



## Official Minutes

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

**Wednesday, July 1, 2009**

**Work Session – 6:00 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

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 – 6:00**

- Update regarding Community Plan-Villarreal-(30min)
- Discussion regarding public use of the right of way-Christensen-(10min)

#### **1. Call to Order**

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 7:07 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, Planner Chris Cerimele, Town Treasurer/Clerk Town Jay Brunvand, Deputy Clerk Carrie Kendall and Town Attorney Allen Christensen

## **Regular Session – 7:00 PM**

### **STANDING ITEMS**

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

- a. Items to be Pulled or Added

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

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

- June 17, 2009 Regular Council Meeting
- Action Item Report

Motion by Aggie M., second by George B., to approve the Minutes as presented, all voted in favor. (Jerry B. abstained)

Gary updated Council regarding the School District Annexation. He stated that the packet information had been sent to the School Board but it was not practical to discuss the item until August.

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

#### **5. Special Presentations/Citizen Recognition**

#### **6. Town Administrator's Report**

Gary S. presented his Administrator's Report. He reminded Council of the 4<sup>th</sup> of July Community Picnic from 3-6 p.m. at Little Beach Park and Amphitheater. The festivities include live music, kid's activities and the event was to be catered by The Gourmet Cowboy. Gary S. appealed to Council and citizens to volunteer. Regarding the Capital Improvement Plan for the water system, 4 engineering firms had been interviewed and Baseline Engineers of Boulder was chosen. A signed contract has been sent to the engineer and work was already underway. A meeting has been set up with a Department of Local Affairs representative to discuss grants, loans and possible financing of improvements to our water treatment system. The intention is to have a grant written by August 1, 2009. Gary S. noted that we may look to the same engineers to become our Town engineers as our current contract with Carter Burgess has expired. Regarding

the Radio Tower lease, Rocky Mountain Radio has ceased payments on their lease as there is an issue in court regarding the Tower being knocked down several months ago. It was noted that they are currently 7 months, or 2 payments behind. Allen C. stated that we have the ability to cancel the lease with 3 days notice if desired. Allen C. suggested that we give them notice to pay or vacate the premises. Gary S. noted that if Council desired for the Radio Tower to go away then the time is right to end the lease. Several Council members stated that the funds were important to the Town. Council directed Staff to push for payment. The River Restoration Phase II suffered damage due to high and sustained spring run off. Gary S. requested a revised budget to cover the issue. The CDPHE was willing to amend the contract to reallocate funds in order to cover the repairs. There will be no out of pocket expenses to the Town for the repairs. Several Council members questioned a warranty regarding the washed out portions that needed repair. It was noted by Jerry B. that during the first phase, the vegetation was under warranty and subsequently replaced. Gary S. notified Council that he was working with the USFS to consolidate 3 permits that include the buried pipeline, a well, 100,000 gallon water storage tank and a concrete diversion dam. Gary S. has given these to the water attorneys to review. Gary S. supplied a copy of the funding agreement for the USGS for the Cross Creek Gauging Station. He noted that a few others had joined in on the issue to keep the station going. Gary S. will be bringing some proposals forward regarding a new phone system for the Town Hall. One bid came to about \$7500. It was noted that the phone system is 20 years old and had been moved from several of the Town buildings. Shelley B. suggested a system that could be managed by Staff rather than an outside source. Gary S. received a call from the Colorado River District who was requesting for funding in the amt of \$5000 to preserve a section of the river near Grand Junction and 5 different endangered species. The Denver Water Board had been providing for this and now they are asking for assistance in covering these costs.

## 7. Town Council Comments

None

## PUBLIC HEARINGS AND ACTION ITEMS

### 8. Discussion/Action – Extinguishment hearing on 2001 Subdivision approval of the “RBLA” subdivision at 721 Main St- Villarreal-(30min)

Mayor Flaherty asked council is there had been any communication with the applicant. All stated no. George B. disclosed that he used the applicants’ attorney, Mr. Perkins, services professionally.

Public hearing was opened. Victor V. presented testimony. He was sworn in and presented a brief overview of the subject. He noted that under current and previous code that the approval of the subdivision was valid for 2 years. It was noted that that if no improvements were made then the subdivision would then be invalid. He outlined the extension that had occurred in 2003 and stated that no improvements were made to the property. Victor V. then gave reasons why Council should extinguish the approval, stating that approvals, if unused, expire, as new/better information is available, and new decision makers must consider changing conditions as time passes. The primary purpose of the expiration of unused approvals, once expired, is to ensure

that better, more well-informed current decisions are made. Victor V. listed items that would need to be modified prior to approval such as lot sizes smaller than the minimum size lots allowed and the lack of effective emergency service access. He noted that the cost estimates made were from 2001 and no bonding was made for improvements.

Richard Berridge, 2000 Whitehall Lane, Saint Helena, CA, was sworn in. Mr. Berridge, the applicant for the subdivision made reference to his ties to the Valley from the 70's and 80's. He noted that he had contacted engineers regarding the improvement of the lots. He stated that he was informed by staff that the subdivision was not legal.

Greg Perkins, 30 Bunker, Eagle, CO. Mr. Perkins addressed Council as the legal representation of the applicant. Mr. Perkins requested Council to extend the project rather than extinguish.

Mr. Berridge stated that the project was well received in 2001. He stated that residents on Boulder had expressed negatively towards Boulder St. access and that a planned gate was to be on Boulder to address the emergency access issue. He stated that the lots are configured to be a minimum of 5000 sq ft. which was the minimum standard at the time. Mr. Berridge wished to count the right of way as part of the lot area. Stated that they were not advised regarding the timeline of expiration.

