



Official Minutes

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

Wednesday, April 1, 2009

**Work Session – 5:30 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

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 – 5:30 PM

- Meet with Board of County Commissioners
- Discussion of complaints against John “Woody” Woodruff regarding digging without a permit and possible removal from Planning Commission for conduct unbecoming of an appointed public official
- Cemetery Mausoleum discussion with Floyd Duran

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 7:11 p.m.

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

Staff present was Interim Town Administrator Gary Suiter, Town Planner Victor Villarreal, Town Treasurer/Clerk Town Jay Brunvand, Deputy Clerk Carrie Kendall, Attorney Allen Christensen, Public Works Director Rod Cordova and Assistant Town Planner Chris Cerimele.

Regular Session – 7:00 PM

STANDING ITEMS

2. Approval of Agenda

a. Items to be Pulled or Added

Shelley B. requested to move item 15 to the next meeting and move item number 14 to the beginning of the meeting before item 9, Allen C. requested a 5 minute executive session for direction on legal proceedings.

Motion by Shelley B., seconded by George B., to approve the agenda as amended, all voted in favor.

3. Approval of Minutes and Action Report

- March 18, 2009 Regular Council Meeting
- Action Item Report

Motion by George B., second by Jerry B., to approve the Minutes as presented, all voted in favor.

4. Liquor License Review

- Gourmet Cowboy Annual License Review, 455 Main St, Thomas McNeill-Manager - Brunvand

The Council convened as Liquor licensing Authority at 7:16 p.m.

It was noted that there were no issues and that they are in compliance per the staff report.

Motion by Shelley B., seconded by Aggie M. to approve the Liquor License renewal for the Gourmet Cowboy.

The Liquor license authority adjourned at 7:18 p.m. and reconvened as the Minturn Town Council.

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

Frank Lorenti, 1081 Main St., requested an update from Council regarding the “promised” money from the Ginn Corporation. Mr. Lorenti suggested using the money as a bargaining chip. Hawkeye replied to Mr. Lorenti that the Town has asked for the money several times and that it must be a mutual agreement on both sides, however the funds have not been released.

Gary S. stated that we were close to a final number on staff reimbursement. It was noted that the Tucker Lawsuit is probably the most significant issue that has the funds on hold. Mr. Lorenti questioned the status of the promised sewer plant, said that we should have gotten the Wastewater treatment plant regardless of annexation. It was noted that the Town is trying to work with the Eagle River Water and Sanitation District to jointly build a Waste Water Treatment Plant. Mr. Lorenti’s five minutes time was up at that time an additional 5 minutes was granted by the Council.

Mr. Lorenti stated that he had gone to the Eagle River Water and Sanitation District meeting with the intent of finding a explanation for the billing issues that he is dealing with. Mr. Lorenti presented his problem regarding sewer vs. water use charges and detailed the inequalities with water and sewer billing. Hawkeye suggested that Mr. Lorenti pursue this issue with Staff at a later date.

6. Town Administrator’s Report

Gary S. addressed Council with his manager’s report.

The appraisal on US Forest Service property is completed and was submitted to the Forest Service. The documents were ready to be submitted to the Town Attorney but they requested that the Forest Service could spend time reviewing this prior to being submitted to the Town. It was noted that the Town is paying for the appraisal and then being reimbursed by Ginn. It was also noted that per the Annexation agreement, Ginn is required to provide a bridge loan if final approval occurs. If not approved then we would be required to pay back the funds. Funding and debt service was discussed and Gary noted that we would need to study further. Allen C. noted that historically there have been no issues regarding securing funding.

The Market committee has met and made the first round of selection of vendors, another round of vendors will be selected to ensure variety. Matt S. suggested GuidestoneFarms.org. Gary S. noted that any farmers or vendors interested should call the Town for more information on participating.

