especially Charlene.

Motion by Tom S., second by George B. to **approve** Shop n Hop 401 Main Street Retail Liquor License annual renewal; **Motion passed 7-0.**

Hawkeye F. adjourned Liquor Authority and reconvened as Town Council with roll call showing all members present.

#### **5. Approval of the Minutes**

- October 4<sup>th</sup>, 2006

Motion by Shelley B., second by George B. to **approve** the minutes of October 4, 2006 as amended; **Motion passed on a voice vote 7-0**

**6. Special Presentations/Citizen Recognition/Project Update - None**

**7. Public comments on items, which are NOT on the agenda - None**

**8. Discussion/action of Emergency Items, if necessary - None**

### STAFF REPORTS AND OTHER ITEMS

#### **9. Reports/Correspondence/Announcements/New Business**

##### **a. Economic Development Director**

✓ Winter Market dates are Saturday, December 9<sup>th</sup> and Saturday the 16<sup>th</sup>. A new attraction to the one of the Saturdays will nr Dog Sled rides. This is a new attraction in addition to Santa and his

live reindeer, the Dickens Carolers, the Harmony Singers, a Quintet from Bravo along with some Jazz. ✓ Halloween in Minturn will be held the day before Halloween (Monday the 30<sup>th</sup>) stock up on candy ✓ Historic Preservation will meet Tuesday, October 24 from 6pm to 7:30pm upstairs in the Town Center conference room where they will be talking about Bill Burnett's book, the Preserve America Program, discuss museum ideas, historic Minturn video and the picture display on Main Street. ✓ "Women on Main mean Business" promotion where six women business owners will be interviewed. This is the theme they are starting out with, there will be others. ✓ A big thank you to Jerry Bumgarner, his wife Penny and the Minturn Country Club for the wonderful catfish fry Monday night, October 16<sup>th</sup> for Monday Night Football. Delicious skillet fried potatoes, baked beans, and corn fritters accompanied the battered and deep fried catfish. ✓ Town Christmas Party is December 16<sup>th</sup> at the Minturn Trout & Racquet Club.

Kelly B. added that this Friday, October 20<sup>th</sup> Live in Minturn will present **8traC** at The Saloon and then the last concert will be Monday October 30<sup>th</sup> also at The Saloon with **Little Hercules** performing. Both concerts start at 9pm and the cost is \$7.00

**b. Public Works**

Rod C. was present and available for questions, nothing additional to report.

**c. Police**

Lorenzo reported that the police department has started a School Bus Crossing program for the elementary school. He has enough volunteers for the 100 block but he is still looking for parents, citizens to volunteer to staff the other stops in town.

Hawkeye F. notified Lorenzo M. that he has had some comments on the pedestrian crosswalk sign down by the Ironworks Building. Its positioning makes it difficult for drivers turning onto the highway from Toledo. Lorenzo M. noted that it has been taken down for the season as it was pretty banged up and he will keep proper placement in mind for next spring.

**d. Treasurer/Clerk**

Jay B. was present and available for questions, nothing additional to report.

**d. Town Planner**

Wiley S. was present and available for questions, nothing additional to report.

**e. Town Attorney**

Allen C. was present and available for questions, nothing additional to report.

**f. Town Manager**

George B. brought up the public works building and that it is coming along well. Ann C. added that we are progressing with the installation of the HVAC. We are providing a much healthier environment for our employees or anyone else that comes to the Public Works building. George B. inquired if we know what the price tag on this is yet; Ann C. responded that the last bill she saw was \$33,000 and it could go as high as \$60,000. She noted that recovery of those funds will be pursued in regards to the company that went out of business. Jerry B. questioned Allen C. if there were still funds there from the bond; Allen C. stated the Town retained 10%, \$60,000, we had both a Performance Bond and a Payment Bond. Dan Frost from Holland & Hart along with Ann Capela is currently handling this. The Town put the bond company on notice that the building was not constructed properly or timely and once the Town completes the building we

will give them the bill for it. The Town has not given them the money which we have retained. Jerry B. inquired about an issue a couple three years ago with Mr. Sibley regarding a change order that hadn't been signed, was that on the heating? Ann C. replied that yes it was but the items were never installed and they were crossed from the old building. The Town has had some issues but they have worked on them with Sibley and now Sibley has come back and is the contractor on this project with good results.

**g. Town Council**

George B. noted that the Town received a memorandum from Eagle County and the Board of County Commissioners has put Minturn at the top of the list for Eagle River Restoration funds for next year. Money has not been pledged at this time, but when it is, it appears Minturn is the first in line to receive those funds.

Shelley B. announced that the first Railroad Committee meeting is scheduled for 4pm on the 24<sup>th</sup> of October; please email Ann C. with anything that is to be added to that agenda.

