



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

**Wednesday November 19, 2008**  
**Work Session – 5:00 PM**  
**Regular Session – 7:00 PM**

**MAYOR - Gordon “Hawkeye” Flaherty**  
**MAYOR PRO TEM – George Brodin**

**Interim Town Administrator – Gary Suiter**  
**TOWN CLERK/TREAS - Jay Brunvand**

**COUNCIL MEMBERS:**

Shelley Bellm  
Lorraine Haslee  
Jerry Bumgarner  
Aggie Martinez  
Matt Scherr

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**Work Session – 5:00pm**

- Presentation by Eagle River Fire Protection District regarding Impact Fees – Charlie Moore – (45min)
- Housing Presentations and Council Discussion – Town of Vail (Nina Timm); Eagle River Water and Sanitation District (Angelo Fernandez); Eagle County Economic Council (Don Cohen) – (60 min)

**Regular Session – 7:00 PM**

**1. Call to Order**

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 7:05 p.m.

Those present included, Matt Scherr, Aggie Martinez, Lorraine Haslee, Mayor Hawkeye Flaherty and Mayor Pro Tem George Brodin, Shelley Bellm, and Jerry Bumgarner.

Staff present was Interim Town Administrator Gary Suiter, Deputy Clerk Carrie Kendall, Director of Planning Victor Villarreal, Planner Chris Cerimele and Town Attorney Allen Christensen.

## STANDING ITEMS

### 2. Approval of Agenda (5 min).

- a. Items to be Pulled or Added
- b. Order of the Agenda Items

Motion by George B. to move the order of the items on the agenda as follows: 9, 13, 14, 15 in order to expedite the meeting. Second by Jerry B., motion passed unanimously..

### 3. Approval of Minutes and Action Report (5 Min).

Motion by Aggie M. and Seconded by Hawkeye F. to approve the minutes as presented. Motion passed unanimously.

- November 5, 2008 – Regular Council Meeting
- Action Item Memo

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

Matt S. inquired about the status of the Planning & Zoning Commission chair elections. Victor V. replied that this will be dealt with by the Commission at their next meeting on December 10<sup>th</sup>. These positions will be voted in through the end of March. There will be another election in March for the Planning Commission Chair. Council expressed their concern about possible conflicts of interest on the Commission regarding the Ginn development and asked that this concern be brought to the attention of the Commission. Victor said he would bring Council's concern to their attention.

### 5. Public comments on items, which are NOT on the agenda (5 minute time limit per person).

### 6. Emergency Items, if necessary

### 7. Town Administrator's Report (10 Min)

Gary S. updated the Council on the new parking plan. The 2 hour time limit for parking was implemented partially and had garnered support from some retail establishments on Main St. Aggie M. commented that the 2 hr parking signs were confusing in conjunction with the no parking restrictions on certain days.

There is a meeting on 11/20/08 with commercial Snow plow contractors in Town to review the Snow Removal guidelines.

The Minturn Seniors group held a luncheon and recognized the Public Works department for keeping the sidewalks clear in the winter.

Ginn Update — Staff continues to meet with Ginn and work is still proceeding on land use, water, environmental and legal issues

Gary S. stated that he provided a memo to Council, including a press release regarding the land exchange, as publicized in the Vail Daily. This land exchange involves the State Land Board, the Forest Service and Eagle County Land Trust. He stated that Minturn could be affected by this in the future.

#### **8. Town Council Comments (10 Min)**

George B. addressed the open space and land swap that the Forest Service and the Land Trust are participating in. He felt that this could impact parcels around Minturn. Allen C. replied that we have been asked to be involved and will follow it closely.

Matt S. Attended a Transit Board meeting. They are now fully staffed and they will not be cutting the route through Minturn that had previously been discussed.

Hawkeye announced Comcast's channel update and wished everyone a Happy Thanksgiving.

### **DISCUSSION, HEARINGS AND ACTION ITEMS**

#### **9. Discussion/Action Item – Ordinance 24 – Series 2008 (First Reading) – An Ordinance creating the Town of Minturn General Improvement District, Town of Minturn, County of Eagle, Colorado; and providing other details relating thereto – Christensen (10 min)**

Sarah Baker, lawyer representing Ginn addressed the Council. She stated that this was technical matter to form the General Improvement District and some changes are being proposed in order to preempt some issues. There may also be changes for second reading. A new copy of the Ordinance was provided to the Council and there was an addition to Section 8.

Motion by Shelley B., seconded by George B., to approve Ordinance 24 – Series 2008 (First Reading) an Ordinance Creating the Town of Minturn General Improvement District, Town of Minturn, County of Eagle, Colorado and providing other details relating thereto as presented; all voted in favor.