Gary S. provided an update on the Town manager search, he noted that the opening has been posted online on several websites and resumes are arriving. Gary S. was confident that the Town can find a good permanent administrator. He then requested a good date to meet with the potential candidates. Gary intends to narrow the field down to 10-12 candidates, conduct phone interviews, and then bring the candidates to Town to visit the Town and meet the Council. Gary suggested that Council make the selection unanimously in order to instill full faith in the candidate. Council agreed to meet on May 29 and 30 tentatively depending on George’s schedule. Gary S. noted that he will be available to the Town when the final agreement from Ginn comes to fruition.

Parking plan update: Gary S. gave thanks to all the staff that made the plan work. As of April 1, the no parking on alternating days plan has ceased but the 2 hour parking remains where signs have been implemented. It was noted that suggestions for improvements to parking are always welcome.

7. Town Council Comments

Shelley B. suggested doing candidate screening quickly due in consideration of the end of Gary Suiter's contract. Hawkeye requested to add the subcommittee to the agenda for work session and for the public meeting as well. Shelley B. and Jerry B. volunteered to be on the subcommittee for the candidate search.

Jerry B. noted that the Eagle County water workshop is April 2. He stated that he will cover for the Council and give an update later.

Matt S. gave an update regarding Eco transit. He stated that they are currently attempting to balance the budget and the mud season schedule will be cut in order to provide necessary budget cuts. He also stated that in the long term, the schedules will need to be cut and fares will be raised. On April 17, the Eagle Valley Alliance for Sustainability will be launching an event at the Westin Hotel regarding public engagement to create more civic engagement. For more information see eaglevalleyalliance.org. The event starts at 6 p.m. Hawkeye reiterated that we are open to suggestions to improve the parking plan.

Hawkeye announced the opening of two new businesses in Town, The Uptown Store at 211 Main St, opened by Jay Raiola and The Pantry at 291 Main St., opened by Mary Parker. He suggested residents stop by and show their support.

PUBLIC HEARINGS AND ACTION ITEMS

8. Discussion/Action-Consideration of A-Peak Amendment to Ground Lease-Suiter

Gary S. noted that this was an amendment to a lease from 2004. This is an extension that provides for an increase in rent and possible relocation in case the Town needs to use the site. Allen C. drafted the lease and it was noted that Bruce Yanke requested 30 days advance notice but we agreed that 90 days would be more appropriate. Packet contained lease and map exhibit. Bruce Yanke, representing A-Peak Asphalt, of Vail, Co. addressed the Council.

Mr. Yanke thanked the Town for being a good landlord. He noted that his company has moved a couple times and it has worked well for them.

Motion by Jerry B., second by George B. to approve the amendment to the Ground lease for A-Peak Asphalt, all voted in favor.

9. Discussion/Action- Consideration of Ordinance 3-2009, Second Reading and Public Hearing of An Ordinance repealing and re-enacting Chapter 6 of the Minturn

Municipal Code Establishing Definitions and Procedures for Business Licenses within the Town of Minturn- Suiter

Gary S. noted that Council approved the Ordinance on First reading with a couple of suggestions to be added prior to second reading. He clarified that the definitions had been streamlined and insurance requirements were limited. It was noted that business licenses applications have been reduced from 8 pages to 2 and hope that more businesses will comply due to the simplification of the process.

The Public Hearing was opened.

Frank Lorenti, 1081 Main St. Mr. Lorenti questioned how business licensing affects commercial utility rates. Allen C. stated that the vendors determine the rates charged. It was noted that the questioning by Mr. Lorenti had nothing to do with the Ordinance under consideration. Staff stated that they would look at the Town's Code and would get back to him.

George B. questioned second licensing location criterion for separate locations, Gary S. replied that the code did not get into that level of depth and that other sections of the code would cover the issue. Gary S. noted that the business license was not a means to flush out Zoning problems, etc. and this chapter of the code will simply act as a database and registration of the Towns businesses. Shelley B. suggested a section for additional locations on the application be added and Council agreed. It was noted that Council sets the fees by resolution and a change of fee could occur.

The public hearing was closed.

Motion by Shelley B., second by Jerry B., to approve Ordinance 3-2009, Second Reading An Ordinance repealing and re-enacting Chapter 6 of the Minturn Municipal Code Establishing Definitions and Procedures for Business License within the Town of Minturn, all voted in favor.