Hawkeye F. noted that Battle Mountain football team lost to the Summit Tiger's (Tiger's are undefeated and rated 5<sup>th</sup> or 6<sup>th</sup> in the State). Still trying to drum up support to go to the Eagle Valley game at the high school on October 27<sup>th</sup>. Girl's Volleyball team won at Jeff Co. with one team mate playing a 25-point game not losing even one serve.

Hawkeye F. brought Derrick Slocum, Town Planner I in front of Council, noting that he has accepted a position closer to home in Kansas and will be leaving the Town and relocating. Hawkeye F. noted the professionalism and expertise that Derrick brought with him and that he will be missed here in Minturn.

**DISCUSSION, HEARINGS AND ACTION ITEMS**

Hawkeye F. requested that each person with a microphone please leave them on as it works better than turning them on and off. He also requested that cell phones be silenced and if answered to have conversation out in the lobby, not in the Council Chambers. Same for side conversations please. He then read the ground rules for a Public Hearing.

Hawkeye F. Public Hearing opened at 7:35pm

**15. Discussion/Action Item – Garth Koellhoffer, Minor Subdivision, 432 Taylor Avenue  
– by Slocum**

Hawkeye F. inquired if the applicant is prepared to go forward with the Minor Subdivision if the Conditional Use is rejected or would they want the Minor Subdivision denied? Derrick S. responded that the applicant would do some work on the Conditional Use and reapply.

D. Slocum introduced the applicant has submitted the required documentation for a Minor Subdivision as stated in Section 17.9.5, Application Requirements. The applicant proposes to divide the lot into two lots; Lot A will be 6,967 square feet and Lot B will be 7,186 square feet. Lot A will not have frontage along Taylor Avenue, yet there will be a dedicated 25 foot access/driveway easement through Lot B to access Lot A and to provide the proper frontage, Section 16.17.2, Frontage.

The applicant has met all code requirements for setbacks and lot coverage. Three structures currently exist on the lot, with two accessory structures to be removed, and there are currently three water taps and three sewer connections existing on the lot. Access for both proposed Lots A and B will be off Taylor Avenue, with Lot A proposed to have a 25 foot access/driveway. Proposed Lot A will contain a proposed duplex development, while the existing residence will remain on the proposed Lot B. The Town of Minturn Subdivision regulations for the Game Creek Character Area state that any residential lot that is subdivided with the minimum of 5000 sq ft and be physically accessible or capable of being physically accessible from both public street by conventional vehicles. That is why there is a twenty-five foot access drive and utility easement provided to access and frontage for Lot A in accordance with Section 16.17.4.

At the Planning Commission meeting held on October 11<sup>th</sup>, 2006 the application was recommended for approval with one condition: the applicant submits an Access Easement Use and Maintenance Agreement that is subject to staff approval. The motion passed 5-0.

Considering the findings and other information provided herein, the staff recommends approval of this application subject to the following:

1. The applicant makes any modifications to the plan document as requested by the Planning Staff, Town Clerk, or other service districts prior to the Final Plat.
2. The applicant shall pay any and all required fees and charges related to development of the subject property.
3. The Town Council approves the application for Minor Subdivision as meeting in a general fashion the intent of the subdivision regulations but to submit a Final Plat application following the Minor Subdivision and Preliminary subdivision plan submittal checklist to warrant final plan approval.

Garth Koellhoffer, 1010 Main Street, Minturn, Colorado basically we are trying to remove the structures that are not visibly appealing replacing with a nicer structure; side by side duplex with a garage in the middle dividing them, set on the back of the lot. They divided the lot the way they did to keep the existing stucco house. It is a nice house and they want to keep it. They have tried to work with the lot, not fighting the natural drainage, everything flowing with the natural grade; driveway. There are 3 existing water taps and one sewer tap that crosses Ken Chadwick's property to the North. They discussed this today and resolution has occurred. Both lots are almost 7,000 square feet so they are above the 5,000 square foot requirement. He believes the project will be a great thing for the community and for Taylor Street. He seeks approval of the Town Council.

Hawkeye F. inquired if there were any proponents or opponents that would like to speak; there were none. Council was asked if they had questions and there were no questions, only positive thoughts and remarks. Hawkeye F. closed the Public Hearing.

Hawkeye F. inquired if Council had any questions for staff; there were none. Hawkeye F. inquired of Derrick S. what the findings are that need to be met for a Minor Subdivision; Derrick S. responded that as long as the two lots conform to the zoning code, it is not unique to this town.

Hawkeye F. inquired if Allen C. had anything to add; Allen C. responded with his microphone off, his response was not recorded.

