



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

**Wednesday, March 7, 2007**  
**Work Session – 5:45 PM**  
**Regular Session – 7:00 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 Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

**Work Session- 5:45 PM**

- Presentation by ECO “2030 Vision” for Eagle County Public Transportation
- Minturn Water Supply – adding fluoride to Minturn Water System, Councilwoman Bellm
- Discussion of Ordinance No. 4 – Series 2007: Barb Wire Fences, Mayor Flaherty

**Regular Session- 7:00 PM**

**1. Call to Order**

a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 6:09 pm. Roll call: Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff, George Brodin, and Jerry Bumgarner.

Staff present was Town Manager Ann Capela, Town Treasurer/Clerk Jay Brunvand, Town Planner Wiley Smith, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova, and Assistant to Town Manager/AR Dylan Zastrow.

b. Pledge of Allegiance

## **2. 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

Because of time remaining from the Work Session and the time before the Regular Session Mayor "Hawkeye" Flaherty suggested amending the agenda to have the Town Manager's Contract Executive Session at the Beginning instead of the end.

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

## **3. Minturn Town Council will convene into Executive Session for the following: Colorado Revised Statutes (CRS) 21-6-402(4)(f) for the purpose of Town Manager's employment contract negotiations.**

Motion by George B. second by Shelley B. to convene in Executive Session pursuant to Colorado revised Statute (C.R.S.) 24-6-402(4)(f) for the purpose of discussing the Town Manager's employment contract and evaluation; all voted in favor.

As a result of the Executive Session Council directed Allen C. to write the employment contract and obtain a consultant if needed.

## **4. Approval of Minutes and Action Report**

- February 21, 2007
- Review/Comment – Council Action Report

Motion by Shelley B., second by George B., to approve the February 21, 2007 Council Meeting Minutes as amended; all voted in favor.

- Jerry would like to change Pg 39 to state the \$400,000 of revenue comes from Sales Tax not restaurants.
- Kelly on Pg 32 would like to request a change on change from water plant to waste water plant.

## **4. Special Presentation/Individual Introductions/Citizen Recognition/Project Update**

- Minturn Towne Homes Update

Hawkeye introduced Mr. John Fitzthum, Minturn Towne Homes.

They have closed buildings G, H and I thus far. He reports there are some full time usage dwelling units via full time rentals and some part time rentals from front-range visitors. There has been some tax revenue coming in from these full and part time rentals. Building J is in the dry walling phase and should be completed soon. They are working on building E to obtain the proper drainage from the structure. On May 3<sup>rd</sup> or so they should be able to start landscaping,

paving and other outdoor amenities weather permitting. They are also keeping an eye on any possible erosion factors from the buildings and areas of the trail head.

- Honorable Judge Quinn – Recognition, 30 Years of Service to Town of Minturn

Hawkeye introduced the Honorable Terence Quinn to the audience and informed them that he has been our Municipal judge since 1977 and has been an asset to the community, treating people equal, with fairness and legal mind to determine how to address all diverse issues that arise. Hawkeye presented a plaque and an inscribed gavel for his service. He was also presented a cake to share with all people attending the Council Meeting.

Mr. Quinn thanked the Town Of Minturn, the Council and Staff for everything they have done. He welcomed the recognition and invited everyone to a piece of cake.

Hawkeye call for a ten minute break for cake @ 7:13pm

The Council resumed regular session @ 7:26pm

- **Public Safety Awards** – by Chief Martinez – Presented to:

Joe Duran – Minturn Public Works Department

Arnold Martinez – Minturn Public Works Department

Isaiah Martinez – Minturn Public Works Department

Geoffrey Heil – Minturn Police Department

Chief Martinez stated there are only 1 of 5 here tonight but would like to recognize these people for helping out the community via their job and volunteering.

Hawkeye stated on behalf of the Town and Council he presented an award to officer Heil, Chief gave him a coffee mug.

Kirsten Trygg – Community School Bus Crossing Patrol

- Introduction – Ms. Ashley King, Minturn Economic Development Director

Ann C. introduced Ashley King, the newly hired Economic Development Director for the Town Of Minturn and that her start date will be 3-13-07

Ashley addressed the Council and told them that she was excited to be here at the Town Of Minturn and to start her new job. Tom S. asked if she could brief them on her back ground. Ashley explained she was from Gunnison and elaborated on her accomplishments in the community and from previous jobs, school and volunteering experiences. She Graduated Western State College and participated on boards and government.

## **5. Public comments on items, which are NOT on the agenda**

Mr. Michael Boyd of 504 Eagle Street Minturn Colorado.

