



Official Minutes

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

Wednesday February 16, 2011

Regular Session – 6:00pm

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

TOWN MANAGER – Jim White
TOWN CLERK/TREAS – Jay Brunvand

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
Jerry Bumgarner
Aggie Martinez
John Rosenfeld

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 – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

Regular Session – 6:00pm

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

The meeting was called to order by Mayor Flaherty at 6:04 pm.

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

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

EXECUTIVE SESSION

2. **Executive Session** - Pursuant to CRS 24-6-402(4)(b) to consult with the Town's Attorney(s) and receive direction regarding the negotiations of the Battle Mountain Resort property annexation and water right issues – White/Christensen

Motion by George B., second by Shelley B., to move into Executive Session Pursuant to CRS 24-6-402(4)(b) to consult with the Town's Attorney(s) and receive direction regarding the negotiations of the Battle Mountain Resort property annexation and water right issues. All voted in favor.

Regular Session – 7:00pm

3. **Executive Session** – Action by Council or Direction to Staff as a result of the Executive Session

No action was taken at this point as the agenda includes an action item later to accommodate any action needs.

4. **Approval of Agenda**

- a. Items to be Pulled or Added

Amend Agenda to facilitate Mr. John Stavney, Eagle County Commissioner, and his special presentation which may occur after the special presentation section.

Motion by Shelley B., second by John R., to approve the agenda of February 16, 2011 as amended, all voted in favor.

5. **Approval of Minutes and Action Report**

1. February 2, 2011
2. Action Item Report

Motion by George B., second by Aggie M., to approve the minutes of February 2, 2011 as presented, all voted in favor.

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

7. **Special Presentations/Citizen Recognition**

Chief Lorenzo Martinez, was honored for his 25 years of service with the Town of Minturn Police Department.

- Battle Mountain update from David Kleinkopf

Dave Kleinkopf, Battle Mountain Resort, 441 Main Street, comments have been received from the Environmental protection Agency (EPA), and they have signed off on the environmental impact. They have also accepted the general development plan, including the reduced water demand and the elimination of the golf course. Specifically, the EPA would like to see more design and more information on Bolts Lake.

Tuesday March 1st, 5:30pm to 7:30pm, Battle Mounatin will be holding an Open House behind the Minturn Inn, everyone is invited to see the new facilities.

- John Stavney, Eagle County Commissioner, US Forest Service land swap issues (30 min)

John Stavney, Eagle County Commissioner, discussed the Eagle County Land Exchange between the Forest Service and the State Land Board. Questions were accepted for answering by the Forest Service or State Land Board.

It was noted that if Minturn would like to renew the letter of intent for the Boneyard, the Eagle County Open Space Advisory Panel (OSAP) would potentially be able to fund up to approximately (3) three million dollars. The County Staff is willing to work the the Town of Minturn regarding the feasibility of such venture. The Council confirmed interest and Jim W. will follow up on this. The Council also noted its concern of potential projects considered for the Dowd Junction Forest Service land. Council noted that this was the front door to the Town and the Town should have some say in the proposals and design of projects on that site.

8. Planning Commission Update

On February 9, 2011, the Planning Commission voted 4-1 to recommend approval of the Amendment to the Official Zone District Map of the Town of Minturn for the Maloit Park Area. The zoning map amendment will create the Maloit Park Character Area that is comprised of the following zoning districts:

- Public Facilities Zone (18.156 acres)
- Recreation / Open Space Zone (39.535 acres)
- Mix Use Zone (46.861 acres)

The Commission was primarily concerned with the potential loss of the Town's only active recreation fields with the proposal. Staff advised the Commission that they would have the opportunity to review and make recommendations on any future subdivision proposal and that a subdivision improvement agreement between the Town and developer would be required at the time of final plat approval. This agreement would include a common open space, park, and recreation area plan. The Commission pointed out that there were no quantifiable requirements for parks and open space in our subdivision regulations. and that they would like to work on creating new standards for parks and open space in the Town's subdivision regulations.

Prior to the vote on the Amendment to the Official Zone District Map, the Commission added the following recommendation to the approval Resolution:

- At the time of subdivision review, the open space and recreation plan of the subdivision improvement agreement shall provide reasonable public access to the Recreation / Open Space Zone through the Mixed Use Zone of the Maloit Park Character Area.

The Town Council will hold a public hearing in March to vote on the proposed Amendment to the Official Zone District Map.

9. Town Manager's Report

Eagle County Seeking Business Licenses In Unincorporated Areas

Enclosed please find an e-mail I received in January from Bryan Treu, Eagle County Attorney regarding the County's interest in pursuing business registration and licenses in unincorporated areas of Eagle County. Other counties have expressed support for this prospect and Colorado Counties, Inc may back legislation in this year's legislative session. I have also included an information sheet provided by Eagle County (see attachments).