Motion by Jerry B., second by Bill B. to **approve** Garth Koellhoffer Minor Subdivision, 432 Taylor Avenue with the findings put forth by the Planning Commission and with the condition that the applicant submit an Access Easement Use and Maintenance Agreement that is subject to staff approval.; **Motion passed 7-0.**

#### **16. Discussion/Action Item – Garth Koellhoffer, Residential Conditional Use, 432 Taylor Avenue – by Slocum**

Derrick S. introduced the applicant requesting a Conditional Use approval in a Residential Zone for a residential duplex building on Lot 14B, in the Taylor Addition of the Game Creek Character Area. The applicant is also pursuing a minor subdivision to divide the one lot into two lots. The applicant is proposing the duplex residential building with a footprint of around 2,560 square feet located on proposed Lot A.

The Staff review of the application compared the policies outlined in the 1998 re-adopted Minturn Community Plan, the Game Creek Character Area policies, pertinent zoning regulations, background activity and the analysis of comments including a comparison of the project to policies and goals outlined in the following:

- Section 16.12.1 Game Creek Character Area Characteristics
- Section 16.12.2 Game Creek Residential Zone
- Section 16.12.5 Game Creek Character Area Use Table

This application and site plan has been reviewed with Carol Mulson and has approved the site for emergency services. A one-way or cul-de-sac was discussed but because proposed site of the duplex is less than 150 feet from Taylor Avenue the applicant will not be required to provide turn around or one way access. .

Considering the findings and other information provided to the Planning Commission on October 11, 2006 the application was recommended for approval to Town Council; Motion passed 5-0.

Considering the findings and other information provided herein, the staff recommends **Approval** to the Town Council of this application favorably subject to the following:

1. Approve the application as submitted;
2. Approve the application subject to such modifications or conditions necessary;
  - a. The applicant making any modifications to the plan document as requested by the Planning Staff and Building Inspector prior to Certificate of Occupancy;

- b. Applicant shall pay all required fees and charges related to development of the subject property;
3. Deny the application

Garth Koellhoffer, 1010 Main Street, Minturn, Colorado summarized that they have met all of their requirements and he believes the overall project will brighten up the entire neighborhood along with their great views. He request Council approval of this application for Conditional Use.

Hawkeye F. inquired if there were any proponents or opponents that would like to speak; there were none. Council was asked if they had questions of the applicant and there were no questions.

Hawkeye F. inquired how many other duplexes are there in that area; Mr. Koellhoffer responded that there are primary/secondary homes but he is not aware of duplexes. Tom S. said Atencio's is probably a duplex. David Clapp's house is duplex; Mr. Clapp responded that it is a primary/secondary.

Hawkeye F. noted that on the plan the parking space shows 8x18 and they should be 9x18; Mr. Koellhoffer said he will adjust that.

Hawkeye F. said that the 25' easement is to make it easier for cars to pull in and out and using it for snow storage will create an obstruction. "A dedicated driveway easement of at least 25' in width maintained in an unobstructed condition is what the code says. They have to comply with the code to meet the Conditional Use. Derrick S. interjected that this is a Conditional Use so conditions can be added; they can add a condition that the snow storage be on the other side of it; Hawkeye F. responded ok. Allen C. confirmed that a condition could be added. Mr. Koellhoffer added that he has plenty of space for snow storage so the snow will be placed somewhere else.

Hawkeye F. inquired how Water & Sewer are going to be handled; Mr. Koellhoffer met with Ken Chadwick this morning because the three physical water taps actually go into Chadwick's driveway and then diagonal to the South. So one goes to the Cabin, one goes to the Stucco house and one goes to where the trailer was. On the proposed utility plan they are going to run underneath the driveway; water, sewer, electric and gas. They will abandon the ones on Chadwick's property. Hawkeye F. summarized that Koellhoffer is proposing to dig up the existing, physically disconnect them at the main, and create three new taps and two new sewer taps? He has three taps so one will go to the existing Stucco, one tap to one side of duplex, and final tap to other side of duplex. There are currently three sewers; one at the trailer (abandoned), one to cabin and one to stucco house. Mr. Chadwick notified Mr. Koellhoffer that one of the sewers goes through his property where the water is that they are abandoning. He is not sure if it is the one from where the trailer was or the cabin.

*Derrick S. pulled utility map for council review.*

Hawkeye F. closed the Public Hearing.

Motion by Tom S., second by George B. to **approve** Garth Koellhoffer's Residential Conditional Use, 432 Taylor Avenue with the necessary findings and conditions as read from the staff's report; discussion ensued.

Hawkeye F. inquired if there were any conditions recommended by Staff; Derrick S. replied there were none. Hawkeye F. wants a condition to be that the easement be unobstructed so that they are in compliance with code and that water and sewer lines are laid on the applicant's land. Tom S. **amended** his motion to include the condition that applicant lay the water and sewer lines on the applicant's property and George B. stated he would amend his second to match the motion; **Motion passed 7-0.**

Hawkeye F. opened the Public Hearing for the Fiscal year 2007 Budget

### **10. Discussion/Action Item – Public Hearing – Fiscal Year 2007 Budget – by Brunvand**

Jay B. noted that two citizens are here from different organizations that are requesting funding and are going to want to speak. There are two Public Hearings set; tonight's meeting which is open for questions and comment and then November 1, 2006 where there will be the First Reading of the Ordinances.