10. Discussion/Action- Consideration of Contract for Event Production Services for the Summer Market- Suiter

Gary S. noted that since the contract is in excess of \$20K that it needed to be presented to Council for approval. The bid presented by Milhoan Studios had been selected by the Market Committee and the contract provides for entertainment, crew to work the Market, and general management of vendors. The bid amount was for \$38,450, it was noted that \$1500 was added due to a lack of provision of insurance and the amount was changed to \$39,950 so that the Town would not have to carry the insurance. Allen C. had minor changes in wording due to the insurance provision. Matt S. suggested that the Town and Minturn Realty be added as additional insured and suggested the timing of payments be adjusted, Gary S. noted that there tends to be an increased financial burden at the beginning of the event. Much discussion ensued regarding payment and possibility of default due to the early timing of the payment schedule. It was noted that the bid was very low and the financial risk is the contractor's. Council requested that sales tax be monitored more closely this year. It was noted that this can be difficult with cash vendors and we would have to hope that they were honest.

Request by Council to renegotiate the payment schedule.

Motion by Shelley B., and second by Hawkeye to table the issue to the April 15 meeting.

Council took a 5 min break at 8:30 p.m.

11. Discussion/Action- Consideration of Resolution 7-2009, A Resolution Adopting Revised Building Permit Fees- Villarreal

Victor V. presented the resolution and noted that the item has been discussed in detail at the last 2 work sessions and the resolution would update fees that haven't been updated in many years. Victor V. outlined previously covered building permit fee tables and calculations. He stated that the Town's fees are approximately 50% lower than the rest of the county and this likely does not cover the cost of service. Hawkeye questioned costs used for estimation of the plan reviews. Victor stated that the Town uses a square footage valuation. It was noted that the building inspector will be getting additional money from this fee raise due to him receiving a percentage of the fees but it was reiterated that there had not been any raise in fees in quite some time. It was noted that plan review fees and building permit fees are separate items after questioning from Hawkeye.

Motion by Shelley B., second by George B., to approve Resolution 7-2009, A Resolution Adopting Revised Building Permit Fees. Votes tallied: Aggie M., Jerry B., and Hawkeye voted no, Resolution passed 4-3.

12. Discussion/Action-Consideration of Resolution 8-2009, A Resolution Approving Conditional Use Permit Application CU 09-02 – Approval for a multi-family, mixed-use building in the commercial zone of the South Town Character Area- Cerimele

Chris C. presented the conditional use permit application for 1003 Main St. and noted that the applicant was requesting approval by Council prior to review by the Planning & Zoning Commission and prior to spending a large amount of money. Chris C. pointed out that this is surrounded by commercial zoning and backs up to Martine creek. Chris C. presented site plans but noted that if approved by Council for conditional use permit that it will still need to go to design review Board. Staff recommended approval.

The Public Hearing was opened.

Hawkeye questioned if the setbacks are the same as residential, it was confirmed by Chris C. that it was.

Jerry B. questioned lot coverage. Chris C. replied that commercial coverage allows for 70%, residential is 50%, and that the site is currently at 51% coverage.

Council questioned snow storage and parking it was noted that these issues will be addressed at Design Review Board. Shelley B. stated that approving the item as a conceptual was not ideal.

Matt S. questioned potential oversight for the issues presented by Council. Chris C. replied that Design Review Board is in place to address these issues. Victor V. pointed out that the use of the site is what is under consideration currently. Much discussion ensued regarding the impacts of the project. Hawkeye stated that conditions must be placed by Council at this time in order to ensure that questionable items be addressed. It was noted that Design Review Board requires snow storage, parking and landscaping conditions. It was noted that by majority vote, the Council can call the item back for review after the Design Review Board has met for consideration of the project.

Joe Bianchi, representing Delcor Construction Group, 222 Main St. Mr. Bianchi noted that they are already working on the conditions that Council had brought up.

Council reiterated that they would like to see more landscaping and Mr. Bianchi stated that there would be 40 feet of landscaping in the front. It was noted that the design presented is in the very early stages. He stated that the footprint of the house is about 3900sqft. Hawkeye stated that he will begin to push developers to put in their own sidewalk. Mr. Bianchi stated that he was sure the developer would be happy to accommodate the sidewalk issue.

