



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street • Minturn, CO 81645 • (970) 827-5645

Wednesday, February 21, 2007
Regular Session – 5:30 PM

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 970/824-5645 302 Pine St. Minturn, CO 81645

Regular Session- 5:30 PM

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 5:35pm. Roll call: Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff, and Jerry Bumgarner. *(Note: Ann Capela was excused absent, Tom S. was late: 5:37pm.)*

Staff present was Town Treasurer/Clerk Jay Brunvand, Town Planner Wiley Smith, Planner 1 Chris Cerimele, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova, and Administrative Technician Dylan Zastrow.

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

Hawkeye turned the meeting over to Enterprise Chairman George Brodin. George B. requested a motion to convene in executive session.

3. Town of Minturn Water, Sanitation and Recreation Activities Enterprise will convene to Executive Session for the following:

- (a) Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(a) to consult with Town attorney and Anne Castle, and Arthur Ferguson concerning purchase, acquisition, lease transfer or sale of real property for the purpose of discussing the acquisition of property for construction of wastewater treatment plant and issues that have arisen with access to the property for certain geotechnical work and evaluation on the Property.

Motion by Jerry B., second by Bill B., to convene in Executive Session as the Enterprise with Town attorney, and Arthur Ferguson concerning purchase, acquisition, lease transfer or sale of real property for the purpose of discussing the acquisition of property for construction of wastewater treatment plant and issues that have arisen with access to the property for certain geotechnical work and evaluation on the Property; all voted in favor.

4. Discussion/Action or Direction to Town Manager and Town Attorneys from the Executive Session.

Continue with current process and no action.

5. The Minturn “Enterprise” will convene as Minturn Town Council.

George B. adjourned as the Enterprise and reconvened as the Town of Minturn Council at 6:30pm and re-entered Executive Session.

6. Minturn Town Council will convene into executive session:

- (a) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on legal strategy concerning construction of improvements at 504 Eagle Street.
- (b) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on legal strategy for proposed future public hearings on the land use applications submitted for the Battle Mountain Development proposal.
- (c) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on conducting annexation hearing.

Motion by Jerry B, second by Bill B. to convene in Executive Session

- (a) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on legal strategy concerning construction of improvements at 504 Eagle Street.

(b) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on legal strategy for proposed future public hearings on the land use applications submitted for the Battle Mountain Development proposal.

(c) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on conducting annexation hearing.

All voted in favor.

7. Discussion/Action or Directions to Town Manager and Town Attorney from Town Council's Executive Session.

Direction was given to continue acquisition of wastewater treatment facility property.

8. Approval of Agenda

- a. Items to be pulled from Action Calendar
- b. Items to be pulled from the Discussion Calendar
- c. Items to be pulled from the Consent Calendar
- d. Emergency Items to be added
- e. Order of the Agenda Items
- f. Approval of the agenda

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

9. Approval of Minutes and Action Report

- February 7, 2007
- Review/Comment – Council Action Report

Jerry B. would like it changed for the record that at last meeting it was Tom S. recused himself from the Ordinance 5 first reading not Jerry B. due to conflict of interest and owning property that may be affected.

Motion by Bill B., second by Jerry B., to approve the February 7, 2007 Council Meeting Minutes as amended; all voted in favor.

Jerry B. modified the minutes to reflect that Tom S. had requested himself from discussion and action on Ordinance 5-2007; it was not Jerry B.

Action items: Kelly B- Add rail road committee to parking issue w/ Allen C.

10. Special Presentation/Individual Introductions/Citizen Recognition/Project Update

- Stephen Lowrance – Police Officer Swearing In

Chief Martinez introduced new Police Officer Stephen Lowrance and gave a brief background of Officer Lowrance..

Hawkeye proceeded with swearing in of Officer Lowrance.

Stephen L. repeated the language of the swearing in and then was congratulated and welcomed aboard by the Council, Staff and Citizens.

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

12. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

13. Reports/Correspondence/Announcements/New Business

a. Economic Development Director

Karen was excused/absent

b. Public Works

Rod C. Updated the Council on locating the curb stops upon request by the council from the previous meeting. He stated that the MMC requires residents to maintain themetering accessories and curb stops per chapter 13 of the MMC. He then stated he had nothing else to report and that he was open for questions.