Julie Brinker, Bravo! Vail Music Festival, 201 Main Street, Minturn, Colorado noted their thanks for the previous years support received from the Council and to ask for renewal this year for the Music Matters Programming here in Minturn. They plan on putting together the Instrument Petting Zoo, a performance at the Minturn Market and they would like to hold another concert at the Saint Patrick's Parish. They are requesting the Town of Minturn's continued support.

Hawkeye F. asked for Public Comment; someone from audience stated that all performances are free to the public. Council member Shelley B. inquired if Bravo has considered having any events at the Amphitheatre; Ms. Brinker responded that there has been some discussion Julie Johanis, General Manager of Bravo who lives in Minturn, has looked at the facility but at this time there is nothing specific scheduled for next year.

Liz Campbell, Radio Free Minturn, 512 Main Street, Minturn, Colorado which is a grassroots organization that is run by over fifty volunteers and three unpaid staff. They have over fifty people that come into Minturn every week; they buy coffee, lunches, and dinners and are supporting our businesses here in town. We hold fund raisers here in town and also promote events that are going on in Minturn. They have met with Karen Earley, gathered information that are going on in town and put it in the "hopper" to be read on the air. They hope the Town enjoys having them here. They had a logo that was a bit offensive and they have tamed it down as they want to be a community oriented operation. They offer all variations of music to appeal to all. They are requesting \$2,500 but they will take as much as the Town is willing to give.

As there was no additional request from the public to speak on the budget, the Public Hearing was closed.

Hawkeye F. asked for comment from the Council.

Bill B. where did we get the money

Kelly B. said she supports funding Radio Free Minturn as they are an asset to the community. She would also like to see funding for Bravo but would like a condition to be that they hold more concerts (instead of three maybe hold four or five) here in Minturn next summer. Also the newsletter has been well received with many positive comments and it is good for public relations. She supports the \$200-\$400 a month expense of having it completed in color and better quality. Ann C. added that there is an Enterprise Art's Fund that the Town may look at paying that expense out of. Kelly B. also noted that they are looking for others to assist with the newsletter.

Tom S. inquired of Ann C. what the details were behind the \$4200 for park upkeep; Ann C. asked Johnie's Garden to give an estimate on spring cleanup and winterization of the Eagle Park and Little Beach Park with \$4200 being the estimate. They would also work with our staff from time to time to educate them on the necessary process. Tom S. suggested having them weed/feed also; Ann C. stated that with the sprinkler system at Eagle Park and with Johnie's assistance the Town is making a real effort to keep our parks nice.

Tom S. then added that for Radio Free Minturn he agrees with somewhere between \$1500 and \$2500. With Bravo he was disappointed with their commitment to the Town. Ginn gave Bravo a lot of money last year and he feels that Ginn's intentions were to help Minturn out and they didn't do a lot. He hopes that if Ginn is requested to donate again that it would be suggested that the money be spent in Minturn. Tom S. does not want to give Bravo any money.

Jerry B. stated that he knows we are hiring people but he doesn't see it on the budget. Jay B. directed council to page 16 showing that the treasurer is split between the Water and General Fund. The payrolls were all done based on the worksheets that he did as part of the ramp up of the budget, showing how each person would be paid out of the different funds.

Hawkeye F. requested that Jay B. provide a copy of his spreadsheet to each council member and place them in their mailboxes for review prior to next meeting; Jay B. responded ok.

Shelley B. noted that she is hesitant to give money to Bravo because they do not have big enough exposure in Minturn; she believes they could do a lot more in Minturn if they wanted to. She does agree with the funding of Radio Free Minturn.

George B. added that he would like to give Bravo another try. He would like to know what it would cost to put the Cross back in operation. When we get down to the ECO money we are in a unique position with ECO and we should consider some continuing support. They do a lot of things for the community like our Market through the summer and winter which is an ongoing service that we receive benefit from. We donated \$2000 last year and the hard cost was approximately \$12,500. He also agrees with funding the Newsletter and Radio Free Minturn.

Hawkeye F. summarized that he believes there are more funding request that they haven't all come in yet and he is going to hold off his remarks on request until he sees them all. He then inquired of Jay B. why Water Expenses (wage and benefits) has gone up 40%, a \$70,000 increase. He will come by to see Jay B. and review work orders and discuss other revenues that may be covering some of this.

Jay B. requested that at the next Public Hearing he would like to go through line by line to make sure where the money is coming from, etc. If anyone has request they must be submitted to the Town prior to Wednesday of next week, October 25<sup>th</sup>, to be part of the packet.