Mr. Boyd asked Council to please sign his final Certificate of Occupancy (CO). The former Planner1 Derek S. met with Mr. Boyd this past summer and gave him a permit for a breeze way that was approved by The Town Of Minturn P&Z Department.

He presented paper work to the Council and addressed a form attached which showed the CO signed by Chuck Lanci to approve his proposed step structure, he then read the CO and stated the Town Of Minturn P&Z department hasn't signed it as of yet. The plan complies w/ international building code signed by Mr. Lanci. He wanted it put on the Agenda for this meeting but was denied for this meetings agenda. The CO he proposed is a citizens right and should not be denied. Mr. Boyd asked the Council that this not be an issue for public input but just between himself and the Council.

Hawkeye; The Council can't take action at this point but could put you on the next agenda, March 21, 2007. Mr. Boyd accepted the offer to be put on the next Town Council Meeting Agenda. Tom S. asked if the Council could discuss this at this time because it is not fair to make a citizen to wait a month. Allen C.: no, it is not an action/discussion item just public comment. But, if Council desires to discuss this item in detail he recommends discussion be done only in Executive Session. Tom S. I would like to go into a special Executive Session to discuss the matter further. The Council agreed.

Hawkeye: Before we go into executive session we need finish public comment section of the agenda first.

---

Tim Campbell of 512 Main Street Minturn Colorado.

I would like to address a meeting I had with Wiley S. (Planning and Zoning Director) from this past August and plans for the actual proposed building of Mr. Boyd. The breeze way that he built was illegally constructed it was built over a sewer line. Mr. Boyd had asked the P&Z department for a permit to approve the building of his garage and was directed to wait for approval of the P&Z Commission and Town P&Z, he started building it anyway. Mr. Campbell continued to read the Minturn Municipal Code (MMC) to the Council, pointing out violations. Another concern of Mr. Campbell is all of Mr. Boyd's set backs are encroaching the protected riparian zones along the Eagle River. As a citizen of Minturn he has been asked to help protect those newly renovated areas along the river and that is what he is doing.

Hawkeye: Asked which wall was in one of the photos Mr. Campbell presented to The Council. It is the South end which shows the rooftop patio. He asked them to notice how close the wall is to his yard and the height stating it is a hazard to him and his family if anything fell from the roof because it would land in his yard. It's a non-conforming building and against MMC

Hawkeye; would you like to be on the agenda in the future?. YES! Action is enforcement of code

---

Liz Campbell of 512 Main Street Minturn Colorado.

As she approached the podium she had a few word with Mr. Boyd and was quickly gaveled by Hawkeye stating this will not happen in a Town Council Meeting.

Mrs. Campbell stated that she is her to try and resolve the issue. The garage is only ½ inch away from their land and it's a 20ft wall. A Five foot setback from neighboring yards is in the MMC. My children are in danger of him having a party deck up there, a beer bottle falling and hitting one of them. Her and her family has had to pick up trash that has fallen in their yard from Mr. Boyd's rooftop patio. He shovels snow onto their yard from the rooftop patio and they have to clean it up. He has to follow code and rules like everyone else. The Council hasn't been following up on Mr. Boyd's building activities. The Town Council needs to follow up and do what needs to be done to correct this. He told my family he plans to have big parties, a hot tub up on the rooftop patio. He has even threatened my family.

Motion by Tom S, second by Shelley B. to convene into a special executive session pursuant to CRS 24-6-402(4)(B) for the purpose of consulting with the Town Attorney regarding the construction at 504 Main Street and related issues @ 7:45pm

Council convened back to the Council Chambers @ 8:05

Council gave direction to Town Staff to work with Mr. Boyd to resolve the issue and put him on the next Council Meeting Agenda.

## **6. Discussion/action of Emergency Items, if necessary**

### STAFF REPORTS AND OTHER ITEMS

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

- a. Economic Development Director
- b. Public Works

Rod C. had nothing to report but was open for any question The Council may have.

Tom S. wanted to express his appreciation to public works and its employees for doing a great job with snow removal; it's the best it has been in years.

- c. Police

Chief Martinez stated his staff report is on page 50 and he had nothing further to add but was open for any questions The Council may have. George B. commented on the new alert system as it being good, hi-tech and effective.

[www.ecalert.org](http://www.ecalert.org)

Chief Martinez agreed.

- d. Treasurer/Clerk

Jay B. said his report was on page 52 and he had nothing else to add but was open for any question The Council may have.

Shelley B. asked why his parking analysis was only on the Saloon and Chilly Willy's and not on the Country Club.