**10. Discussion/Action Item – Introduction and discussion with Dr. Smyser, Eagle County School District Superintendent – Suiter – (30min)**

Dr. Smyser is the new Superintendent of the Eagle County school district and was visiting the Council in order to detail the new direction of the School District. Dr. Smyser emphasized the desire of the District to focus on individual students. The District's new goal is to educate according to the changes in our world and technology to give children 21<sup>st</sup> century skills.

The current curriculum is being changed to address the broad aspect of the world and the global interactions that have occurred.

**11. Discussion/Action Item – Consideration of a Declaration of a Public Nuisance at 1251 Main St. Unit #6 – Cerimele (15 min)**

Chris C. addressed the Council regarding the issues being brought as a nuisance due to a large amount of debris piled onto a gas meter at Trailer # 6. Chris C. showed pictures of the area from October 22 and noted the current noncompliance. The 2<sup>nd</sup> letter was sent to the owner of the property by the Planning department on November 14, 2008 to notify the owner that the condition still existed. Staff recommends declaration of a public nuisance in order to proceed to court. There has been no response from the property owner and no way to contact the resident. There was no representative from Minturn 2 LLC (property owner) at the Council meeting.

Hawkeye expressed his concern from prior distributions of declarations of nuisance and made reference to MMC 7-02. He asked Council to be specific when declaring a nuisance as Staff has already done the investigation and declaration should take care of the problem at that time. Hawkeye reiterated what our nuisance ordinance actually says. Chris C. stated that the nuisance claim in the letters sent to the owner of the property is specific to that trailer and was specific as to what the issue was.

Hawkeye requests to give them more time and if not taken care of is then take them to court. Council reiterated that this is an issue of Public health and safety. The fire department is meeting with Staff tomorrow to discuss the issue. Lorraine H. stated that this needs to be dealt with immediately as it is a matter of public health and safety. Allen C. stated that we have the right to remove the hazard but we should not do it without a court order. Jerry B. stated that we should get a court order and charge the property owner, as we have a responsibility to the community to clean this up. Shelley B. stated that they have had 2 chances already considering the letters that have been sent and that they should not get another one. Hawkeye recommended to Staff to see if the Fire Dept. can get this cleaned up faster.

Motion by Shelley B., second by George B. to declare the property located at 1251 Main Street Unit #6 a Public Nuisance regarding the debris on the gas meter as presented. Council stipulated 24hours to clean up the debris and the items must be removed and disposed of; all voted in favor.

**12. Discussion/Action Item – Consideration of a Declaration of a Public Nuisance at 1071 Main St. – Cerimele (15 min)**

Chris C. presented a picture from late October regarding a discarded dishwasher and dilapidated storage shed in the front yard. He made note that this specifically violates codes 7-03-110 and 7-03-120. The first letter was sent on 10/28/08 and gave until 11/14/08 to clean up the issues. Currently the property owner has removed the dishwasher and offered to add a door to the shed but the door has not been in place to date. Staff recommends a 2 week extension to complete this and if not, then the issue will be brought back to Council to be declared a nuisance. Council agreed.

Hawkeye stated his appreciation to the property owner for their compliance.

**13. Discussion/Action Item – Consideration of a Declaration of a Public Nuisance at 550/560 Taylor St. – Cerimele (15 min)**

Chris C. presented a picture of the site from late October. of an industrial type of operation within Town limits. He stated that they are sorting and sifting dirt on premises and they are violating the land use ordinance. This is a misdemeanor per our code but the Planning Department felt that the Nuisance declaration was a more lenient and more appropriate method of addressing the issue.

Allen C. had spoken to the contractor and felt this was a nuisance and a code violation. A nuisance is more lenient than what could be charged. It was noted that there have been complaints from Taylor St residences.

Hawkeye F. asked if Council had been contacted by anyone involved with this issue all stated no with the exception of Jerry B. who had received a call from Tom Sullivan –a representative of the owner of the lot- and Mr. Sullivan was told that he should address the Council.

The contractor was verbally notified on Oct 17, 2008 of the violation. He had stated that this would only last 3 weeks.

Jerry B. asked about the usage of the lot. The lot contained an excavating machine and a dirt sifter. Jerry B. stated that this was not out of the ordinary for obtaining dirt for construction. Council questioned what was actually being performed on the property. Council questioned whether this involved normal construction and whether this was industrial use or just a staging area.

Council stated they would prefer to see permits issued and fencing. Allen C. stated that there could be some town liability with this issue.