**11. Discussion/Action Item – MMC Chapter 13 Municipal Utilities & ERWSD Rules and Regulations review for possible updating of Town of Minturn Rules, Regulations and Policy for water system and metering - by Cordova/Carter & Burgess**

George B. referred council to the binder that Ann C. had prepared for each of the council members which includes what the district has, policies that have been set up over the years, etc. He noted that there are a couple of items that are causing problems in the water system that need to be corrected.

Rod C. said there are several issues that the Town is inadequate in addressing when it comes to the water system. The first being lack of enforcement of rules and regulations that already exist, lack of Pressure Release Valves (PRV) in the system, essentially no cross connect program in this Town which is mandated by federal law. If we don't comply we will be fined. We have already been warned by the Colorado Department of Public Health and Environment and unfortunately that responsibility falls on his shoulders as he is the operator responsible for this system. The Town was warned on this issue over four years ago; the State is not looking very favorably on Minturn. Combined with high water losses we are very susceptible to back siphoning into our system that could contaminate the entire system which could close down the entire water system that is how serious this is. If we continue to under fund the water system, it is only going to get worse.

Hawkeye F. requested that Rod C. give a short explanation of what a cross connect is; Rod C. explained that it is a situation in a residence or a commercial building that are considered high risk. The high risk areas we have in town are motels, restaurants, car washes, etc that use chemicals, industrial solvents and things of that nature that could back flow into our system if the conditions were just right. One condition would be a water main break where it lowers the pressure (example: 70 PSI is normal, if it were reduced to 25 PSI, atmospheric pressure is 14.1 at sea level, you can actually siphon whatever is around your main line into the main line and carry it to the distribution system. This is what we are trying to prevent. When the residential and commercial had their meters installed most had back flow prevention installed with that. The double check device is adequate for a residential, as you get into commercial applications you get into a more sophisticated type of back flow devices. The top of the line is considered a Reduce Pressure (RP). This device requires annual inspection, calibration by a licensed individual. The town has three or four of these devices that are tested by a licensed plumber. Not all plumbers are licensed or certified in Back Flow Prevention. The issue is we have many in town that have not been inspected as an example Meadow Mountain Business Park has probably been in place over 10 years and has not been inspected. If it is not inspected annually in the State's eyes, you don't have one. This is a great potential for a back flow especially with our water loss situation as they go hand in hand. Normal water loss is high at 30%, we are at 70%. The major concern is the commercial, where our highest risk and concerns are. We do have establishments in town that do not have the RP or the PRV. Two different issues but both of concern. Something has to be done.

Hawkeye F. inquired of Rod C. if we have regulations in place to address this; Rod C. stated that we do have some but they are vague and not very specific. The District has been dealing with this for fifteen years but we as a Town are at square one. A lot of the District regulations could cross over and be of beneficial use to us almost immediately. One for example, ownership of meters. We probably have twenty meters in town now that provide water to a residence or a commercial site but the meter doesn't work. They continue to have water, so is the resident going to fix their meter? Who is in charge of replacing or repairing? And if we do acquire the meters where the town is responsible for maintaining them, we need funding to do that. We have

maybe ten meters right now and we have no parts. Freezing issues many homes are not insulated properly and their answer is to call Rod C. whenever there is a freeze up. That will only get worse if we do adopt that we are responsible for the meters. Rod C. would like to see the town adopt standards that hold homeowners/property owners responsible. One week ago Public Works spent over three or four days at a private residence repairing a leak that should have been the responsibility of the resident. We had to do it because we were losing 100,000 gallons a day. Rod C. would like to the owners responsible for not only the cost of repair but that they are responsible for hiring a contractor to do the work instead of Public Works having to work on private enterprise. He recommends moving very quickly, our system has been ignored for a very long time.

Kelly B. inquired about the backflow problems for commercial business is obviously the number one priority because of possible health problems, how much would it cost to put in proper equipment? How many businesses are we talking about?

Rod C. responded that anything within the last five years probably do have a back flow preventers. But more than likely they haven't been inspected annually so they would have to be replaced. A common commercial irrigation system is also a high risk because of fertilizers that are used on lawns, gardens, etc. Backflow preventers are not inexpensive with a common two inch one could run \$500-\$600 (not installed) and an annual inspection is around \$100.00.

Chad Ermel, Carter & Burgess, 291 Main, Minturn, Colorado added that they fully support Rod C. in getting more funding for the water system as there is hazard in the system. He has worked with the Department of Health inspector and she is adamant about these things getting done. She has worked with Minturn for about a year now and she recognizes the problems. She isn't going to let them go by the wayside. The town has made two responses to the State so far from their inspections of the plant and the water system. Once you respond and say you are going to do it, you have to do it.