Jay B. used those two as examples to exemplify the use of the formula as approved by Council. This process will be applied town wide to determine parking needs.

e. Town Planner

Wiley S said his staff report was on page 55. I would like to address Chapter 16 of the MMC because we are now full staffed and would like to address issues from the end of last year. Tom S. and Shelley B. would be on AD-HOC committee, would like another Planning Commission Member to join the Committee. He has reviewed the five point program and would like to address it with The Council as soon as possible because of the growth and building happening in the Town Of Minturn.

f. Town Attorney

Allen C. informed the Council of the five day Town trial with Mr. Boyd and his company Invest-in-Yourself but did not go into detail and that Mr. Boyd seeking \$395,000 for reparation. An update was given on the P&Z Hearings for the Battle Mountain annexation. The P&Z Commission requested Staff research the concern if our current "De-Brucing" in compliance with the TABOR laws will be negatively affected by the proposed annexation. Allen C. stated although this question has been confirmed by the Ginn Co. and by our own Staff it would be prudent to confirm with out Bond Council attorney.

g. Town Manager

Ann C. Said her report was on page 61. She informed Council that Cathy Shipley has passed away, a person who served Minturn very well. She expressed her condolences to her family. She also informed Council that there were hand outs from her in their mail boxes. She directed Council to look at the packet regarding grants for CDOT. If council would like to address the enhancement grants in the near future. Ann it's for sidewalks, bike paths. She is getting input from community and would like to get a committee ready.

As well we hired a new Office Clerical/Community Development Assistant named Dana who could not be here because he was looking for places to live. And that the Town Staff are appreciative of him for starting right away.

h. Town Council

Jerry B. pg 79 he completely disagrees with the fee of \$10 being too big. He has done the market and we are much lower than Vail.

George B. What is a Seasoned Citizen? Ann C. new term referring to the elderly community.

Shelley B. state rep school has finished grants. \$1.3 million of grants are going to Colorado schools. Only one in the western slope and the rest are in front-range. The Grant is open until 2010. Will be up to \$2.5 million for the state of Colorado

Kelly B. Minturn community fund applied for grants for Beach Front Park to start community activities and continued structure. We didn't get anything.

Hawkeye heard that there are concerns about fluoride in the water systems. Minturn doesn't put it in their water, via expense, hazardous material, which was decided 4 years ago. Recommend to protect your children by talking to your pediatrician

Recognize Rods b-day as well as George B. and Tom S.

**8. Discussion/Action – Old Town Hall: (a) Environmental Remediation and Demolition by: Capela/Cordova. Findings and Presentation by Foothills Environmental, Andre Gonzalez. Awarding of bids for Old Town Hall – Capela. Page 63.**

Hawkeye stated we have asbestos in the Old Town Hall and there is a estimation on how much it would cost to dispose of and tear down the Old Town Hall.

Mr. Andre Gonzalez of Foothills Environmental. We did the estimate on the Old Town Hall, we got bids from contractors and you have the information from them in the packet. If you have question I can answer them.

Tom S. There seems to be a huge gap in some of the bids. We separated them into 2 different costs, asbestos removal cost and demolition cost. Two of the bids did not include demolition but jus the asbestos removal. All are typical bids for such a project. He tosses the lowest # of bids or the high # bids because of his own opinion and gave reasons. Hudspeth estimation, they will do only both or don't want a part. Others will take one or the other or the best. We would do the on site inspections and over seeing the project. The monitoring would be extra cost. Bill B. Is the material as is a hazard. No, but when you tear down it would be. Hawkeye, how long are the bids good for. Not sure, but he believes they would honor them in the future but would have to ask them. It's usually 30-90 days on bids but they were told the process will take some time.

Council direction to the Town Staff is to find where the money will com from and get started on it.

**9. Discussion/Action – Ordinance 4 – 2007 (First Reading): An Ordinance amending Chapter 10 of the Minturn Municipal Code by the creation of a new section prohibiting barbed wire fences and providing penalties for the violation thereof – Christensen/Chief Martinez**

Pete Burnett of 447 Meadow Road Minturn Colorado stated he has more barbed wire fence than anyone in this town. Where do I stand, 90% is outside the Town and 10% is in the Town. Hawkeye said it doesn't apply if it is outside the Town. Hawkeye asked if it applies to existing fences; Allen C. said it will apply to both existing and new. Hawkeye asked can we amend the Ordinance to allow some; No, we are trying to get rid of all barbed wire fences in town. Shelley B. asked of it will this affect maintenance. Hawkeye, yes. Allen C. stated this outlaws sharp/weapon type of fences, one you would find on a prison.

Bill B. What will we do w/ the town's fences? Allen C. They are grandfathered in. Bill B. who will take them down if we need to? We shouldn't ask the PW to maintain them. We should have a contractor to do it. All agreed.

