



## **Official Minutes**

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

**Wednesday June 2, 2010**

**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  
Earle Bidez  
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**

- Battle Mountain Update – (30 min)
- Ordinance 6 – 2010 (First Reading) – Cerimele (30min)
- Ordinance 7 – 2010 (First Reading) – Cerimele (30min)

### **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 7:09 p.m.

Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Council Members Jerry Bumgarner, Shelley Bellm, Earle Bidez, Matt Scherr, and Aggie Martinez.

Staff present was Town Administrator Jim White, Town Treasurer/Clerk Jay Brunvand, Chief of Police Lorenzo Martinez, Administrative Assistant/Deputy Clerk Michelle Metteer, Planner Chris Cerimele and Attorney Allen Christensen.

## **2. Approval of Agenda**

- Items to be Pulled or Added

Motion by Shelley B., second by Aggie M., to approve the agenda as presented, all voted in favor.

## **3. Approval of Minutes and Action Report**

- May 19, 2010
- Action Item Report

Motion by George B., second by Shelley B., to approve the Minutes of May 5, 2010 as presented, all voted in favor.

- Town Gateway signage contest is being held until June 16, 2010.
- Roadway to repeater site has been cleared and demolition began today, June 2, 2010.

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

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

- Open Space Advisory Committee presentation by Ron Wolfe – White (30min)
- Eagle County School District Certificate of Appreciation to:
  - Minturn Police Dept
  - Minturn Public Works Dept

Mr. Ron Wolfe, Town of Avon Mayor, Vice Chair of Eagle County Open Space Committee. Presentation on the Eagle Valley Multi-Party Land Exchange. For questions regarding Minturn land interests contact Adam Poe, US Forrest Service.

Hawkeye noted the Certificates of Appreciation.

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

Council Retreat Goals as outlined in the Council Packet

Gateway signage contest is running until June 16, 2010. All contest entries for Town entry signage design need to be submitted by the 16<sup>th</sup> for inclusion in the contest.

Reviewed highway crossings and crosswalk painting will be refreshed.

Downtown Colorado Inc. was in Minturn on May 24 and 25 2010. Many Residents and Business owners were in attendance. Follow up from DCI in approximately 6 weeks.

Meeting with the School District on June 8, 2010

Refinancing of Town Hall Certificates of Participation have been completed. The savings projected over the remaining ten year period came to a total of \$286,000.00.

Colorado Municipal League Annual Conference is June 22, 2010 to June 25, 2010 in Breckenridge, CO

Install, Inspect & Protect Campaign is ongoing and can be seen at [www.minturn.org](http://www.minturn.org)

Repair of the "S" turn at the north end of Town was discussed with CDOT. This hazard needs to keep moving forward.

## 7. Town Council Comments

The various County recreation districts would like to start working together on a more unified front. Matt S. would like to bring this topic to a future Council discussion. Shelley B. recommends discussions with the School District prior to any outside discussions. Both Shelley B. and Matt S. are in agreement to confirm intentions of the School District. Direction given to staff to contact the School District.

Shelley B. regarding the use tax, said that in the case of the Town of Vail, a dedication of the funds is the reason the Use Tax passed and that it is not to be viewed as a sales tax.

Saturday July 3, 2010 there will be a parade starting in South Minturn, ending at Little Beach Park where there will be a pot-luck lunch and celebration with music.

Flowers on Main Street is a new project being promoted by the Town of Minturn and Town Council. Sponsors have the opportunity to purchase flowers and have them placed on Main St.

## PUBLIC HEARINGS AND ACTION ITEMS

### 8. Discussion/Action – Rajkumar Manickam, Steam Master, "Install, Inspect, Protect" Campaign

Mr. Raj Manickam of Steam Master, 1901 S Main St. The US Fire Administration, in conjunction with FEMA, created the Install, Inspect, Protect campaign and Steam Master has joined in promoting this campaign to the residents of the Eagle Valley. The main purpose of this campaign is to encourage everyone to not only install smoke detectors in their businesses and residences, but to also continue to inspect their devices to ensure they are working properly.

Prevention week occurs in October when this campaign will be highlighted. [www.firepreventionblog.wordpress](http://www.firepreventionblog.wordpress).

#### **9. Discussion/Action – Martinez Trucking Public Hearing**

Hawkeye introduced the agenda item as a Public Hearing regarding trucking operations at 800 Main St regarding the nonconforming use and industrial use in a residentially zoned area. Chris C. noted the main criteria for Council to consider is as outlined in section 16-22-70 of Town Code.

The Public Hearing was opened at 8:26 pm. Jerry B. spoke with one resident who called regarding this issue. Jerry B. referenced the Public hearing being held tonight, June 2, 2010 and that was the end of the discussion. Fire report has been included in the Council packet and Carol Mulson, ECFPD Deputy Fire Chief was in attendance if any questions need to be answered.

Jay B. handed out a summary of the business license history for Martinez Trucking. The business file begins in 1995. Jay B noted the most significant ongoing issue has been the parking issue of the large trucks at the property. This concern has been noted consistently over the years by the Police Department. Jay B. gave an overview of the history of the Martinez Trucking Business licenses. In several places throughout the years, parking of business vehicles is addressed as a significant issue.