Victor V. noted that in the future, the Council will be provided the information from the Design Review Board in a packet so Council will be able to see projects that have gone to Design Review Board for approval.

The Public Hearing was closed.

Motion by Jerry., second by George B., to approve Resolution 8-2009, A Resolution Approving Conditional Use Permit Application CU 09-02 –Approval for a multi-family, mixed-use building in the commercial zone of the South Town Character Area, pursuant to code 16-1-230 as presented with required findings; all voted in favor.

13. Discussion/Action-Consideration of Resolution 9-2009, A Resolution Approving Variance Application VAR 09-01 – A variance application to construct a single family home on land sloping in excess of 30%- Cerimele

Chris C. noted that this item had been published for hearing at the April 1st meeting but there had not been adequate time for Planning Commission to review. Staff recommended tabling the item until the April 15th meeting in order to avoid republishing and incurring the expense again.

Motion by Shelley B., seconded by Lorraine H., to table Resolution 9-2009, A Resolution Approving Variance Application VAR 09-01 – A variance application to construct a single family home on land sloping in excess of 30%; all voted in favor.

14. Discussion/Action- Consideration and meeting with John “Woody” Woodruff regarding complaints regarding digging without a permit and possible removal from Planning Commission for conduct unbecoming of an appointed public official-Suiter/Christensen

Item was removed from the agenda during review and placed as a Work Session item at the end of this meeting.

MINTURN GENERAL IMPROVEMENT DISTRICT

15. Minturn Town Council convened as the Minturn General Improvement District

The Minturn Town Council convened as the Minturn General Improvement District at 9:24 p.m. Roll call was taken, all were in attendance.

Mary Jo Dougherty, 450 E 17th Ave., Denver, CO. representing McGeedy Sisneros law firm, presented the issues and noted that copies of the statute require that the governing body and officers be the same as the Council. Mary Jo D. answered questions of clarification for the board and appointment.

- Approve Agenda

Motion by Shelley, second by Lorraine H., to approve the agenda as presented, all voted in favor.

- Discuss prior appointments and re-appointment of officers.
- Appointment of Mayor, Gordon "Hawkeye" Flaherty, as President of the Board

Motion by Lorraine H., second by Shelley B., to appoint the Mayor as the president of General Improvement District, all voted in favor.

- Appointment of Town Clerk, Jay Brunvand, as Secretary and Treasurer of the Board

Motion by Lorraine H., second by Jerry B., to appoint Jay Brunvand as Secretary and Treasurer of the board.

- Appointment of other officers to the Board

Lorraine H. nominated Matt S., Aggie M, Shelley B., George B. and Jerry B. and herself as assistant secretary of the Board.

Motion by Shelley B., second by Hawkeye F., to appoint Donn Wolfertz and Sarah Baker of Ginn Clubs and Resorts as non voting ex-officio board members.

- Review and approve minutes from the February 18, 2009 Organizational Board Meeting.

Motion by Lorraine H., second by Shelley B., to approve minutes as presented, all voted in favor.

- Discuss insurance requirements (public officials' liability, general liability, workers' compensation, automobile, comprehensive crime).

Ms. Dougherty noted that the Town was able to get a rider to their existing insurance at an approximate cost of an additional \$300.

FINANCIAL MATTERS

- Discuss and consider ratifying appointment of Clifton Gunderson, LLP as the District Accountant to prepare 2008 Application for Audit Exemption

Motion by Jerry B., second by Shelley B., to ratify the appointment of Clifton Gunderson, LLP as the District Accountant, all voted in favor.

- Review and approve 2008 Application for Audit Exemption and authorize the District

It was noted that the accountant is to file the Application for Audit Exemption with the State Auditor's office.

Motion by Jerry B., second by George B., to file the application for Audit exemption, all voted in favor.

- Discuss and consider ratifying appointment of District Accountant to prepare 2009 Budget.

Motion by Jerry B., second by George, to approve ratifying the appointment of the District accountant to prepare the 2009 budget.