George B. asked if public works employees can easily identify the curb stops; some are harder than others. We use a metal detector to locate the caps on the curb stops not easily identified.

Hawkeye: asked if we can keep up w/ the hwy pot holes.

Rod C. We are and have limited funds from CDOT as of now. We have been addressing them but with the snow, wetness and runoff it erodes the patch work and is a constant maintenance issue. We will continue to do the best we can with our resources.

c. Police

Chief Martinez referred Council to pg 21 for his staff report and that he had nothing else to report. He then stated that he was open for questions.

Shelley B. referred to a question/statement from the February 7, 2007 Council meeting. Harry Gray mentioned parking tickets. Shelley stated we need to come up w/ a happy medium between the town and the citizen/business owners. She also thinks we need to treat all parties fairly citing the Minturn Market last summer; people who work for municipality think they are above the law. We need to continue to ticket everyone the same. She stated that she supports everything the

Chief did at the Market last summer and that we need to continue to work with the community on a happy medium.

Chief Martinez thanked Shelley for her support. He then state that “we” talk to as many of the residents and as often as “we” can about “our” procedures. He then stated that we need to also deal with outsiders on this issue so its hard to gage sometimes.

Shelley gave an example of attempting to be above the law; Someone at the Market said “do you know who I am?” It doesn’t matter they should all be treated the same.

Hawkeye brought up the snow removal issue again and was looking for an update. He said there is a concern w/ Ann C. (Town Manager) and what is defined as sufficient snow removal. Chief Martinez clarified the standard as; being the removal of accumulated snow and not fully to the pavement because of ice build up over time.

d. Treasurer/Clerk

Jay B. said he had nothing to report but is open for questions.

Kelly B. asked for clarification on the cost percentage he came up with on his financial impact report on changing the Ordinance on parking. Jay B. stated that he had spoken to George B. (Council Member) and recommended the Council should table the Ordinance until March 7 because of the difficulty with the numbers and specific formula to calculate the financial impact.

e. Town Planner

Wiley S. referred to his staff report and that he had nothing to add. He was open for questions.

f. Town Attorney

Allen C. stated that he had nothing to report but he was open for questions.

Hawkeye thanked Allen C. and the other lawyers for their work in Executive Session that evening.

g. Town Manager

Ann C. was absent/excused

h. Town Council

Kelly B. stated that the first OZ Architect workshop for the Minturn C.I.P. was February 20. She had attended but few Other Council members, staff and residents attended; “It was poor turn out.” She stated she would like more people to turn out and help develop the future vision for the town of Minturn. She gave the Council a hand out to fill out and turn into Dylan Z. The hand out is “What is your vision of Minturn?” It is due to Dylan Z. by next Wednesday

Hawkeye requested all Council Members’ Manager’s goals by Monday February 27, 2007.

Hawkeye stated that the Council needs to set up a time to go over them.

DISCUSSION, HEARINGS AND ACTION ITEMS

14. Discussion/Action Item – Public Hearing on Petitions for Annexation for Battle Mountain Annexation Parcels No. 1-9 for the annexation of territory to the Town of Minturn, Colorado for the purposes of determining and finding whether the areas proposed to be annexed as the Battle Mountain Annexation Parcels No. 1-9 comply with the applicable requirements of the Municipal Annexation Act of 1965, as amended, and is considered eligible for annexation.

Public hearings which will be continued for the following separate files.

- #1 Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain
- #2 Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain
- #3 Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan

Hawkeye gave a brief background introduction on the history of the Ginn annexation. He asked everyone to turn their cell phones off. He then asked the council to recite any encounters they may have had about the annexation with the public.

Kelly B. stated that on 9/14/06 (she was with Shelley B. another council member) at the Saloon a group of Ginn employees were discussing what they experienced on other projects done by Ginn but did not participate in the conversation.

Tom S. stated he went to 1st P&Z meeting regarding the Ginn annexation and stayed for a little bit but, didn't participate in any discussion.

Shelley B. stated the same encounter when with Kelly B. at the Saloon. She also had run into Michael Boyd (a Minturn Citizen) who asked her questions about how the annexation gets to a vote. She directed him to Council meetings and the Town of Minturn employees for more information on the issue. Also she stated that Tuesday February 20th Liz Campbell (a Minturn Citizen) asked what was going on with the annexation and that she wanted to know the process on how the annexation gets to a vote. Shelley B. directed her to attend meetings and or meet with Town Staff for more information. Ms. Campbell had stated she wasn't happy with what came out of meetings.