Mayor Hawkeye Flaherty asked if this memo was given to Mr. Martinez as well. It is noted he was not provided this information; however his signature is on all the information. It was further noted this information is merely a summary of the license issues and how they have been consistently addressed by both the Town and Martinez Trucking over the years.

Jim W. reported that at the last Town Council meeting on May 19, 2010 that the Public Hearing would be held. The request being presented to Town Council is to reduce the non-conforming uses at the residence. This was made clear to Mr. Martinez via a phone call as well. Ty and Helen Gillespie have written a letter which is submitted for the record and are neighbors of Mr. Martinez. They expressed their concern regarding safety of surrounding homes as well as pedestrian and vehicular traffic. They also raise the concern that they have had difficulty selling their home due to the industrial use being conducted at 800 Main St.

Mr. Robert Martinez, 800 Main St, representing Martinez Trucking. He received a call from Jim W. and was hoping the Town and the Community would be supportive of him and his company. He asks about other business licenses in Town including Chadwick's as well as Floyd Duran who has trucks parked throughout Town. He has a petition with 11 signatures of neighbors in support of him and his company. He is concerned as to how this will affect his business and everyone else with a similar business.

Mr. Randy Williamson, 1251 Main St Space 8, can understand the concern, however he questions how much investigation has been done in this matter. He agrees with the option of "working things out." He questions how much more the danger of Martinez Trucking is as opposed to a "normal" residence.

Mr. Tom Sullivan, 116 Nelson Ave, has owned property either next door or across the street from Martinez Trucking for the past seven to eight years. He expresses that the entire neighborhood has been extremely tolerant of the business and its activities; however this recent fire brings the problem to the forefront. There are health, safety and financial issues. Mr. Sullivan raised the question of what would have happened if the Fire Department had not shown up in time. Residents could have been killed. He recommended spot zoning if we the Town weren't going to enforce the zoning in this area as residential and that sprinkler systems are in place to ensure the safety of residents. He questioned if it is within the code that a residential neighborhood should have to endure all that the neighbors go through with being next to the trucking company. He expressed that this fire was not a mild hose fire, but a thick black smoke fire.

Mr. Robert Martinez addressed hours of operation. He said everyone is more than welcome to see the times of work and the maintenance being done. He denied that he is working on his business in the "off hours". He said the black smoke was from the sleeper (of the truck that caught fire) and that the fire damage to his home was minimal.

Mr. Matt Morrison, 801 Main St., decided only to speak after hearing Mr. Martinez claim that he did not do work in the off hours. He wanted to confirm what Mr. Sullivan stated that he worked on his trucks during all different times of the day, weekday and weekends included.

Mr. Martinez asked how he can go about having his property zoned commercial. He believes he should be grandfathered in since he had been at the current location for over 20 years.

Mayor Flaherty recommended speaking with the Planning Department regarding the re-zoning; however, that topic is not a part of the current Public hearing.

Chris C. highlighted that this is not a personal property issue. It is saying that it is a non-conforming use due to the business being located in a residential area.

Jim W. commented that one of the concerns, as identified in the ERFDP report, is that there is an oxyacetylene tank and torch on the premise and should be addressed since this is a residential area.

Earl B. asked for an overview of the Fire Dist response

Ms. Carol Mulson, ERFDP, Homestead. Mr. Chuck House reviewed and conducted the ERFDP investigation. Response crews investigated using a thermal imaging camera and noted the damage to the house was minimal. Earl B. asked if there was risk of explosion; Ms. Mulson replied "yes". Ms. Mulson expressed that the home business issue is a grey area for fire inspections. She believes that something needs to be in place to have a fire inspection prior to having a business license in certain circumstances. Matt S. asked what a scenario would have been if the fire had been more extensive and the tanks had blown. Ms. Mulson said it can cause a wide variety of damage. Homeowners are allowed to keep these types of chemicals on their property, but the amount in this instance is of concern.

Matt S. asked that if this is brought into conformance, what would it look like? Chris C. expressed that the commercial trucks would be removed and that maintenance would no longer be conducted at the residence. Mr. Martinez will still be allowed to operate his business out of the home for administrative purposes, however, the trucks would have to be removed and the Fire Department would be involved in conducting inspections.

Matt S. asked about the items pushed back toward and possibly into the river during the fire. He expressed the risk of toxins leaking into the river; however these may be other issues to address at a different time.

Chris C. expressed that Chief Martinez did respond to the scene and may be able to provide more information.

Chief Lorenzo Martinez provided a picture of the tank in question from his investigation. Matt S. asked about anything being pushed into the river. Chief Martinez said Mr. Martinez had a loader and was trying to push debris into the river in an effort to put out the fire.

Mayor Flaherty asked about the parking of the vehicles and if they have been an issue in the past and if there has been ongoing communication with Mr. Martinez. Chief Martinez expressed the Police Department has concerns about the parking at the residence and that more commercial vehicles are parked at 1151 Main St. Chief has received complaints from residents that they could not see around the vehicles in an attempt to safely turn onto Main St. from their driveway.