Eagle County/State Land Board/USFS Consider Land Swaps

Eagle County Commissioner, Jon Stavney will be present tonight to present and summarize ongoing communication among several entities involving potential land swaps or purchases. The Town Council can weigh in on the potential interest in the Bone Yard property in tandem with the Eagle County Open Space Committee. In another correspondence from the USFS, USFS District Ranger, Dave Neely, outlines another proposal involving land exchange involving the Colorado State land Board, the Upper Eagle Regional Water Authority, and the Forest Service. Western Land Group, Inc has been retained by Eagle County to facilitate the land exchange and serve as the point of contact for the Forest Service (see attachments).

School District RFP Submittals

RFP's to consider re-purposing ideas for the Minturn Middle School were turned in on Thursday January 13, 2011. Review of the two proposals is in progress. A decision on future uses of the school is expected in March. The School Board has pushed the review to the March 9, 2011 meeting.

Eagle County Economic Development Plan

Eagle County is supporting efforts among all jurisdictions and unincorporated areas to engage in creation of a county wide economic development plan in response to the request from Governor Hickenlooper. Chris Romer, Vail Valley Partnership and Don Cohen, Eagle County Economic Development Coordinator, are leading the efforts.

I have arranged for them to come to the March 2, 2011 Town Council meeting to highlight the proposed approach and to get input from the Minturn Town Council, staff, and any others present at the meeting.

Signage

Preliminary contact has been made with several individuals and companies that may be engaged to help with the actual construction of the Town signage. Staff is also continuing to work with the USFS on written justification needed to complete the Special Use Permit for our welcome

signs. Pending approval from the USFS to install signage on its property, Town staff will be working on the construction and final design elements of the sign over the winter in anticipation of installation in the spring.

Battle Mountain Update

Dave Kleinkopf will be present tonight to address Town Council about the recent response from the Environmental Protection Agency (EPA) related to the Battle Mountain project.

USFS/Receives Favorable Ruling in Upper Eagle Beetle Salvage Lawsuit

The Town of Minturn received notice from Dave Neely, USFS District Ranger, indicating that the USFS was upheld on all points in the legal challenge to the Upper Eagle River Beetle Salvage Project (forwarded via e-mail to Town Council).

Holy Cross Franchise Agreement Extension

The Town of Minturn and Holy Cross representatives met on February 9, 2011 to begin review of the existing Franchise Agreement. Our current temporary extension terminates on March 4, 2011. We will be seeking another extension to enable us to reach a long term agreement. We agreed to ask our respective Board/Council to extend the agreement through September 21, 2011.

10. Town Council Comments

PUBLIC HEARINGS AND ACTION ITEMS

11. Discussion/Action – Applicant appeal of January 12, 2011 Design Review Board decision regarding the Hotel Minturn Project at 115 Nelson Ave. – Cerimele 20 min.

Mr. Andy Kaufman, Owner, Minturn Saloon, wrote a letter in support of the window design of the Minturn Hotel, which he believes, better supports hotel tourism in Minturn and thus, has a better opportunity to benefit the entire Business Community.

Declaration of conflict was asked to all Council Members, no conflict was found.

Mr. Tom Sullivan, owner and developer of the property, gave background to the history of the building of the hotel, and examples of costs incurred to date and approvals of design. Mr. Sullivan stated he believed two members of the Planning Commission, Stuart Brummett and Lynn Teach, have a conflict of interest in this process and should have removed themselves.

Mr. Michael Pukas, PO Box 888 Gypsum Colorado, architect and designer of the project, agrees with the facts presented and supports the project.

Mr. Kelly Toon, Minturn Resident, supports the project and encouraged business in downtown Minturn.

Earle B., Aggie M., George B., and Mayor Hawkeye Flaherty all voted to hear the opinions of the Planning Commission.

Mr. Tom Sullivan again discussed he believes Lynn Teach and Stuart Brummet have a conflict of interest in this process. He stated Lynn Teach has a business very near the project which would result in a financial conflict and has additionally expressed specifically having a pedestrian mall in the downtown area. Tom Sullivan expressed his belief that Stuart Brummet has been biased against the project as Mr. Brummet's architect firm was not chosen for the project again resulting in a financial conflict.

Stuart Brummet, Planning Commission, Town of Minturn, expressed that Mr. Sullivan had approached Mr. Brummett requesting him to approve the architecture of the building as a licensed architecture, Mr. Brummett declined, resulting in a loss of income to Mr. Brummett.