Hawkeye F. inquired if Rod C. has put in a request for the money required; yes, it was mainly for alarm systems, telemetry, etc. This is the first plant Rod C. has worked at in the last fifteen years that is not monitored for over 18 hours a day. In the industry, that is unheard of, we need to catch up on monitoring "alarm".

Hawkeye F. inquired if that is a required by the State; yes, Rod C. stated he can provide a copy of the inspection report for council's review.

Hawkeye F. inquired what the other issue was that Mr. Ermel had referred to; Rod C. noted that we did not have an Operator with a distribution license which has since been taken care of. One was an issue of overflow of our tanks; the issue of chlorinated water getting back into the streams. There is an issue of our clear well, having the proper contact time with the chlorine, one year away from stricter regulations being implemented where there is a certain amount of contact time required before it hits the first residence using that water. We do not have that without major upgrades of the clear water well. There are small issues with the wells; Well # 4 Rod C. installed a chlorination system because it didn't have one before. Security, fencing, etc.

Hawkeye F. what is your recommendation because we can give that to Staff and have them bring it back as an ordinance; Rod C. noted that overall it will be a slow process but if we could look at the priorities, addressing them as soon as possible. There are immediate ones that can be identified with most of them being on the Public Works Director's Comments. Those are the critical ones that need to be put at the top of the list.

Kelly B. suggested prioritizing the list and placing the amount of money required to do it next to each item so then it can be decided if we share cost with residence, owners, etc.

Rod C. noted that our inspection process is non-existent, ours means with which we spec equipment components to contractors and developers is non-existent. Some manufacturers supply a replacement part and some do not. Fortunately we have a supplier in this valley that has been through that also and they can provide us with the products we need.

Ann C. directed council to copies of MMC Chapter 13 located in the binder for construction and repairs that we can tighten up. We need to strengthen chapter 13. Included is the memo from Carter & Burgess analyzing ERWSD policies, etc. We don't necessarily have to adopt all of the policies but certainly the specifications, if we adopted those, they will match what we have already adopted "specifications for water main". And noting what our punishment would be if they don't adhere. Our recommendation is turning this back to staff for some draft policies to give to council for consideration and prioritizing as far as what our Public Works Director is recommending.

Hawkeye F. stated that we need the policies for the enforcement.

Kelly B. added that it sounds like we already have a committee working on this and that we just need to continue by a) prioritizing the list provided by Rod C. and attaching dollar amounts next to each and b) work on modifications to Chapter 13. Do you need other resources to help do that?

George B. responded that with this group he believes they can get this part of it managed. He said that when you go out there and work with the physical pipe and the problems, that is a whole different deal. It is part of it but it needs to be prioritized as safety first then compliance. If we aren't compliant, we have to pay fines and that money could have gone towards our system; Rod C. would like to see a long term objective of upgrades. The last upgrade was 96' (the tank) and the water lines were 88'.

George B. inquired can we come back with some recommendations on both those lines; Ann C. responded yes and added that a lot of these polices that Public Works is looking at will also help with our water loss assessments.

George B. inquired if that was good for direction?

Hawkeye F. inquired if everyone agrees with that direction; several yes heard in the background.

Hawkeye F. noted that we have already adopted the construction specifications so that should cover the construction inspector; Rod C. responded that that is for the main line inspections. It could have applied to 421 Main which is four inch service line.

Hawkeye F. inquired if inspection of service lines is covered in the construction specifications or the rules and regulations; Rod C. responded that it is somewhat. What would be nice is the District does have an exact specification for service lines so if we could just give a contractor a copy of that stating this is what we want.

Hawkeye F. noted that if it is in the construction regulations then we can. We adopted the construction regulations so they match throughout the valley; Rod C. noted that he has seen that and he has applied it on some of the Minturn Town Homes. Hawkeye F. reiterated hand them out, we are consistent with the rest of the valley and we did that so when contractors came here dealing with water and sewer they would know what they are dealing with. Rod C. stated that he has had resistance from some contractors and that enforcement is tough because the town has not enforced it in the past.

**12. Discussion/Action Item – Ordinance 15 – Series 2006 (Second Reading) An Ordinance authorizing the Mayor to sign a contract with Alpine Building Consultants for town wide builder inspection service – by Christensen**

Allen C. noted no changes since first reading.

Motion by Tom S., second by Shelley B. to **approve** Ordinance 15 – Series 2006 (Second Reading) An Ordinance authorizing the Mayor to sign a contract with Alpine Building Consultants for town wide builder inspection service; **Motion passed 7-0.**

**13. Discussion/Action – Old Town Minturn Municipal Code Parking Regulations – by Smith/Carter & Burgess**

Ann C. shared that council instructed Staff to look at the downtown parking regulations restaurant seats. Every four seats must provide one parking space. Discussion was to ease those requirements to six chairs. Minturn Realty provided an analysis on parking spaces that they have (page 47). This was submitted to the planning department and is under review. Also the Town has been doing some work on the streets for right of way. If you wish to direct us there are two things you can look at; amending the ordinance from four to six chairs per parking space and she is not sure if you can allocate 72.75 parking spots.