Mr. Perkins stated that the reasons presented by Victor V. should not apply to the current situation and that all items could be addressed without reapplying for the subdivision and the only issue at hand would be the lot size. Mr. Perkins stated that we could not subtract an easement from the lot size and that these lots do comply with the Town's land use code. Matt S. asked if there was a requirement that Council extinguish this. Victor V. clarified that he never stated that it was an illegal subdivision and that the issue must be extinguished. Victor stated that the new information and new decision makers would put the issue in a new light. He noted that the primary issue is the emergency services access issue, the lack of bonding and the lot sizes. He noted that it was clearly stated in the code that the right of way could not be included in the lot size. Allen C. noted that it was in section 16-2-20 of the code book. Matt S. noted that he wished to see all of the issues again as it had been other decision makers that approved the issue. Allen C. advised that the code stated that the issue would administratively expire and no approval was required. Shelley B. stated that she wished to have the same treatment for all applicants. Victor V. stated that he wants to make sure that there is a clear record in place. It was noted that if the item were formally extinguished then the lot lines would need to be replatted by the County.

Mr. Berridge stated that he thinks the Town had received an approval from CDOT regarding the access from Main St into the subdivision. Allen C. stated that the approval by CDOT had most likely expired. Mr. Berridge offered to provide additional background so that Council may understand the project better. Allen C. stated that the Council is entitled to a site visit. Council requested a site visit at the next meeting on July 15, 2009. Hawkeye requested if there had been a second notification of the expiration. Victor stated that he could not find any record of a notification of the secondary expiration. Hawkeye questioned Mr. Berridge as to why 9 years had gone by without the project moving forward. Hawkeye stated that he needed better justification other than what was presented to justify the continuation of the subdivision. Mr. Berridge stated that there had been a trailer tenant originally on the property and the tenant of the trailer had been removed and they had worked with an engineer on the site. He stated that there had been no mention that there was a time limit regarding the approval. Allen C stated that Staff had sent notification Hawkeye requested section 17-1-36. Allen C. noted that there was correspondence in the packet from Mr. Berridge to Town Planner Russ Martin regarding the

initial extension in 2003. Commissioner Haslee asked the applicant if they were aware of the finite nature of the approval. The applicant responded 'yes' although they did not agree with it. Tom Sullivan, 116 Nelson St. Minturn.

Mr. Sullivan stated that he did not see the benefit of extending the issue and that the proposed development would benefit the Town. Mr. Sullivan stated that the developers may get frustrated and the intentions of the Mr. Berridge would benefit the Town.

It was clarified that the decision must be made with 30 days of closing the public hearing.

Motion to continue the public hearing to August 19, 2009 by Jerry B., seconded by George B.

A site visit in August will be planned. The Applicant will contact Staff to coordinate a site visit.

Matt S. questioned the cost of a special meeting if the charges could apply to the applicant. Allen C. noted that he would need to look into it or the visit could be held earlier and attached to a regular meeting.

### GENERAL IMPROVEMENT DISTRICT

The Minturn Town Council convened as the General Improvement District at 8:44 pm.

Motion by Shelley B., Seconded by George B. to approve the Agenda as presented.

Motion Jerry B., Seconded by Shelley B. to approve the minutes for the May 6, 2009 Meeting

Motion by Shelley B. and Seconded by Jerry B., to direct Clifton Gunderson, LLP to prepare the 2010 budget, all voted in favor.

Motion by Shelley B., Seconded by Lorraine H. to conduct the 2010 Budget hearing for the General Improvement District at the November 4, 2009 meeting.

Sarah Baker, 1914 Beard Creek Trail, Edwards, CO. Ms. Baker appeared as a representative of the Applicant. She had submitted a letter earlier in the evening to table the item due to last minute revisions that were not discussed and incomplete.

Motion by Shelley B., seconded by Lorraine H., to table the Developer's Agreement to the July 15<sup>th</sup>, 2009 Council meeting.

Motion by Shelley B., Seconded by Aggie M., to table the Operation Funding Agreement to the July 15<sup>th</sup>, 2009 Council meeting, all voted in favor.

Motion by George B., Seconded by Shelley B. to adjourn as General Improvement District at 8:56 p.m.

Hawkeye wished to thank the resigning Bill Weber on his last day in Town and to thank Mr. Weber for his efforts and his staff during the annexation process. Mr. Weber thanked Council and all the citizens of Minturn.

Hawkeye requested that Staff provide any information regarding school closures that may occur at the next School Board meeting.

### FUTURE AGENDA ITEMS

### 10. Items to be added to future agendas / work session

- Information on International Maintenance Code –July 17, 2009-Lanci, Mulson, Martinez-work session and agenda.
- Use tax discussion-work session- August 19, 2009
- Sidewalk discussion-work session-August 19, 2009
- Sandra Smyser-Eagle County School District-(30min)-July 17, 2009 tentative
- GID –July 15<sup>th</sup>
- Right of Way action item and work session-July 15, 2009

### 11. Set Future Meeting Dates

a) Council Meetings

- July 15, 2009
- August 5, 2009
- August 19, 2009

b) Planning & Zoning Commission Meetings

- July 8, 2009
- August 12, 2009
- August 26, 2009

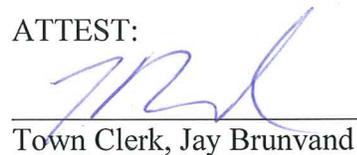
c) Other-4<sup>th</sup> of July Picnic-Little Beach Park 3-6 p.m.

### 12. Adjournment

Motion by George B., Seconded by Jerry B., to adjourn the regular session of the Minturn Town Council at 9:01 p.m.

  
Mayor Hawkeye Flaherty

ATTEST:

  
Town Clerk, Jay Brunvand