Stuart Brummet, Planning Commission Chair, spoke for the majority of the Commission and expressed that the overriding reason for the decision to deny the design change was to ensure the proper development of the Town based on the availabilities of shopping and public places as opposed to hotel rooms.

Mr. Micheal Pukas, agrees with Mr. Brummett's vision of Downtown, however, Mr. Pukas believes Mr Brummet's concerns regarding the requirement for a mixed use building areot in the best interest of the Downtown due to the the large number of vacant building spaces currently occupying the Downtown area. He felt the zoning of Mixed Use was for the entire zone and not a requirement that each building have a store in it.

Tim Osborne, 1030 Main Street, Minturn, and Planning Commission Member, referenced the training the Commission has received thus far and the importance to make decisions based on the facts presented. Mr. Osborne sites the Minturn Town Code as being the only allowable basis for the decision.

The letter of support submitted by Andy Kaufman, Owner, Minturn Saloon was been submitted for the record.

Chris C., determined the change from the retail space to a hotel space was not a concern as it was a use by right. Secondly, Chris C., expressed that the change from the door to the window, was not discussed and did not acknowledge the change had been made, but submitted to Chuck Lanci, Building Inspector, for approval.

Chris C., expressed he tends to review the exterior of the buildings and Chuck Lanci, Building Inspector, reviews the interior.

Jerry B., stated that safety should be one of the number one concerns in this decision making process. The option of a door opening onto an alley is a safety concern.

Shelley B., stated that even if the design was including the French door feature, a French door, on an alleyway, in downtown Minturn, would only lead to perpetually closed curtains on said doors and thus, uninviting.

Earle B., thanked the Planning Commission for their work, which often goes unnoticed and under-appreciated. Although he does not agree with the Planning Commission's decision to deny the design, he appreciates their work.

John R., thanked Tom Sullivan for his contributions to the Town of Minturn. He expresses that in moving forward the approval process should be examined to eliminate this type of confusion.

Aggie M., also thanked Tom Sullivan for the work he has put forth to Town of Minturn. He agrees with Tom, and also expressed the need for this process to be restructured in order to ensure efficiency.

Motion by Earle B., second by John R., to approve the appeal (overturn the denial) of the decision of the Planning Commission. All voted in favor.

12. Discussion/Action – Resolution 2 – 2011: A Resolution of the Town Council of the Town of Minturn, Colorado establishing eligibility for annexation of the Eagle County School District Maloit Park Parcel No. 1 - Cerimele

Motion by Shelley B., second by George B., to approve Resolution 2 – 2011: A Resolution of the Town Council of the Town of Minturn, Colorado establishing eligibility for annexation of the Eagle County School District Maloit Park Parcel No. 1 as presented to include the findings; all voted in favor.

Findings of fact:

1. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town of Minturn.
2. A community of interest exists between the area proposed to be annexed and the Town of Minturn, based on contiguity between the Town and the area proposed to be annexed.
3. The area is urban or will be urbanized in the future.
4. The area is integrated with or is capable of being integrated with the Town of Minturn.
5. No land held in identical ownership has been divided into separate parts or parcels without the written consent of the landowners thereof.
6. No land comprising twenty acres or more with a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year next preceding the annexation has been included without written consent of the landowners
7. No annexation proceedings concerning the area proposed to be annexed have been commenced by another municipality.
8. This proposed annexation will not result in the detachment of the area proposed to be annexed from the Eagle County School District RE50J
9. No part of the area proposed to be annexed extends the existing Town of Minturn boundary more than three miles in any direction from the Town in any one year.

10. No additional terms and conditions are being imposed by the Town upon the area proposed to be annexed in accordance with Section 31-12-112 C.R.S.
11. No petition for annexation election has been submitted and an election is not required pursuant to Sections 31-12-107 (2) and 31-12-112, C.R.S.
12. Notice of this hearing was published and mailed as required by Section 31-12- 108, C.R.S.

Mr. Tom Braun, Braun Associates, representing the School District, and he requests approval of the Resolution.

Mr. Frank Lorenti, 1081 Main St, Minturn, asks if the School District intends to keep a school open at the location. Mr. Braun, expressed the school district will be making a decision on march 9, 2011.

Mr. Frank Lorenti, reiterated that the School District is in need of money and will most likely intend, as John Stavney, County Commissioner expressed, the intention is to make money. Frank also expressed concern regarding the larg levels of affordable housing potentially being built. The three mile annexation plan will require large amounts of money on the part of the Town.

