



Minutes

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

Wednesday, September 2, 2009

Work Session – 5:30 PM
Regular Session – 7:00 PM

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

Town Administrator – Jim White
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

- Community Plan Update-Future Land Use – Cerimele
- Budget Items Discussion for 2010 – Brunvand

Regular Session – 7:00 PM

1. Call to Order

a. Roll Call

The meeting was called to order at 7:00 p.m. by Mayor Pro Tem Brodin. Those in attendance were Matt Scherr, Aggie Martinez, Shelley Bellm, Lorraine Haslee, Jerry Bumgarner and George Brodin.

Staff present were: Town Administrator Jim White, Town Planner Victor Villarreal, Planner Chris Cerimele, Town Treasurer/Clerk Town Jay Brunvand, Attorney Allen Christensen and Chief of Police Lorenzo Martinez.

b. Pledge of Allegiance

STANDING ITEMS

2. Approval of Agenda

a. Items to be Pulled or Added

Motion by Shelley B., second by Lorraine H., to approve the agenda as presented; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

3. Approval of Minutes and Action Report

- August 19, 2009 Regular Council Meeting

Motion by Jerry B., second by Aggie M., to approve the Minutes of August 19, 2009 as presented; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

- Action Item Report

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

Jim White updated Council on several items to include:

Jim W. was out on Funeral Leave for two days. Stan Miller Construction was the low bid for the Eco Bike Trail extension in Town. Jim W. reminded Council that Baseline Engineering will accompany Rod C. at the next Council meeting to review the Minturn Water Master Plan.

Jim W. attended and reported on the District Water Court Hearing that was held in Glenwood Springs. Also in attendance at the meeting were our legal representatives from Holland and Hart and others familiar with the pending water case as relates to the Ginn/Battle Mountain property.

Jim W. updated that Town Attorney Boots Ferguson is out of the Country due to a family emergency. His absence will not affect the Town's business.

Jim W. provided an update on the CML Policy Committee and asked if a Council member would like to serve on this committee; Jim W. will be primary and Jerry B. will be alternate.

A community welcome for Jim W. and his family was sponsored by the Minturn Community Fund on August 27th and he thanked them for their warm welcome.

Jim W. passed out a Letter of Commendation Endorsement from Director Jon Pascal, Krav Maga Force Training Division, received on Officer Tom Koch.

Victor V. asked if there were any questions on the planning update; there were none.

7. Town Council Comments

Shelley B. stated the new Battle Mountain High School will be opening their doors and will have an open house and the Wild West Day fund raiser for all nine elementary schools is to be held on September 9th.

Jim W. noted the Town will participate in the Eagle River cleanup on September 10th from mm 146-147 (within Minturn) from 3-5pm. All participants are eligible for a t-shirt and a picnic on Saturday September 12.

PUBLIC HEARINGS AND ACTION ITEMS

- 8. Discussion/Action** – Resolution 21- Series 2009 a Resolution to formally extinguish the October 3, 2001 approval of the ‘RBLA’ Subdivision at 721 Main St, Minturn, CO – Villarreal

George B. introduced the item stating a hearing was held at the August 16 Council Meeting and that this is an item for the Council to determine the resolution of the issue.

Allen C. stated Staff does not have an update and this action item is simply to determine the resolution. Mr. Greg Perkins, 30 Bunker Way, attorney for the applicant addressed the Council informing they are moving ahead with a new application for the property. Mr. Perkins asked if the Council would table the Resolution. This would save them the need to fight the Resolution and allow them to work on the new application.

Allen C. stated the Municipal Code states the Town must act on the Resolution within a set amount of time (30days) once the Public Hearing finding has been made. Victor V. stated that we would need to go through the whole process again in the event this is not resolved within the 30 days. Further, the new application must be applied to the same land so the old application must be vacated prior to being able to apply the new application.

Shelley B. asked if they table would they be out of the 30 day period; no they would not exceed. However, the applicant is looking at a PUD process which will take longer than the date set for the next meeting. Allen C. stated as long as we are still within the 30 day window he sees no harm.

Motion by Jerry B., second by Shelley B., to Table Resolution 21 – Series 2009 a Resolution to formally extinguish the October 3, 2001 approval of the ‘RBLA’ Subdivision at 721 Main St, Minturn, CO as presented to the September 16, 2009 Council Meeting; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

9. Discussion/Action – Resolution 22 – Series 2009 A Resolution approving Variance application VAR 09-02 A request for setback variances for a mixed use building at 115 Nelson St, request by Tom Sullivan – Cerimele

George B. introduced the item and referred the issue to Chris C. for Staff presentation. Chris C. outlined the proposal for Council. The applicant is requesting a variance to construct a mixed-use building in the side and rear yard setbacks. Chris C. stated Staff is recommending approval of the variance.

Matt S. inquired about the snow shedding; snow hangers on the roof would be included by the owner to limit this concern. Matt S. was concerned with a future owner; this item will be reviewed again at Design Review.

George B. asked if the proposed development will be flush with the front line of the Blue house next door; Chris C. replied: “no as the adjacent property is 3ft over the front property line.”

Jerry B. noted the drawings included have truly helped to identify the issues.

Required findings:

- There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone.
- The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter.
- That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.
- There is no substantial impairment to the public that would result from the granting of the variance.