Derrick S. added that 7.01 rounds up to 8, you can't have 7.01 you have to round up.

Ann C. stated that common sense would tell us to go out and look at the parking spots that are listed here and measure; Derrick S. answered that code reads 9' x 18' and doing a quick calculation on what has been provided by Minturn Realty, the town will need exact sizes and number of spaces.

Hawkeye F. inquired if it is up to us or Minturn Realty; Ann C. responded whatever your direction is. Carter & Burgess are already out there doing property boundaries for right of ways.

Kelly B. added that she would have the Planning Commission work with Minturn Realty to get the numbers right. What did she initially promise to do?

Ann C. noted we were told we would receive a report and that was about six months ago. Now we have received it so it has been placed on the agenda for discussion. This is not a reflection of the actual measured parking spots; this is just renderings and drawings.

Kelly B. said she would defer to Wiley S. and Ann C. What do they think, is it worth it to go back to Minturn Realty?

Wiley S. responded that what he would like to do is look over what has been handed in first but he doesn't want to go back to Minturn Realty. He wants to expedite and get it completed before end of year using the staff we have, go back with the info we have, put together a report of recommendations before the end of year.

Jerry B. said that when he first asked for us to go from 4 to 6 seats it seemed like it would be a pretty simple math problem. If we don't go to six are you going to make them measure to stay at four? We had to have the information from somewhere and now we have made a huge problem.

Wiley S. responded that we didn't really know what had changed in the restaurants during the last twenty five years. Back when there was mining and the railroad was here, there were not as many restaurants along I-70, etc. We have gotten some input from the restaurant owners that they have had to take out tables and chairs but that they are still paying on the old rate. So we

said we wanted was to know what the table and chair count was for each of the restaurants now, using that number to apply to the plan we got from Minturn Realty. We needed to learn first is if the table and chair count has changed from the number that was applied twenty five years ago. Hawkeye F. added he doesn't know if we have kept up with parking with all the new businesses that have been put in down there.

Kelly B. inquired that their appointed number of spaces goes to the issue of businesses paying for parking; Wiley S. responded yes, that is the bottom line that is why they came to the Council in the first place.

Jerry B. stated that the town rents space from the rail road and then we flip it over to the business owners. The way things have changed when there used to be twenty restaurants and now there are 125 (valley).

Kelly B. said so you are saying if we increase the seats to parking space ratio then there won't be a question as to whether they have to pay for parking based on what you know they have.

Jerry B. responded that they are paying for parking now that they don't need; we haven't adjusted it over the years.

Tom S. added that we have gotten this far so to take the next step to see what is out there and verify spaces seems like what we should do. It would be interesting to see what the reaction of the restaurant would be if we said we weren't going to rent the railroad property any longer and block it off. Maybe they would be content with that.

Jerry B. said that the other thing is the situation with the dumpster. It appears there is a street there in that parking lot. It hasn't been marked or policed and the dumpster building is in fact in that street, somebody let them put it there.

Bill B. noted that he does not like what Minturn Realty gave us and thinks we should verify, check everything.

Shelley B. noted she thinks it needs to be verified.

Hawkeye F. said he is in agreement also and would like staff to find out about 1st Street and the dumpster building.

Allen C. added that the Mayor insisted on it and the planner told them it was in the right of way and Minturn Realty has always said they will execute an easement, but it was a huge deal. Off site staff found out about it afterwards. Jay B. was here. Bill B. is explaining it exactly as it happened. Mr. Lanning knew exactly where it was being built. Marka B. said back in 1998 and again last week that she would sign an easement agreement on that.

Jay B. said we pay \$1,080 a month which goes up to \$1,500 a month in 2007 and in the next three years it goes up to \$28,000

Ann C. questioned should the town keep renting it if the town's restaurants don't need it? We rented it to comply with some of our own regulations and of course United Pacific would prefer to deal with one (the town) versus individuals.

Allen C. added that we have an issue of public right of ways, parking and the recommendation of the town manager is a good one.

Karen E. stated that there would be no place for people to park for the summer market.

Hawkeye F. said to proceed with the recommendation on page 43. We have two letters in here from two restaurants stating they don't need the parking so that is another reason to go out and verify the number of spaces.

Hawkeye F. inquired if direction to staff was clear? He inquired of Jay B. if direction to staff was clear. There was no affirmation of clarity.