Hawkeye asked attorney Author "Boots" Ferguson if it is ok to discuss process of the annexation with the general public.

Boots suggested that Council members ask them to attend meetings and avoid public conversations.

Hawkeye stated he was addressed at City Market in Vail by a lady and that she said it wasn't good because it would change Minturn. He thanked her and said he could not make comments. He was also addressed by a lady in Avon stating she was for it and Minturn should benefit well

from it. He thanked them and said he couldn't comment on the matter. Also a man in Minturn said he was for it. Hawkeye thanked the gentleman and said he couldn't comment on the matter. Also he got an e-mail from an activist group stating to come out and make a voice at the Council meeting. He replied to the e-mail and asked not to include him on these mass e-mails.

Wiley S. introduced the Ginn presenter/presentation and gave a brief background on what the history of the annexation has been. He then introduced the first presenter, Sarah Baker, Attorney for Ginn Club and Resorts..

Sarah Baker of 1918 Bear Creek Trail Edwards, CO. stated she was here on behalf The Ginn Company. She stated it was 7:41pm and that it will be a 1 hour presentation.

She then offered a DVD to the Council of a site visit to the Ginn annexation. She stated that they got the PUD approved and that they are working with the P&Z Commission on the PUD. She explained each of the slides and what each represented in the time line of the annexation.

She explained the eligibility criteria for the annexation, 1:6 contiguity, 3 mile rule Colorado Revised Statute (CRS) 31-12-105(1)(e). She also briefly recapped what has happened in the past hearings. She stated tonight's hearing is about community of interest requirement with Minturn and battle mountain proposal in relation to the 3 mile plan.

3 mile plan: whether future property is desirable for future annexation. General town policies for annexation in section 2. Favorable benefit for people of the town of Minturn. Section III conform with Minturn current town plans and codes. Open space parks and trails. Protection of sensitive areas. Section II F Water needs and sewer needs.

Dominic Mauriello, 5601 Wildridge road Avon, CO

He discussed PUD and the process thus far and approvals, where they are at and where they are looking to go. He stated they asked for the final PUD plan be tabled at this time for further study.

Mr. Mauriello showed an aerial map showing Minturn, Vail and Beaver Creek. He showed the future 1000 acre annexation post addressing 3mile plan and development.

Mr. Mauriello showed a map to indicate what areas of the land are designated for what type of development. Ie. Open space/recreation, PUD's. He then showed a map of the approved concept plan via the zoning commission.

He sated that there are only 1,700 dwelling units on the annexation site and that there is the ability to move them certain units within the area proposed pending on outcome of the development. But there wouldn't be anymore dwellings added, just moved on the property.

Mr. Mauriello discussed the efficiency and accessibility of the proposed gondola and the avoidance of having to drive places in the annexed area.

Hawkeye asked Mr. Mauriello where are the mine tailings were on the map. Mr. Mauriello was sure but he stated he thought they were in a location on the map and that they will be capped.

Mr. Mauriello stated the size of each zoned area of the annexation.

Hawkeye asked where the existing shaft house was; Mr. Mauriello pointed it out in the map of Gilman.

He discussed the purposed:

- Gilman Character Area
- Holy cross character area
- Rock Creek Character area
- Willow creek character area, which is closest to Red Cliff.
- Bolts Lake Character area

School district:

The proposed annexation must stay within the existing School District. It does not detach itself from the current school district.

The School Impact Analysis was done by BBC Research.

School District Eagle County RE-50J will receive approx \$5.4 million from the annexation in property taxes.

Average student receives \$7,300 in funding. The annexation brings approx. \$39,000 per 34 students brought by year round residents.

Mr. Mauriello showed revenue to the Town of Minturn after the annexation and where it is coming from. Large amount coming from property tax from the annexation, \$5.4 million

Open spaces:

3,300 acres will remain open space... parks, trails..... it exceeds the current land code in the MMC by triple. 3,300:5,300 acres of land = 77%

Ski area on battle mountain:

800 acres

20% beginner

40% intermediate

40% advanced

And the possibility of having Nordic areas and an outdoor ice rink.

