



Minutes

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday May 18, 2011

**Work Session – 5:45pm
Regular Session – 7:00pm**

**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

Work Session – 5:45pm

- Discussion re: Ordinance ___ - 2011 an ordinance regarding the sale of Medical Marijuana – Brunvand/Metteer (60min)

Regular Session – 7:00pm

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

The meeting was called to order by Mayor Flaherty at 7:03pm.

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

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

2. Approval of Agenda

- a. Items to be Pulled or Added

Add Executive Session as item 15a.

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

3. Minturn Liquor Authority

- Gourmet Cowboy, Inc Hotel/Restaurant Liquor License annual renewal; 455 Main Street; Tom McNeill, Owner/Manager – Brunvand (5min)

Motion by Earle B., second by Shelley B., to approve the Gourmet Cowboy, Inc Hotel/Restaurant Liquor License annual renewal; 455 Main Street; Tom McNeill, Owner/Manager. All voted in favor.

4. Approval of Minutes and Action Report

- May 4, 2011
- Action Item Report

Motion by Shelley B., second by John R., to approve the Minutes of May 4, 2011 as amended; all voted in favor.

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

6. Special Presentations/Citizen Recognition

7. Planning Commission Update

- **5.11.11 Planning Commission Meeting Update**

The Planning Commission met to continue discussing up open space dedication requirements for subdivisions and planned unit developments. We reviewed the Department of Local Affairs Model Land Use Code as it pertains to parks and open space dedication requirements. The Commission agreed that the DOLA code could be used as a guideline for creating regulations specific to Minturn. Currently, we are considering requiring a parks and open space dedication of 10-12% of the total gross land area for subdivisions greater than 1 acre. A cash-in-lieu payment could be made for smaller subdivisions. This money could be used for park maintenance or open space acquisition. Staff and Planning Commission will continue to review the DOLA Model

Land Use Code and use it as a guide in our efforts to refine the Town's code. Additionally, the Planning Commission is contemplating a code amendment that would reduce the rear yard setback to allow for garages only. This would give homeowners greater flexibility to construct a garage on their property and help to alleviate the on-street parking problem. This amendment is being considered for the Old Town Character Area due to the fact that most of the existing garages in this area are non-conforming structures since they have been constructed within the 10' rear yard setback. The proposed amendment would reduce the rear setback to 5' for a garage only.

8. Town Manager's Report

Maloit Park Annexation

On Wednesday evening, May 11, 2011, the Eagle School District unanimously approved the annexation agreement for the Maloit Park Character Area and directed the Board President to sign the agreement once approved by the Minturn Town Council. The Minturn Town Council is scheduled to review four ordinances related to the project at its May 18, 2011 meeting.

North Main Waterline Project Formal Completion

Town staff met on Thursday, May 12, 2011 to complete the final walk through on the North Main Waterline Project. Due to the onset of winter, the final walk through was not able to be completed in November last year. The final monetary retainage will be released pending a positive review of the project based on observations during the walk through.

XCEL Natural Gas Pipeline Project Begins!

Monday, May 16, 2011 was the official construction start date for the XCEL Pipeline Project slated for this summer from Edwards to Minturn. Monday was set aside primarily for staging the project, bringing in equipment and supplies. XCEL will be replacing 6" and 12" existing lines with a new 16" line. The old lines will be abandoned in place and filled with an inert gas. XCEL crews anticipate 6-10 hour days, Mondays-through Saturdays. Work stoppage will occur several times this summer due to large events planned, such as bike races. Project completion is set for September 15, 2011. For questions, please call XCEL at 1-877-481-6380.

Bone Yard Parcel

We have secured both the agreement for the appraisal and the cooperation of the Forest Service to restart negotiations on this property. Initial dialog has started, and a site visit has been completed. The Town staff has initiated correspondence with the Eagle County staff to ask assistance in completing the application for funding from the county to make this purchase viable. We will also begin communications with GOCO to consider potential financial contributions.

Back Flow Preventer/Turntable

The Turntable had a back flow preventer installed on Thursday, May 12, 2011. The Town and the Turntable have been communicating about this for a long time. We are very pleased to have had the cooperation from the Turntable to complete this project.