Hawkeye recommended finding a way to control this.

Mr. Tom Sullivan, 116 Nelson St. addressed Council. Mr. Sullivan stated to the Council that this is how he has always built and used lots accordingly. Mr. Sullivan stated that he has always done it this way because it's easier and safer than hauling the dirt to another location that would involve large trucks and contributing to pollution. Mr. Sullivan stated that he was "not trying to get one over" the town. He stated that he feels that this way was less intrusive and is required for

construction backfilling. Mr. Sullivan said that he will follow the rules if the process is changed by the Council. He stated that sifting the dirt is not a new process and is a necessary process. He felt that he was being targeted by the Chadwick's. Mr. Sullivan had previously been approached by them and was told not to "grizzle" the dirt.

Hawkeye questioned the proximity of the project. Mr. Sullivan stated that there is one lot in between the construction and the dirt sifting operation and that they have permission to use and go around the lot that is between the work. Mr. Sullivan was reluctant to say when the project would be finished when questioned because of "the way construction is". He stated that the project may be done as early as this Friday or Saturday following the meeting.

Hawkeye questioned whether using the two lots will continue and Mr. Sullivan stated that if Council allows this then he would continue. Mr. Sullivan stated that he will comply with whatever Council directs.

George B. questioned whether Mr. Sullivan felt this was a safe operation and he said it was safer than trucking the dirt to another location. Mr. Sullivan stated that the goal is to remove the project (via finishing the project). Jerry B. stated that is just as safe as other previous projects and we should not target Mr. Sullivan.

Shelley B. asked if the Town requires construction staging plans for operations. Victor V. stated that we should require it. Currently construction is required to be contained on site. This activity should require the issuance of a temporary use permit, and safety considerations should be taken into account.

Shelley B. feels that we should not hold one person accountable for what everyone in Town has done before.

Council directed staff to require staging/construction plans on future projects which address issues of safety and use of on and off site facilities as part of the construction operation. Staff indicated that for this item, the goal was not to assess fines, but rather to cease the operation of what is not a permissible use, temporary or otherwise, on this parcel.

It was decided that the item was not a nuisance, and Mr. Sullivan was directed to clean up the existing operation as 'fast as he can', and if he desired to use the subject site beyond the clean-up, to work with Staff and apply for the necessary Temporary Use Permit.

**14. Discussion/Action Item – Ordinance 22 – Series 2008 (First Reading) – An Ordinance Adopting the Fee Schedules for Fiscal Year 2009 for the Town of Minturn – Suiter (10min)**

Gary S. addressed Council. He stated that the fees were addressed at Staff level and noted misspellings and requests by Chief Martinez were not in the fee schedule. Gary S. recommended not adopting at this time but requested direction and feedback from Council. Per Allen C. the Council is able to establish this by Resolution as per Gary S. recommendation.

Shelley B. questioned a potential fee for changes to submitted plans for construction because of additional staff involvement needed. The fee would be in place to cover administrative costs incurred. Shelley B. recommends \$20-30 fee at least. Victor V. agreed with her recommendation.

Council recommended by Staff to table the Ordinance or vote it down and bring back as a resolution.

Motion by George B., second by Jerry B., to deny Ordinance 22 – Series 2008 and bring back as a resolution and revise the tables as suggested. Second by Jerry. Motion passed unanimously.

**15. Discussion/Action Item – Ordinance 18 – Series 2008 (Second Reading and Public Hearing) an Ordinance repealing the character area use tables in Title 16 of the Minturn Municipal Code (Tables 16-1 through 16-9) and replacing them with more complete tables containing residential uses – Villarreal (10 minutes)**

Victor V. presented a brief recap of Ordinance 18. There have been no changes since first reading. Victor V. stated that this is just a housekeeping change for oversight in the original recodification that left out residential uses in the Tables.

The Mayor opened the Public Hearing. There were no comments from the public. The Mayor closed the Public Hearing.

Motion by George B. Seconded by Shelley B. to approve Ordinance 18 – Series 2008 (Second Reading) an Ordinance repealing the character area use tables in Title 16 of the Minturn Municipal Code (Tables 16-1 through 16-9) and replacing them with more complete tables containing residential uses as presented; all voted in favor.

**16. Discussion/Action Item – Authorization of participation with Northwest Colorado Council of Governments, Quality and Quantity Committee, to provide comments on Draft Environmental Impact Statement for Windy Gap Firing Project – Christensen (15 min)**

Motion by Hawkeye, second by Shelley B., to authorize our Water Attorney to work with Gary S. to review the Quality and Quantity Committee and to join in comments on Draft Environmental Impact Statement for Windy Gap Firing Project; all voted in favor.