Golf course on the superfund site.

Employee Housing:

776 full time employees

provide housing for 40% of those 776

two locations for those 40%

1. Gilman 50-100 dwelling units
2. Outside of PUD, 2nd year 1,000 annexation, employee village outside Red Cliff.

They will allow Minturn to do an Audit to make sure they are at that said 40% employee housing. 80-100 single family duplex/town homes.

Extras:

\$9.9 million added annual revenue to Minturn general fund to be used as the town deems.

Eco-trail between Minturn and Red Cliff wholly on Ginn property to avoid State Highway issues.

Mr. Mauriello noted the presentation had gone slightly over the required one hour and requested that the hearing be continued to the April 4th meeting.

Motion by Tom S., second by George B., to continue the Public Hearing on petitions for Annexation for Battle Mountain Annexation Parcels No. 1-9 for the annexation of territory to the Town of Minturn, Colorado for the purposes of determining and finding whether the areas proposed to be annexed as the Battle Mountain Annexation Parcels No. 1-9 comply with the applicable requirements of the Municipal Annexation Act of 1965, as amended, and is considered eligible for annexation until the regularly scheduled council meeting on April 4, 2007 at 7:00pm; all voted in favor.

Shelley B. said she would rather do it on the 18th

Motion by Jerry B. and second by Bill B. to continue public hearing of the Ginn Annexation to April 18th in order for the company to ready themselves for presentation.

Note: Hawkeye called a 10 minute recess @ 8:47pm, Council reconvened @ 8:59pm

Sarah Baker, of Ginn, requested for the record that the Council would need to open up the following three and continue them to April 18, 2007 as well:

- #1 Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain

Motion by Tom S. and second by George B. to open the PUD file and continue it to the Public Hearing on April 18, 2007; All in favor.

- #2 Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain.

Motion by George B. second by Shelley B. to open the Amendment to Zone District Map-Preliminary PUD Development plan-Battle Mountain file and continue it to the Public Hearing on April 18, 2007; All in favor.

- #3 Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan

Motion by Shelley B. second by George B. to open the Preliminary Subdivision Plat-Battle Mountain PUD Preliminary Plan file and continue it to the Public Hearing on April 18, 2007; All in favor.

15. Discussion/Action – Ordinance 5 – 2007 (Second Reading): An Ordinance amending the Town of Minturn Municipal Code by revising Chapter 16, Article XVI Section 3 Parking required for commercial, office and institutional uses of the municipal code of Minturn – Smith/Capela

Tom S. Recused himself due to a possible conflict of interest due to property he owns on an adjacent property

Jerry B. stated an impact fee should be assessed on the vendors at the Minturn Market. and we shouldn't charge people who don't need them. We have had plenty of time to study the issue and not sure why we can't figure it out. Jerry B. is opposed to tabling it again.

Kelly B. would like to see the town to support local business' by passing this. Kelly B. would like clarification on the definitions from Wiley S. on what a restaurant is; Wiley S. stated we interpreted the code as is.

Kelly: How is this current code applied; Wiley S. stated we could but it would push it farther back via more studies.

Marka Brenner, Minturn Realty, would like it to be decided because the business' don't know how to deal with it.

Shelly B. we need a decision to create a parking plan.

Tom Ricci, Co-owner of Minturn Country Club stated that he thought the council should keep Ordinance 5-2007 the same and just change the number to a 1:6 ratio. He also stated we can all figure it out and get it done together with a common ground. He agrees with Jerry B. we should charge Minturn Market vendors to take the burden off the business owners who don't require extra parking. Charging the Market vendors is not currently in the code and should be changed to do so. Please pass it!

Hawkeye said we need to see an impact study. On \$2.99 night, no one else can park, the streets are packed. If you pass this you need to understand the impact on the business and residents on Main Street.

George B. asked of Hawkeye, "Do you think it will change the number of cars on \$2.99 night?"; Hawkeye stated, it has worked, lets keep it the same for the next 100 years.

Jerry B. stated that you won't change anything by not passing this. The current revenue from sales tax is over \$400,000 a year and The Country Club and Chili Willy's bring a lot of that (Owners of both establishments were present and for passing Ordinance 5-2007) . He said he though the Council wanted to be business friendly. Note; we are going to have people parking 13 Saturdays in front of your house and bringing revenue to the town.