13. Discussion/Action - Resolution 3 – 2011: A Resolution of the Town Council of the Town of Minturn, Colorado establishing eligibility for annexation of the Eagle County School District Maloit Park Parcel No. 2 – Cerimele

Motion by Shelley B., second by Aggie M., to approve Resolution 3 – 2011: A Resolution of the Town Council of the Town of Minturn, Colorado establishing eligibility for annexation of the Eagle County School District Maloit Park Parcel No. 2 as presented to include the following findings; All voted in favor.

Findings of fact:

1. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town of Minturn.
2. A community of interest exists between the area proposed to be annexed and the Town of Minturn, based on contiguity between the Town and the area proposed to be annexed.
3. The area is urban or will be urbanized in the future.
4. The area is integrated with or is capable of being integrated with the Town of Minturn.
5. No land held in identical ownership has been divided into separate parts or parcels without the written consent of the landowners thereof.
6. No land comprising twenty acres or more with a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year next preceding the annexation has been included without written consent of the landowners
7. No annexation proceedings concerning the area proposed to be annexed have been commenced by another municipality.
8. This proposed annexation will not result in the detachment of the area proposed to be annexed from the Eagle County School District RE50J
9. No part of the area proposed to be annexed extends the existing Town of Minturn boundary more than three miles in any direction from the Town in any one year.

10. No additional terms and conditions are being imposed by the Town upon the area proposed to be annexed in accordance with Section 31-12-112 C.R.S.
11. No petition for annexation election has been submitted and an election is not required pursuant to Sections 31-12-107 (2) and 31-12-112, C.R.S.
12. Notice of this hearing was published and mailed as required by Section 31-12- 108, C.R.S.

14. Discussion/Action – Authorization to file an amendment to the decree in Water Court Case Nos. 05CW262 and 07CW225

Boots Ferguson, 965 Cemetery Lane, Aspen, CO recommends approval of amendments to the settlement agreements and petitions to correct the decrees in Water Court Case Nos. 05CW262 and 07CW225.

Motion by Shelley B., second by John R. to approve and authorize the Mayor to sign amendments to the settlement agreements with Glenn Porzak's clients, Arrowhead Metropolitan District, et al. in Water Court Case Nos. 05CW262 and 07CW225. Motion passed 6-1

Motion by John R., second by Shelley B., to approve and authorize the Mayor to sign an amendment to the settlement agreement with the Town of Avon in Water Court Case Nos. 05CW262/263. Motion passed 6-1.

Motion by Jerry B., second by George B., to approve the filing of petitions to correct the decrees in Water Court Case Nos. 05CW262 and 07CW225. All voted in favor.

15. Discussion/Action – Extension of Holy Cross Franchise Agreement – White

Motion by George B., second by John R., to approve the extension of the Holy Cross Franchise Agreement. All voted in favor.

Direction from Council to direct Town Manager Jim White to follow up on ensuring the USFS continues to recognize the Town of Minturn's interest in the property recognized as the Bone Yard property and further direction for the Town Manager to proceed with a letter requesting funding from the Eagle County Open Space program.

Direction to staff for an update on the Eagle-Vail presentations/discussions and potential annexations.

FUTURE AGENDA ITEMS

16. Next Meeting

- a. Work Session – Land Exchange Discussion
- b. Work Session – Develop agenda for April 6 Council meeting with County Commissioners. March 2, 2011

17. Future Meeting

- Chris Romer-Eagle County Development Update (MARCH 2, 2011).
- Eva Wilson – Transportation discussion. Mar 16, 2011
- Work Session – 2009 IBC. March 16, 2011
- Discussion/Action – 2009 IBC. March 16, 2011
- County Commissioners to attend Minturn Council Meeting – April 6
- Ordinance annexing to the Town of Minturn Maloit Park Parcel No. 1 (tbd)
- Ordinance annexing to the Town of Minturn Maloit Park Parcel No. 2 (tbd)
- Ordinance authorizing the Mayor to sign an annexation agreement. (tbd)
- Ordinance amending the official zone district map and creating the Maloit Park Character Area. (tbd)

18. Set Future Meeting Dates

a) Council Meetings:

- March 2, 2011
- March 16, 2011
- April 6, 2011

b) Planning & Zoning Commission Meetings:

- February 23, 2011
- March 9, 2011
- March 23, 2011

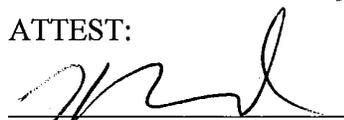
c) Other Dates:

19. Adjournment

Motion by Shelley B., second by Aggie M., to adjourn the meeting at 10:25pm. All voted in favor.


Mayor Hawkeye Flaherty

ATTEST:


Town Clerk, Jay Brunvand