Battle Mountain Update

We communicate with Dave Kleinkopf on a regular basis about the status of the Battle Mountain project. Many of the issues discussed currently involve pending lawsuits related to quiet title action and challenges to the annexation agreement.

Elizabeth Mitchell, Holland & Hart attorney, continues her discussions with Battle Mountain representatives to prepare responses to the EPA. No new information is available at this time. Once it is available, we will reschedule a visit from Elizabeth to update the Town Council.

Canning Grant Secured

The Town of Minturn secured a grant for our Minturn Market. We were one of only two markets selected from Colorado. It supports an educational canning program which involves the use of locally grown foods, a healthy lifestyle, and economic benefits. We will be doing canning demonstrations at the Minturn Market and giving away six free canning kits and other canning products as a result of this grant. We will receive a stipend check to help promote this project. This grant was received based on the efforts of Michelle Metteer. The website www.farmersmarketcoalition.org is where this originated. The Minturn Market is a proud member of this coalition.

Signage

We have received the Special Use Permit from the US Forest Service which allows the Town of Minturn to construct its entryway sign on Forest land. The formal contract has been signed and sent back to the Forest Service for its signature. The sign is currently being constructed.

Holy Cross Franchise Agreement Extension

The Town of Minturn and Holy Cross have extended our franchise through September 21, 2011. Holy Cross representatives will meet with Town staff to consider other issues as we move toward franchise renewal.

Annual Town Clean Up Day

The Town of Minturn held its Annual Town Clean Up Day this year on Saturday, May 14, 2011@ the Municipal Lot. A resounding THANK YOU to all the volunteers, Town Council members, Fire District personnel, staff and all others who contributed to the planning efforts or during the event itself!

Colorado Municipal League Annual Conference

Please consider attending the CML Annual Conference this year in Vail, CO. The conference is from June 22-June 24, 2011. The information and registration is available on the CML website. Early bird registration ends on Friday, May 20, 2011.

Out of the Office

I will be out of the office on May 19th, 20th and 23rd...Thursday, Friday, and next Monday.

9. Town Council Comments

Jim W., Councilman Jerry B. and Mayor Hawkeye F., both assisted Mayor Pro Tem, George Brodin in the Highway Cleanup day on Battle Mountain. It came to the attention of the

volunteers that folks are using Battle Mountain as a tire dump as well as other unauthorized refuse. The Mayor asked if staff, with the help of volunteers to include CDOT, can be directed to cleanup the remaining of the refuse dumped. Tacit approval was given.

Earle B., asked for Staff to please keep Council updated and ensure that CDOT fully inform of any potential plans for the land swap potentially taking place north of Town.

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

10. Discussion/Action – Ordinance 1 – 2011 (Second Reading) an Ordinance annexing to the Town of Minturn, County of Eagle, State of Colorado, Eagle County School District Maloit Park Parcel No. 1 – Cerimele (10min)

Mr. Ray Scott, 948 Chambers Rd, Eagle, Eagle County School Board Representative, confirmed the unanimous vote of the School Board to pass the annexation.

Mr. Frank Lorenti, 1081 Main St, asked what's in this agreement for the citizens? He said water is not that important...well it is important but this agreement seems to benefit the school district. He recommended a special revenue fund be implemented. Mr. Lorenti was concerned about bus service for enrolled students at the Vail Ski and Snowboard Academy. He calculated this to be 380 car trips a day if no bus service is included and parents are picking up and dropping off their kids. Frank recommended addressing traffic and infrastructure issues at this time rather than waiting for a formal development plan. He also recommends that bike paths, sidewalks and small parks be used to connect the different sections of Town together.

Ray Scott, 948 Chambers Rd, Eagle, Eagle County School Board Representative, chose not to respond to the public comments made. He also answered the question presented by Mayor Hawkeye Flaherty that the school is not a part of the annexation process, but that he is unaware of bus services being provided to students.

Jerry B. asked about vested rights.

Boots Ferguson, special Council to the Town of Minturn, explained that vested rights are set forth in the agreement and the vested rights are in the density of the 120 units and the site development plan is presented in the zoning. Since it is anticipated that the 120 units will be non-district development, and the elements of the plan will have to be approved by the code. The zoning that the Council is considering has setbacks and other provisions. The agreement also provides that they will not downsize without consent.

Motion by Shelley B., second by George B., to approve Ordinance 1 – 2011 (Second Reading) an Ordinance annexing to the Town of Minturn, County of Eagle, State of Colorado, Eagle County School District Maloit Park Parcel No. 1 as presented with the following findings. All voted in favor (6-0) (Aggie M., absent, excused.)

The following findings were made:

That the owners of one hundred percent of the area that is the subject of the petition have petitioned for annexation to the Town of Minturn, that findings of fact and conclusions were made by resolution by the Town Council confirming that the requirements of Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105, C.R.S. have been met, that an election is not required under Section 30 (1)(a) of Article II of the State Constitution and Section 31-12-107(2) C.R.S., and that no additional terms and conditions are to be imposed, and therefore the property described in Exhibit A, heretofore attached, be, and hereby is, annexed to the Town of Minturn and made a part of said Town, to be known as the Eagle County School District Maloit Park Parcel No. 1.

11. Discussion/Action – Ordinance 2 – 2011 (Second Reading) an Ordinance annexing to the Town of Minturn, County of Eagle, State of Colorado, Eagle County School District Maloit Park Parcel No. 2 – Cerimele (10min)

Boots Ferguson readdressed the issue of vested rights and corrected his previous statement, indicating that in fact there are no vested rights with this annexation; there are agreed upon rights including: density, and no change allowed in use, but to confirm, there are no vested rights.

Frank Lorenti, as he understands, the Town can not make any changes to make the agreement have less density. Boots Ferguson confirmed that if a developer wishes, they can build the specified maximums as referenced in the agreement.

Motion by George B., second by Jerry B., to approve Ordinance 2 – 2011 (Second Reading) an Ordinance annexing to the Town of Minturn, County of Eagle, State of Colorado, Eagle County School District Maloit Park Parcel No. 2 as presented with the following findings; All voted in favor (6-0). (Aggie M., absent, excused.)

The following findings were made:

That the owners of one hundred percent of the area that is the subject of the petition have petitioned for annexation to the Town of Minturn, that findings of fact and conclusions were made by resolution by the Town Council confirming that the requirements of Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105, C.R.S. have been met, that an election is not required under Section 30 (1)(a) of Article II of the State Constitution and Section 31-12-107(2) C.R.S., and that no additional terms and conditions are to be imposed, and therefore the property described in Exhibit A, heretofore attached, be, and hereby is, annexed to the Town of Minturn and made a part of said Town, to be known as the Eagle County School District Maloit Park Parcel No. 2.

12. Discussion/Action – Ordinance 3 - 2011 (Second Reading) an Ordinance authorizing the Mayor of the Town of Minturn, Colorado to sign an annexation agreement with the Eagle County School District – Cerimele (10min)

Motion by George B., second by Jerry B., to approve Ordinance 3 - 2011 (Second Reading) an Ordinance authorizing the Mayor of the Town of Minturn, Colorado to sign an annexation

agreement with the Eagle County School District as presented. All voted in favor. (6-0) (Aggie M., absent, excused.)

13. Discussion/Action – Ordinance 4 – 2011 (Second Reading) An Ordinance establishing zoning on parcels of land known as the Eagle County School District Maloit Park Property annexed to the Town of Minturn, Colorado and amending the official zone district map of the Town of Minturn, CO.– Cerimele (10min)

Frank Lorenti asked if this annexation is contingent on any other annexed properties and the subsequent outcomes of current legal issues at present.

Boots Ferguson explained that this is a “stand-alone” annexation and is not dependent on any other annexation agreements.

Motion by Shelley B., second by George B., to Ordinance 4 – 2011 (Second Reading) An Ordinance establishing zoning on parcels of land known as the Eagle County School District Maloit Park Property annexed to the Town of Minturn, Colorado and amending the official zone district map of the Town of Minturn, CO as presented with the following findings. All voted in favor. (6-0) (Aggie M., absent, excused.)