- Conduct continued public hearing on proposed 2009 budget and consider adoption of Resolutions to Adopt 2009 Budget and Appropriate Sums of Money.

Ms. Dougherty presented a revised 2009 budget that was given to Council as an extra handout. The Public Hearing was opened. There were no comments from the public.

Motion by Shelley B., second by Lorraine H., to approve Resolution 2009-03-05, A Resolution summarizing expenditures and revenues for each fund and adopting a budget for the Minturn General Improvement District, Eagle County, Colorado, for the calendar year beginning on the first day of January 2009. and ending on the last day of December 2009; all voted in favor. Gary S. noted that the dollar amount left blank should be \$16,250 on the Resolution.

Motion by Jerry B., second by Shelley B. to approve Resolution 2009-03-06, a Resolution appropriating sums of money to the various funds and spending agencies, in the amount and for

the purpose as set forth below, for the Minturn General Improvement District, Eagle County, Colorado, for the 2009 Budget year; all voted in favor.

- Consider authorizing the establishment of the District's operation account at Firstbank, authorize Board members to be signers on the account and adopt policy regarding number of signatures on checks.

Ms. Dougherty recommended 2 signers on check.

Motion by Shelley B., seconded by George B., that all voting board members be authorized, a minimum of 2 signers on check and the use Firstbank in Minturn for the District's operation.

LEGAL MATTERS

- Review and consider approval of the Developer Agreement by and among the Minturn General Improvement District, Ginn Battle North, LLC, Ginn Battle South, LLC and Ginn-LA Battle One, LTD, LLP

A letter was submitted to Council by attorney Sarah Baker to request the Council table the consideration to May 6, 2009 for the Developer Agreement due to Mr. Weber being unable to attend the meeting and in order to resolve any uncertainty in the agreement.

Motion by Shelley B. and second by Aggie M. to table issue to May 6, 2009 meeting, all voted in favor.

- Review and consider approval of the proposed 2009 Operation Funding Agreement by and among the Minturn General Improvement District, Ginn Battle North, LLC, Ginn Battle South, LLC, and Ginn-LA Battle One, LTD, LLLP.

Motion by Shelley B., second by Jerry B., to table the proposed Operation Funding Agreements until May 6, 2009

OTHER BUSINESS

ADJOURNMENT

Motion by Shelley B., seconded by Lorraine H., to adjourn the Minturn General Improvement District at 9:48 p.m.

The next regular meeting of the General Improvement District Board will be held on May 6, 2009 at 7:00 p.m. at Minturn Town Center, 302 Pine Street, Minturn, CO 81645

Reconvened as Town Council.

Motion by Shelley B., second by George B., pursuant to Colorado State Statutes 24-6-402(4)(b) for the purposes of consulting with Town Attorneys for the purpose of receiving legal advice and

providing instructions to the attorneys for litigation with Invest in Yourself vs. The Town of Minturn.

Jerry B. recused himself from the Executive Session due to conflict.

Executive session adjourned at 10:05pm with direction to the attorney to work with insurance company in order to recover costs from the litigation with Invest in Yourself vs. The Town of Minturn.

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

- USFS Property/Special Use Permit expiration for the Television Relay Station above Town-(30min) 04/15/09
- Resolution 9 – Series 2009 regarding VAR 09-01

17. Set Future Meeting Dates

a) Council Meetings

- April 15, 2009
- May 6, 2009
- May 20, 2009

b) Planning & Zoning Commission Meetings

- April 8, 2009
- April 22, 2009
- May 13, 2009

c) Other

- Minturn General Improvement District meeting – May 6, 2009
- Town Clean Up Day- May 16, 2009
- Minturn Town Manager interviews – May 29-30

18. Adjournment

Motion by Jerry B., seconded by George to adjourn the regular session of the Minturn Town Council at 10:08 p.m.

Council then went back into work session to discuss the complaints against Woody Woodruff that had not been addressed earlier in the evening due to time constraints.


Mayor Hawkeye Flaherty

ATTEST:


Town Clerk, Jay Brunvand