Kelly B. asked Allen C. and Wiley S. if they have a problem with passing Ordinance 5-2007 because she wasn't fully clear on it; Wiley S. stated that he was asked to do a job in reducing seats and he approves it, Allen C. stated if the council has suggestions to rewrite it we can.

Motion by Kelly B., second by Shelley B., to approve Ordinance 5 – 2007 (Second Reading): An Ordinance amending the Town of Minturn Municipal Code by revising Chapter 16, Article XVI Section 3 Parking required for commercial, office and institutional uses of the municipal code of Minturn; all voted in favor. *(Note; Tom S. abstained due to a conflict of interest)*

16. Town Council will convene as Minturn Water, Sanitation and Recreation Activities Enterprise (the "Enterprise").

Hawkeye turned the meeting over to Enterprise Chairman George Brodin. George B. requested a motion to convene in executive session.

17. Discussion/Action – Ordinance 6 – 2007 (First Reading): An Ordinance authorizing the Mayor to sign an agreement with CRL Associates, Inc – Christensen

Motion by Hawkeye, second by Bill B. to approve Ordinance 6 – 2007 (First Reading): An Ordinance authorizing the Mayor to sign an agreement with CRL Associates, Inc.

18. The Minturn “Enterprise” will convene as Minturn Town Council.

George B. adjourned as the Enterprise and reconvened as the Town of Minturn Council at 9:27pm

19. Discussion/Action – Ordinance 7 – 2007 (First Reading): An Ordinance amending Chapter 11 of the Town of Minturn Municipal Code by repealing and re-enacting sections 11-22 and 11-28 as those sections pertain to excavation permits and maps of under grounding facilities in the Town of Minturn, Colorado – Christensen

Hawkeye asked Allen C. what language was changed to chapter 11.

Allen C. stated we have to deal with this section to change ordinance 11-22 requiring the Mayor or a Council Member to sign an excavation permit for the Town Of Minturn and 11-28 changed underground map control from the Town Clerk to the Public Works Director.

Hawkeye state we need to bring Ordinance 7-2007 to Anne Castle before 2nd reading.

Motion by Tom S., second by Kelly B., to approve Ordinance 7 – 2007 (First Reading): An Ordinance amending Chapter 11 of the Town of Minturn Municipal Code by repealing and re-enacting sections 11-22 and 11-28 as those sections pertain to excavation permits and maps of under grounding facilities in the Town of Minturn, Colorado; all voted in favor

20. Minturn Town Council will convene into executive session: (To be held only if necessary)

- (a) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with attorneys on legal strategy for Ginn Development.
- (b) Pursuant to Colorado Revised Statutes (CRS) 24-6-402(4)(b) to consult with Town attorney and Special Counsel Arthur Ferguson for the purpose of receiving legal advise on specific legal questions for the purpose of consulting with our attorneys on legal strategy concerning construction of improvements at 504 Eagle Street.

This item was not necessary and therefore no action was taken.

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

- Minturn Towne Homes Update – April 4, 2007
- Ginn Annexation Continuation of Public Hearing
- Work Session – Presentation by ECO “2030 Vision” for Eagle County Public Transportation – March 7, 2007
- Minturn Parks only “Clean-up-Day”
- Discussion of strategy for the forest service properties - Christensen
- Discussion for employee wages – March 21, 2007
- MMC Chapter 13 Municipal Utilities & ERWSD Rules and Regulations – March 7 or 21 (from 2/7/07)
- Ordinance 4 – 2007 prohibiting Barbed Wire fencing to a meeting where the full Council can be present – March 7, 2007
- Exec Session for the purpose of the Managers evaluation and contract – March 7, 2007
- Executive Session: Colorado Revised Statutes (CRS) 21-6-402(4)(f) for the purpose of Town Manager’s employment contract negotiations.

22. Set Future Meeting Dates

a) Council Meetings

- March 7
- March 21
- April 4

b) Planning & Zoning Commission Meetings

- February 28
- March 14
- March 28

c) Other

23. Adjournment.

Motion by Tom S., second by George B. to adjourn the council meeting at 9:40pm

Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand