



MINUTES

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

Wednesday, May 6, 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

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 – 5:30PM

- USFS Property/Special Use Permit expiration for the Television Translator Station - (30min) – Suiter
- Discussion regarding possible Right of Way Encroachment Ordinance – (15min) – Martinez/Christensen
- Discussion regarding Employee Health Insurance annual renewal – (30min) – Suiter/Brunvand

1. Call to Order

a. Roll Call

Mayor Hawkeye Flaherty called the meeting to order at 7:10p.m. Those present included, Matt Scherr, Aggie Martinez, Shelley Bellm, Jerry Bumgarner, Lorraine Haslee, Mayor Hawkeye Flaherty and Mayor Pro Tem George Brodin.

Staff present was Interim Town Administrator Gary Suiter, Town Treasurer/Clerk Jay Brunvand, Town Planner Victor Villarreal, Planner Chris Cerimele, and Town Attorney Allen Christensen.

b. Pledge of Allegiance

Regular Session – 7:00 PM

STANDING ITEMS

2. Approval of Agenda

a. Items to be Pulled or Added

Hawkeye requested to add consideration of a letter of support for the Colorado Transit Coalition as agenda item 9a.

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

3. Approval of Minutes and Action Report

- April 15, 2009 Regular Council Meeting

Changes:

Matt S. requested the following clarifications be made:

#1: page 7 4th paragraph should be clarified that a policy should be developed that reflects when a sitting or recently sitting Planning Commissioner or Council Member brings forward a project to the Planning Commission, that it be called up to the Council as well for procedural review, so as to avoid the appearance of impropriety. This would insure an objective and nonbiased decision for the record.

#2: page 7 6th paragraph should be clarified that the "...*spring* schedule for Minturn will be cut down to one bus a day through Minturn and after May 31 will be back to the same *summer* schedule as last year."

Motion by Aggie M., second by Shelley B., to approve the minutes as amended; all voted in favor.

Council further directed for staff to add to a future meeting a policy discussion for a sitting or recently sitting commissioner proposal before the Planning Commission to be reviewed by Council additionally.

- Action Item Report

Comments:

Jerry B. asked for update on the sale of Forest Service land; no status change.

Shelley B asked for update on the Water Plant land; all information is in and it is now moving forward again with the School District. Gary S. would have a report in a future Manager's Report.

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

Mr. Frank Lorenti, 1081 Main St., requested to be on a future agenda for discussion to determine what determines a commercial tap vs. a residential tap on a property. Gary S. stated this information had been given to Mr. Lorenti on several occasions and all his questions have been answered in writing and that Mr. Lorenti simply did not like the answers. Mr. Lorenti also had a concern with the proposed future agenda item to discuss requiring a sidewalk on remodels or new construction as new sidewalks were a condition set on the Ginn Annexation and this would shift the burden from the Ginn agreements to the citizens.

Council declined the request to place Mr. Lorenti's concerns on a future agenda as the questions had already been asked, discussed and answered.

5. Special Presentations/Citizen Recognition

6. Town Administrator's Report Check his report for wording.

- The Town Manager recruitment is moving forward. The deadline has passed and we have a large selection of well qualified applicants. A meeting will be set with Council Members Bumgarner and Bellm to review the resumes.
- Dig Permits: a number of issues have arisen. Town Code does not provide for issuing dig permits. Staff met and determined to do away with the dig permits and refer to the state law that requires utility locates. Our building permits will emphasize this change. Grading permits, however, are required under our engineering standards. Aggie asked of Dig Permits in the Town or State right of ways; Gary S. stated you can not dig in the right of way with out permission; this only applies to private property digging.
- Cross Creek gauging station: USGA Funding is no longer available. Previously Council action authorized \$3,000 toward the annual cost of \$15,150 maintaining the gage. The gage program, when combined with the other contributing agency contributions is still short approximately \$5,700. Gary S. recommended that the Town draft a letter to all the stakeholders such as Eagle County, ERWSD, Upper Eagle Regional Water Authority, and the Colorado Water Conservation Board among others asking them to contribute on an annual basis to make up the balance.

Council direction was to proceed with the letter and report back to Council.

- New Police Officer Tom Koch has begun effective 5/1/09, we are lucky to have this experienced officer on our force.
- Eagle River Watershed Monitoring Funding Request: Raymond Merry will be at the May 20th meeting to do an updating presentation regarding the monitoring of the water quality and quantity in the Eagle River basin.
- Gary S. received an email from Kerry Donovan of the Minturn Community Fund. She has organized the Ski Academy to clean up LB Park on May 15 in conjunction with our Town clean up on 5/16
- Hawkeye agreed to be the speaker at the Town Clean up.

Victor V. updated the Council on the vacancy appointment to the Planning Commission. The Town has received three applications. All three will be available for the June 3rd Council meeting for questions and possible appointment. Council direction was to have the applicants at the June 3rd meeting.

Hawkeye noted for Council that the reception for Town Water Attorney Anne Castle is scheduled for May 26th, the same night as our scheduled Manager interviews. Hawkeye asked if Council would consider another meeting date for interviews; no as it was difficult to get those interview nights when all could be present.

7. Town Council Comments

Matt S. noted the Minturn Community Fund, Active Energies and the Eagle Valley Alliance for Sustainability will be having an Open House on May 14th from noon to 5:30pm to celebrate their combined new office located at 102A Main St.

Jerry B. reminded the citizens that the Eagle River Fire Protection District does not allow multifamily housing to use charcoal grills on the deck; gas and electric are okay.

Shelley B. noted the road to the shooting range south of Minturn has been graded and it is very passable. Citizens are encouraged to assist in the cleanup of the range and support of keeping the range clean. It was noted that the Town of Minturn supplies and pays for the dumpster located at the range during the summer months.

Aggie M. asked about cleanup of the Eagle River behind his house (900 Block of Main area). Lots of trees and other refuse is in the river and asked if the Town could facilitate a clean up. *(Note: this area is further south of the southern line which delineated the Phase I of the River Restoration Project.)* Discussion ensued as to if and how this could be addressed.

Lorraine H. noted the Minturn Cleanup Day is May 16 and to come out and help. Clean up will be from 9-noon with entertainment and picnic to follow at Little Beach Park from 1-3:30pm.

PUBLIC HEARINGS AND ACTION ITEMS

8. Discussion – Presentation by Minturn resident Frank Lorenti regarding the Waste Water Treatment Plant

Mr. Frank Lorenti, 1081 Main St., expressed concerns on the Waste Water Treatment Agreement (WWTA) between the Town of Minturn and the Ginn entities. Mr. Lorenti stated we (the Town) have signed contracts with Ginn that predate the annexation. The agreement states Ginn would build a Waste Water Treatment Plant (WWTP) regardless of development and progress. Mr. Lorenti stated he felt this was always too good to be true and wants to know why the Council has not progressed on the agreements that were made by requiring Ginn to make good on the promises outlined in the WWTA.

Mr. Lorenti stated that a sewer plant is recommended for the Eagle-Vail area separate from the plant agreed to by Ginn. He stated he did not want a sewer plant in Minturn but that we would not be building one there and also one in Minturn. Mr. Lorenti asked why can't we get some of the money for the sewer plant for the town and join the Eagle-Vail plant? Mr. Lorenti's concern is that we hold Ginn to the agreements and get some money out of them to be spent on other projects in the Town. Mr. Lorenti stated that he feels the Town has to be bailed out by the citizens and Ginn is not supplying anything or any money.

George B. stated the agreement was never "you get the sewer plant or the money for the sewer plant". The agreement of concern was for only for a sewer plant.

Shelley B. stated the WWTA was prior to the annexation; it was not part of the annexation. As of late the Town has been discussing water issues with Ginn not waste water. Work has been done on where the plant would be, we have been studying various locations. She noted the WWTP must be before the confluence of the Gore and Eagle Rivers in order to conform to the Water Court rulings.

Matt S. stated plant or money is the issue. If the plant is in Eagle-Vail and it works for Minturn's water rights then that is a viable option. The urgency of building the plant is simply not there. We do not need our own plant if we can join with the other entities and not lose our water rights. Currently the Town has sufficient water rights to provide for the community. The contracts are not null and void but the urgency is not present. Mr. Lorenti noted that he does not want the plant but stated again we should have the money; it was stressed by the Council and attorneys that is not the option.

9. Discussion/Action – Consideration of Land Use Application DRB 09-03; A request by Council for Design Review Board approval review for an applicant to construct a single-family home at 344 Eagle Street – Woodruff Residence – Cerimele

Hawkeye introduced the agenda item and turned the discussion over to Town Planner Chris Cerimele for presentation. Chris C. stated this was an opportunity requested by the Town

Council for the Council to review the approval given at Planning Commission level as the applicant recently held a seat as Chairman on the Planning Commission. Chris C. stated Staff recommendation is to affirm the Design Review Board's decision of approval on application DRB 09-03.

Matt S. asked for clarification; Chris C. stated the Planning Commission recommended approval and Staff is recommending that approval be upheld; however, because Mr. Woody Woodruff recently held a seat on the Planning Commission, Chris C. is asking for affirmation of that approval.

Allen C. stated that this has been through very detailed review at staff level. Allen C. stated that if the Council is considering approval as recommended then we could circumvent the applicant's presentation which would be lengthy.

Matt S. stated he had requested that this be brought to the Council because the Applicant, Woody Woodruff, was the Chairman of the Planning Commission up until a couple of weeks ago. Because of his position, the intent was to call the approval up to the Council level so as to affirm for the record that the decision was made with objectivity and was not biased for or against the applicant for the record.

Ms. Lynn Feiger, applicant, stated that if the council is inclined to affirm the approval then her presentation would be short. If Council is leaning toward not affirming the approval then this is her only time to create a legal record of the case at this level. The only remedy after Town Council is to take this decision to District Court at which the record created here would be necessary. Ms. Feiger stated that her presentation for the record is very lengthy, she would have additional evidence for the record tonight and that the project does not hint any bias.

Ms. Feiger stated the Planning Commission approved the application 3-0 and that it is a small town. There is no reason to believe that the Council or the Commission can not be objective in an application where they know well all the parties of the application. In fact it is highly inappropriate to assume the opposite. She does understand that the Council is trying to be objective.

Chris C. stated and clarified the square footage of the property. Matt S. asked for clarification of the square footage issue. Chris C. based his determination on the total square footage of each floor including the garage and other non-living areas. Victor V. stated the square footage is irrelevant as we have no regulations to limit the square footage.

Shelley B. asked regarding the back yard area that currently exists along the river if it would be cleaned up along the river bank; Ms. Feiger stated yes it will be cleaned up at the owner/applicant expense and will be done by ERC who has done both phase I and II of the River Restoration project.

Matt S. asked about snow storage; this has been addressed by the applicant and was increased.

Ms. Feiger confirmed the footprint of the house on the lot only covers 23% of the lot. It is a big house and a big lot.

Hawkeye asked Ms F. if the houses down the street are SF or are they commercial; they are all but one single family

Jerry B asked Chris C. if the house meets the Code for lot coverage and setbacks, easements, etc; no issues, it conforms to the Code but does not meet the “similarly compatible to adjacent properties” aspect.

Matt S. stated it was not a Code issue, but an issue with the Design Guidelines. Matt S. stated he felt staff did a good job of representing the guild lines but the Code is in conformance. Matt S. again stated this was a case of reviewing as a mater of policy the approval from Planning due to the fact that Woody was the recent Planning Commission Chairman, not because he felt it was biased or the like. This was to ensure the process was confirmed.

Hawkeye stated he also felt Staff did a good job of presenting the case and the Planning commission did there job too.

Motion by Shelley B., second by Matt S., to affirm the Planning Commission’s Design Review Board approval review for an applicant to construct a single-family home at 344 Eagle Street – Woodruff Residence; all voted in favor.

9a. Consideration to direct the Mayor to sign letters of support for the Colorado Transit Coalition.

Motion by Matt S., second by Lorraine H., to direct the signing by the mayor and approve the mailing of letters of support for the Colorado Transit Coalition; all voted in favor.

MINTURN GENERAL IMPROVEMENT DISTRICT

10. Minturn Town Council will convene as the Minturn General Improvement District

The Minturn Town Council sat as the Minturn General Improvement District Board. All members were present.

- Approval of Minutes from 04/01/2009 Meeting

Motion by Shelley B., second by Lorraine H., to approve the Minutes of the April 1, 2009 Minturn General Improvement District as presented; all voted in favor.

- Operational Funding Agreement
- Developers Agreement

Hawkeye noted a letter submitted and distributed to the Council from the Ginn entities as submitted by Ms. Sarah J Baker as representing attorney. This letter formally requested the GID Board to table approval of both the Operational Funding Agreement and the Developers Agreement to Wednesday July 1, 2009 at 7:00pm.

Motion by George B., second by Shelley B., the Operational Funding Agreement and the Developer Agreement to Wednesday July 1, 2009 at 7:00pm; all voted in favor.

Motion by George B., second by Shelley B., to adjourn as the Minturn General Improvement Board; all voted in favor.

The Council resumed the Town Council meeting.

EXECUTIVE SESSION

11. Minturn Town Council will convene into executive session:

Council will convene in executive session Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys for the purpose of receiving update regarding the Ginn development.

Motion by Jerry B., second by Aggie M., to convene in Executive Session pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys for the purpose of receiving update regarding the Ginn development; all voted in favor.

Council exited the Executive Session at 9:45pm. As a result of the Executive Session no direction or request for action was given to staff.

FUTURE AGENDA ITEMS

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

- Survey with Staff regarding housing projects – May 20, 2009
- Information on International Property Maintenance Code – May 20, 2009
- Consideration of Planning Commissioner Appointment – May 20, 2009
- Discussion of Construction Materials Use tax – Flaherty – June 3, 2009
- Discussion of a proposed Ordinance establishing a policy that if you develop a vacant lot or improve an existing structure, you must install a sidewalk – Flaherty June 17, 2009
- USFS Property/Special Use Permit expiration for the Television Translator Station – (30min) – Suiter – May 20 2009
- 2008 Annual Audit presentation and acceptance – June 3, 2009 Work session (45min) and Regular meeting (10min)

- Ordinance ___ - Series 2009 an Ordinance to consider Right of Way encroachment issues
- Discuss and consider Policy discussion directing that a project presented to the Planning Commission by a sitting or recently sitting Commissioner or Council member be also reviewed by the Town Council to insure an objective and non-biased decision for the record – June 17, 2009 (Worksession 30min)
- Eagle River Watershed Monitoring Funding Request: Raymond Merry – Suiter (30min) June 3rd
- Policy discussion directing that a project presented to the Planning Commission by a sitting or recently sitting Commissioner or Council member be also reviewed by the Town Council to insure an objective and non-biased decision for the record – June 17, 2009 (Worksession 30min)

13. Set Future Meeting Dates

a) Council Meetings

- May 20, 2009
- June 3, 2009
- June 17, 2009

b) Planning & Zoning Commission Meetings

- May 13, 2009
- May 27, 2009
- June 10, 2009

c) Other

- Town Clean Up Day – May 16, 2009
- Town Manager Interviews – May 26 & 27, 2009

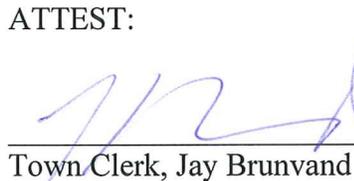
14. Adjournment

Motion by Lorraine H., second by Shelley B., to adjourn at 9:55pm; all voted in favor.



Mayor Hawkeye Flaherty

ATTEST:



Town Clerk, Jay Brunvand