**17. Discussion/Action Item – Ordinance 23 – Series 2008 (First Reading) – An Ordinance amending Chapter 7 of the Town of Minturn Municipal Code by repealing and re-enacting Article 9 as it pertains to animal control within the Town of Minturn, Colorado – Christensen (15 min)**

Allen stated this is housekeeping issue and was required in order to have animal control in the Town. Shelley B. noted that she did not like the distance requirement by pets to be less than 10 feet. Allen C. suggested that the Town could strike that language from the Ordinance. Allen C stated that he also wants to strike the County fee on pg 14 or 15.

Debate ensued regarding the Town's participation with the County Animal Control and Staff advised Council that this was the best and cheapest method.

Vicki Sifers 671 Main St. addressed the Council. Mrs. Sifers stated that she had almost been bitten on her walk to the Council meeting and that animals need control. Council stated that if the dog is not under control then that is a violation.

Heather Frank, 355 Pine St. addressed Council. Ms. Frank suggested that there should be certain dog specific areas for pedestrian safety. Council did not like the definition of immediate control and wanted to strike the 10 foot requirement and go back to voice control of the animal.

Hawkeye F. stated that we have had this ordinance for a long time and it had not been a problem.

Lorenzo M. spoke to Council in regards to the animal control. He noted that most of the changes of the Ordinance 23 are the definitions, specifically immediate control, care, animal, and working dog. Enforcement officers stated that control is hard to enforce and felt that presence of the owner was important. Council requested better verbiage prior to the Second reading.

Motion by George B., seconded by Shelley B., to approve Ordinance 23 – Series 2008 (First Reading) An Ordinance amending Chapter 7 of the Town of Minturn Municipal Code by repealing and re-enacting Article 9 as it pertains to animal control within the Town of Minturn, Colorado as amended; all voted in favor.

**18. Discussion/Action Item – Ordinance 25 – Series 2008 (First Reading) Amend Chapter 10 of the Minturn Municipal Code as it pertains to Open Containers – Christensen (5 min)**

Chief Martinez addressed Council and noted that an error was caught during recodification, and that this is housekeeping to change the wording of the code. The intent of the code is for it to be illegal to drink in public places and currently the law is particular to unnecessary places.

Motion by Matt S., seconded by Aggie M., to approve Ordinance 25 – Series 2008 (First Reading) to Amend Chapter 10 of the Minturn Municipal Code as it pertains to Open Containers; all voted in favor.

**FUTURE AGENDA ITEMS**

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

- Ordinance 19 – Series 2008 (Second Reading and Public Hearing) – An Ordinance Creating a Supplemental Appropriation to the 2008 Town of Minturn Budget – Brunvand – 12/3/08 Council Meeting – (10 min)

- Ordinance 20 – Series 2008 (Second Reading and Public Hearing) – An Ordinance Setting the General Property Tax Mill Levy for the Town of Minturn 2009 – Brunvand – 12/3/08 Council Meeting (10 Min)
- Ordinance 21 – Series 2008 (Second Reading and Public Hearing) – An Ordinance Adopting and Recognizing the Town of Minturn’s 2009 Revenues and Expenses by Fund – Brunvand – 12/3/08 Council Meeting (10 Min)
- Ordinance \_\_\_ Series 2008 (Second Reading and Public Hearing) – An Ordinance Adopting the Fee Schedules for Fiscal Year 2009 for the Town of Minturn – Brunvand – 12/3/08 Council Meeting (10 Min)
- Minturn Recreation Center discussion – Suiter – 12/3/08 Council Meeting
- Consideration of a “Dark Sky” lighting ordinance-December or January-Work session
- Ordinance \_\_\_ Series 2008 ( First Reading) Ordinance to amend MTC 1409 (3), Mandatory Vehicle Insurance-Christensen (5 min)

**21. Set Future Meeting Dates**

a) Council Meetings

- December 3
- December 17
- January 7, 2009

b) Planning & Zoning Commission Meetings

- November 26 (Canceled)
- December 10
- December 24 (Canceled)

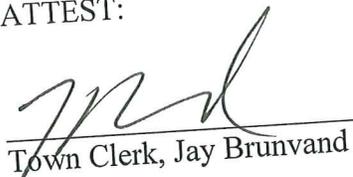
c) Other

**21. Adjournment**

Motion by Jerry B., second by George B., to adjourn the meeting at 9:05p.m.; all voted in favor.

  
Mayor Hawkeye Flaherty

ATTEST:

  
Town Clerk, Jay Brunvand