Motion by Shelley B., second by Jerry B., to approve Resolution 22 – Series 2009 a Resolution approving Variance Application VAR 09-02 A request for a setback variance for a mixed use building at 115 Nelson St. as presented with the required findings; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

10. Discussion/Action – Consideration of Ordinance 5-Series 2009 (Second Reading) – An Ordinance Amending Chapter 1, Chapter 7, and Chapter 16 of the MMC by Repealing Section 1-5-20 and Repealing and Re-Enacting Sections 1-5-10, 7-2-30, 7-2-40, 16-1-20, 16-1-40, 16-1-50, and 16-1-90 to Revise the Procedures for Code Enforcement within the Town of Minturn-Villarreal

George B. introduced the item. Allen C. stated no changes have been made since First Reading.

George B. stated his concern is this could become a “Witch Hunt” and that is not the intent. A comfort level would be to inform the Council prior to enforcement to ensure they are fully abreast to include specific concerns and enforcement actions; Staff will make this so. Shelley B. stated this was only to be informed not to allow the Council to oversee the concern; keep in the loop. Lorraine H. requested the Town operate under the same proactive process that has been used to date.

Motion by Jerry B., second by Aggie M., to approve Ordinance 5 – Series 2009 an Ordinance Amending Chapter 1, Chapter 7, and Chapter 16 of the MMC by Repealing Section 1-5-20 and Repealing and Re-Enacting Sections 1-5-10, 7-2-30, 7-2-40, 16-1-20, 16-1-40, 16-1-50, and 16-1-90 to Revise the Procedures for Code Enforcement within the Town of Minturn as presented; five voted in favor, Shelley B. voted nay; Motion passed 5-1. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

11. Discussion/Action – Resolution 20 – 2009 A Resolution Amending Fee Schedule for Right of Way Permit-Villarreal

Victor V. noted this was a resolution to add a fee for the Right-Of-Way permit. The fee will be \$20.00

Shelley B. asked how long the permit would be effective; it varies based on the amount of time needed by the applicant. Allen C. stated some could be permanent. Aggie M. asked for clarification of permanent. Allen C. stated the Saloon was required to be surveyed upon its sale. This was done and it was found that the shed was already in the right of way; that would be permanent. However, the storage pod that remained on the side of Pine Street for 11 months would be addressed differently. We would not create new ROW violations where they do not already exist.

George B. asked if the fee could be adjusted; fees are reviewed at a minimum on an annual basis. Jerry B. stated this would give us a paper trail. Shelley B.’s concern was that this fee did not cover the cost of the work involved by staff.

Motion by Aggie M., second by Jerry B., to approve Resolution 20 – Series 2009 a Resolution amending the Minturn Fee Schedule to add a Right of Way Permit fee set in the amount of \$40; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*

12. Discussion/Action – Resolution 23 – Series 2009: A Resolution Authorizing the Mayor of the Town of Minturn to sign a Construction Contract with the Apparent Low Bidder to Construct the Dowd Junction to Minturn trail Phase I – Cerimele

Chris C. stated the approval was for authorization of the bike path agreement the concern was the agreement would come in prior to the next Council Meeting and the contract would need to sit waiting for the Council Meeting and formal action during optimal construction time. This approval would authorize the Mayor to sign when the contracts come in, as they are under review by the Town attorney.

Chris C. noted all funds are either through the grant or through federal stimulus money; the Town would be fully reimbursed for all expenses for a net zero cost to the Town.

Shelley B. asked about the traffic issues this will present on Hwy 24; Chris C. stated this would be a shoulder closure at most per CDOT.

Motion by Lorraine H., second by Shelley B., to approve Resolution 23 – Series 2009 a Resolution authorizing the Mayor of the Town of Minturn to sign a Construction Contract with the Apparent Low Bidder to Construct the Dowd Junction to Minturn trail Phase I as presented; all voted in favor. (*Note: Hawkeye was absent/excused*)

Shelley noted the Aiello home will have a volunteer group to help move the wood pile out of the right of way at their residence. Contact the Town to volunteer.

FUTURE AGENDA ITEMS

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

Next Meeting

- Presentation of the Water System Infrastructure Report – Work session (30min) – Cordova – September 16, 2009
- Presentation by Kerry Donovan of the Minturn Community Fund in order to provide an update regarding the past summers' events – Donovan – September 16, 2009 (5min)
- Mill Levy discussion with Frank Lorenti – White/Brunvand – September 16, 2009 (30min)
- Matt S. requested time to discuss the green Vote issue that the County Commissioners are putting on the ballot. September 16 Resolution on both Worksession and meeting
- Discuss improvement of working relations between Planning Commission and Council (mediator)

Future meetings

- Sandra Smyser-Eagle County School District – (30min) – Date tentative
- Joint Meeting with Planning & Zoning- October 21, 2009 and November 4, 2009
- GID Budget hearing – November 4, 2009
- Use tax discussion – work session – December 2, 2009

- Sidewalk discussion – work session – December 2, 2009

14. Set Future Meeting Dates

a) Council Meetings

- September 16, 2009
- October 7, 2009
- October 21, 2009

b) Planning & Zoning Commission Meetings

- September 9, 2009
- October 14, 2009
- October 28, 2009

c) Other

- Last Minturn Market – September 5, 2009
- Halloween – October 30, 2009

15. Adjournment

Motion by Jerry B., second by Aggie M., to adjourn the Minturn Town Council Meeting at 8:25; all voted in favor. *(Note: Mayor Hawkeye Flaherty was absent/excused)*


Mayor Hawkeye Flaherty

ATTEST:


Town Clerk, Jay Brunvand