Earle B. recommended that all industrial work cease immediately as they are health and safety issues, however a time period be given to relocate the commercial vehicles.

Shelley B. recommended the removal of the tractors and trailers have a lease somewhere off HWY 24 or other residential neighborhoods due to residents having problems seeing around the trucks and turning onto Main St safely; there should be a land lease required.

George B. expressed that everyone is fortunate there were no injuries or fatalities. This is a safety issue due to the commercial work being conducted at the residential premises. The commercial aspect of the operation should be relocated to a more industrial area.

Motion by Jerry B., second by Shelley B., to order the immediate cease and termination of a prior non conforming use of a structure located at 800 Main St. in order to ensure the health, safety, and public welfare of the neighborhood. Further:

- The maintenance of the commercial vehicles shall immediately cease.
- 90 days is given to allow reasonable time for removal of the trucks so the residence is not used as maintenance, storage or parking for his trucking business.
- The hours of operation during the 90 day grace period shall adhere to 6am – 8pm M-F and 8am – 8pm Sat/Sun.

With recognition of the following finding; all voted in favor.

Finding: The operation of a trucking company in a residential zone is not in the interests of the public health, safety or welfare and if continued in its existing form, presents a serious danger to the public health and safety.

**10. Discussion/Action – Ordinance 6 – 2010 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code by repealing and reenacting section 16-16-130 as it pertains to Snow Storage Requirements in the Town of Minturn**

Discussion ensued as to the merits of this ordinance. It was determined this ordinance not proceed further until such time as the staff has investigated all the issues thoroughly presented by Council during the discussion.

Motion by Shelley B., second by Earle B., to table to a date to be determined by Staff Ordinance 6 – 2010 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code by repealing and reenacting section 16-16-130 as it pertains to Snow Storage Requirements in the Town of Minturn until after a work session; all voted in favor, Matt S. Nay.

**11. Discussion/Action – Ordinance 7 – 2010 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code by repealing and reenacting section 16-17-70 as it pertains to Slope Limitations and Hillside Building Regulations in the Town of Minturn**

Motion by Shelley B., second by George B., Ordinance 7 – 2010 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code by repealing and reenacting section 16-17-70 as it pertains to Slope Limitations and Hillside Building Regulations in the Town of Minturn to approve as amended; all voted in favor.

Amendment: Land sloping in excess of 40% shall not be considered suitable for development *unless a variance permit is issued pursuant to Chapter 16 of the Minturn Municipal Code.*

Council Comments:

- Mayor Flaherty requests this ordinance be posted to the website as well as asking Staff make an extra effort to inform the residents and property owners of Minturn.
- Earle B. commented on the conduct of the Public Hearing. He felt it was awkward and the procedures were out of order in a way that Council was unable to get the information necessary to make an informed decision. And while he believes the Council made a good decision he feels the procedure did not allow for the most effective form of communication.
- Shelley B. recommends that in the future a copy of the Public Hearing procedure be given to the Council in order to avoid any confusion.

**EXECUTIVE SESSION**

**12. Executive Session – Pursuant to CRS 24-6-402(4)(b) to receive legal advice on Battle Mountain Land Use/Annexation matters, water rights issues, and to a discuss water line design contract**

Motion by Jerry B., second by George B., to convene into Executive Session Pursuant to CRS 24-6-402(4)(b) to receive legal advice on Battle Mountain Land Use/Annexation matters and Water Court litigation at 9:05 pm; all voted in favor.

Council emerged from Executive Session. No direction was given as a result of the Executive Session.

<b>FUTURE AGENDA ITEMS</b>
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**13. Next Meeting**

- Water Line Easement meeting with Cemetery Board – Christensen – 06/16/10
- ERFDP 2009 Fire Code review in Worksession; Ordinance in Action Items – Cerimele – 6/16/10

**14. Future Meeting**

- Capital Improvement Plan – Brunvand/White
- EPA Update – Mitchell
- 3-Mile Plan text Amendments – Cerimele
- Discussion/Action – Ordinance 5 – Series 2010 (Second Reading) an Ordinance consenting to the improvement for renewable energy and energy efficiency purposes to any residential or commercial property within the Town by the County of Eagle (White/Palmer-10 min)

**15. Set Future Meeting Dates**

a) Council Meetings

- June 16, 2010
- July 7, 2010
- July 21, 2010

b) Planning & Zoning Commission Meetings

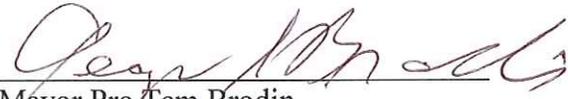
- June 9, 2010
- June 23, 2010
- July 14, 2010

c) Other

- CML Annual Conference – June 22-25
- Minturn Market: June 26 – September 4

**16. Adjournment**

In that there was no further business, the meeting stood adjourned.

  
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Mayor Pro Tem Brodin

ATTEST:

  
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Town Clerk, Jay Brunvand