Motion by Tom S. second by Kelly B. to approve Ordinance 4 – 2007 (First Reading): An Ordinance amending Chapter 10 of the Minturn Municipal Code by the creation of a new section prohibiting barbed wire fences and providing penalties for the violation thereof; all voted in favor.

**10. Discussion/Action – CU-07-01; Gary Prupis (applicant) requesting Conditional Use Permit for a duplex located at 532 Taylor Ave., Minturn, CO – in a residential zone of Game Creek Character Area – Planning Chris Cerimele – TO BE TABLED**

Motion by Tom S. second by Bill B to table until indefinitely CU-07-01; Gary Prupis (applicant) requesting Conditional Use Permit for a duplex located at 532 Taylor Ave., Minturn, CO – in a residential zone of Game Creek Character Area; all voted in favor.

**11. Discussion/Action – Ordinance No. 7 – 2007 (Second 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 maps of under grounding facilities in the Town of Minturn, Colorado, by: Christensen**

Hawkeye noted Town Staff and Holland and Hart looked into conflict with Chapter 13 of the MMC, there was nothing

Motion by Tom S. second by Bill B. approve Ordinance No. 7 – 2007 (Second 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 maps of under grounding facilities in the Town of Minturn, Colorado; all voted in favor.

**12. Discussion/Action – Resolution No. 5 – 2007: A Resolution of the Town of Minturn, Colorado appointing Elmer Christensen, Beverly Christensen and Helen Gillespie as Election Judges for Minturn Municipal Election to be held on April 3, 2007 by: Brunvand**

Motion by Shelley B. second by Bill B. to approve Resolution No. 5 – 2007: A Resolution of the Town of Minturn, Colorado appointing Elmer Christensen, Beverly Christensen and Helen Gillespie as Election Judges for Minturn Municipal Election to be held on April 3, 2007; all voted in favor.

**13. Discussion/Action – Parking charges for Minturn Market Vendors by, Councilman Bumgarner.**

Ann C. stated she would like to new Economic Development Director (EDD) Ashley K. to work with vendors on this prior and ask them to wait until next year. Market applications have gone out and have come back thus far with fees already being paid. The Town Staff would like to work positively with vendors.

Shelley B. Did we increase the fee from last year and if so we can allocate \$10 to the parking issue from those fee increases

Ann C. was not sure if it was increased but, would like to work with the Market Committee on this issue

Kelly B. We should address it before the end of the season because we voted on parking issue involved with the market and cost.

Bill B. we should at least wait for the new Economic Development Director (EDD) to start the position and then address it.

Tom S. stated we should stick with making the vendors pay \$10 for parking each day at the Market and do it now. He suggested \$100 instead of the total \$130 for 13 markets. We could send out letters now, don't delay, it will make it worse.

Ann C. Non-profit vendors get charged for parking; Tom S. stated a free booth doesn't have to pay parking.

Shelly B. we need to do something to make up for lost revenue. Saying business shouldn't shoulder all and put it on the market. No one at the market is going to buckle at \$10 per market. I agree with Tom.

Ann C. Town Staff will talk to new EDD and do a structure and send out letters.

George B. I am with Tom's idea, take it to market committee and discuss the proposed changes, it doesn't need to come back to council.

Hawkeye. I don't think it is a good idea to go against costs to the market vendors already set in place

Motion by Tom S., second by Bill B. to increase market fee by adding a parking fee of \$100 for a full season vendor, \$10 per market for a vendor who is transient; All in favor except Hawkeye

#### **DISCUSSION ACTION BY THE "ENTERPRISE"**

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

Hawkeye turned the meeting over to Enterprise Chairman George Brodin.

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

George B. requested a motion to approve Ordinance 6 – 2007 on Second Reading.

Motion by Kelley B., second by Shelly B. to approve Ordinance 6 – 2007 (Second Reading): An Ordinance authorizing the Mayor to sign an agreement with CRL Associates, Inc.; all voted in favor.

**16. The Minturn “Enterprise” will convene as Minturn Town Council.**

George B. adjourned as the Enterprise and reconvened as the Town of Minturn Council at 8:55pm

**EXECUTIVE SESSION TOWN COUNCIL**

This item was moved to the beginning of the Council Meeting.

**FUTURE AGENDA ITEMS**

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

- Executive session for update on wastewater issue. 3/21/07
- Minturn Towne Homes Update – April 4, 2007
- Ginn Annexation Continuation of Public Hearing
- 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)
- Executive session for town managers contract.
- March 13<sup>th</sup> meeting work session for Town managers goals 5-7pm

**19. Set Future Meeting Dates**

- a) Council Meetings
  - March 21
  - April 4
  - April 18
- b) Planning & Zoning Commission Meetings
  - March 14
  - March 28
  - April 11
- c) Other

**20. 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