#### **14. Discussion/Action Item – Update on Toledo Street, Williams Street, Nelson Avenue survey - by Carter & Burgess**

Chad Ermel, Carter & Burgess, 291 Main Street, Minturn, Colorado noted that he is here to revisit the first phase of Toledo, Williams and Nelson Street/Avenue Survey. The 1904 plat is the latest information that they have for that area, they have not found any others. The marks are actual corners that they have found out in the field and compared to the 1904 plat. We have just verified with the points we have found. It appears there is some issue with 1<sup>st</sup> Street, that right of way could have been vacated but he isn't sure it exists fully. Mr. Ermel continued that there is a lot of information out there where we are asking citizens if they have something we don't know about the 1904 plat is all lined up, they are all where they are supposed to be and there appear to be a lot of encroachments; Molly G for example is an issue.

Bill B. said Molly G. put in a curb and called it his.

Hawkeye F. said that they didn't really do a survey, just some pin locations.

Chad E. responded that they did a survey. It is the first phase of the survey. A survey can mean the physical act of going out and surveying (measuring distances and angles) and it also can be a piece of paper that is a survey of a property. This is just the first step of a survey that hopefully will get all of these issues cleaned up based on the direction we get from the town.

Tom S. added that this is another reason why we want to require ILC. If Molly G. was required to have an ILC you would realize that the ramp going down into their garage is two or three feet into the right of way. They would not have been able to encroach with an ILC.

Ann C. said that we have been talking to the residents, requesting citizen input as we can't find documents...if anyone has anything, we need them. Molly G. owner said it was his error and with the batch plants being closed for the winter, he will do this in the spring. He will fix his error.

Chad E. noted that if there was something that was agreed upon, 1<sup>st</sup> Street for example, it will probably be in front of council a few more times. They have no idea at this point what they are going to run across.

Ken Carlson, Survey Unit Manager, Carter & Burgess typically encroachments and encumbrances like that are usually kept in the grantee/grantor books and are hard to find. The best way is to do a Title Search, it is expensive, but if you really want to find out, that is one way. One of the ways is when properties are sold an ALTA survey is done for those properties and should include a title document.

Hawkeye F. said that when you guys get it all figured out come back with recommendation and priorities.

Jerry B. have any of these properties been sold within the last few years so that you can find a deed?

Chad E. responded that it would state Lot 1 of Block 15 in that subdivision, it wouldn't necessarily go into detail. It would just be lot/block.

Ken Carlson ILC has not been established

Chad E. we would start using the block corners, we would start with that plat, make sure it all matches. 1904 is a long time ago and we are not sure if it has been amended.

Hawkeye F. if there is an established pin does it take precedence over a resurvey pin that is in a different place?

Ken Carlson what we look for is the original intent of the survey. What we found on this is it outlines the perimeters of the block. What Chad was referring to as far as putting

monumentation on the block corners, they set range lines or block corner lines so that surveyors can come back in and consistently use the same control to be able to establish their lots. One of the dilemmas you run into, especially in older surveys like this, a lot of surveys are done independent of everything that is around them which cause a big problem. Consider expanding the control network within the town, without spending much money at all, then when surveys are done in the future it is on the same data, consistency. And then have an Ordinance that requires that that plat be submitted to the town.

Hawkeye F. asked how you rectify a situation where there is an existing monument and your survey says no, it is three feet this or that way.

Mr. Carlson responded that they go on and find the next controlling monument. In this case we would want to reestablish the block, or go across the street and block corners. Surveyor should never set a pin next to an existing one. Individual lot survey could be a little forward or a little back. Make determination of the existing monuments

Bill B. stated that on Nelson Ranch there is a quarter section pin and over on Lyons Head there is a quarter section pin and that is where all of the surveying for the Town of Minturn has been from.

Mr. Carlson said he agrees. Some of the Right of Way determination for CDOT through Main Street and tying back to those section corners.

Bill B. noted that there used to be a ditch on each side of Hwy 24, a ditch on each side of Norman, on Toledo, ditches everywhere and they have been filled in. You could not park on the main highway because there were ditches.

## FUTURE AGENDA ITEMS

### **17. Items to be added to future agendas / work session**

- Ginn Annexation Continuation of Public Hearing – February 21, 2007
- Old Town Hall
- Minturn Municipal Code building height limitations for new construction 11-1-06
- Possible changes to the Town Charter – Christensen – Work Session
- Qwest High Speed Internet – Inquire future date of availability
- Price quotes for cutting of trees on Town Property
- Identifying and possible acquisition of property by Town of Minturn for public parking in Town of Minturn

### **18. Set Future Meeting Dates**

- 1) Council Meetings
  - November 1
  - November 15
  - December 6
- 2) Planning & Zoning Meetings
  - October 25
  - November 8
  - November 22 (No Meeting due to Holiday)
- 3) Other

## **19. Adjournment**

Motion by Tom S., second by Shelley B. to adjourn as there was no further business; **motion passed 7-0.**

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Mayor Hawkeye Flaherty

ATTEST:

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Town Clerk, Jay Brunvand