The following findings were made:

1. That proper publication and public notice were provided as required by law for hearings before the Planning Commission and Town Council; and
2. The proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan. The subject property is being annexed to the Town and there is no existing Town zoning on the property. The proposed amendment will zone property and create consistency with the existing Official Zone District Map through the creation of the Maloit Park Character Area and associated zoning districts.
3. The proposed amendment is compatible with existing and proposed uses surrounding the subject land.
4. The proposed amendment is necessary because there will be a change in condition due to the fact that the property has been annexed into the Town and therefore the property is required by state law to be zoned.
5. The proposed amendment will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm-water management, wildlife habitat, vegetation, and wetlands.
6. The proposed amendment does address a demonstrated community need. The zoning for the property will provide for the orderly and planned development of the property. As well, it may provide for more property and sales tax revenue for the Town.

7. The proposed amendment will result in a logical and orderly development pattern. The proposed amendment will not constitute spot zoning.

8. The resulting development can logically be provided with necessary public facilities and services.

9. The proposed amendment is changing to such a degree that it is in the public interest to encourage a new use or density in the area.

14. Discussion/Action – Ordinance 8 – 2011 (Second Reading) an Ordinance of the Town of Minturn amending Chapter 7 of the Municipal Code by repealing and re-enacting sections 18-5-10 and 18-5-20 to adopt by reference the 2009 International Fire Code with Amendments - Cerimele (15min)

John R., stated portable cooking devices are acceptable in the setback. Shelley B., Jerry B., George B., and Hawkeye F. agreed.

Earle B., reiterated the importance of removing any ash and debris after the use of such a device.

The dumping of ash is strictly prohibited (not allowed) in the 30' setback area.

Motion by Shelley B., second by John R., to approve Ordinance 8 – 2011 (Second Reading) an Ordinance of the Town of Minturn amending Chapter 7 of the Municipal Code by repealing and re-enacting sections 18-5-10 and 18-5-20 to adopt by reference the 2009 International Fire Code as amended. The motion passed (5-1) Earle B., nay. Aggie M., absent, excused.

- Amendment: To modify the IFC Section 307.3.1 second sentence to read "Portable cooking devices may be used in this area; however, the dumping of ash in the river or setback area is strictly prohibited."

15. Discussion/Action – Council Meeting Start time – White (15min)

Following a brief discussion and presentation of the results of a random straw poll, a motion was made by George B., second by Shelley B., to start future Town Council meetings at 6:30pm, starting with the first meeting in July (July 6th), 2011. Motion passed (5-1) Hawkeye F nay, Aggie M., absent, excused.

EXECUTIVE SESSION

15a Executive Session

Motion by Shelley B., Second by Earle B., to convene into Executive Session pursuant to section 24-6-402(4)(e) for the purpose of discussing the Prosecuting Attorney's contract; all voted in favor.

The Executive Session ended at 9:02pm.

Following the Executive Session, the Town Council returned to the Regular Meeting and directed the Town Manager to negotiate a new contract with a new Town Prosecuting Attorney.

FUTURE AGENDA ITEMS

- **Next Meeting – June 1, 2011**
 - Special Presentation/Citizen Recognition: Recognition of Town Clean Up Day volunteers - Martinez
 - Discussion/Action – Ordinance ____ - 2011 an Ordinance allowing the sale of Medical Marijuana

- **Future Meeting**
 - Special Events permit-Michelle Metteer
 - Discussion/Action – Ordinance 5 – 2011 (First Reading) an Ordinance adopting the 2009 IBC as amended – Cerimele/Lanci – June 1
 - Discussion/Action – Ordinance ____ - 2011 an Ordinance allowing the sale of Medical Marijuana – June 15
 - Discussion/Action – Ordinance 7 – 2011 (First Reading) an Ordinance adopting standards for the issuance of Optional Premises Liquor Licenses and for Optional Premises for a Hotel and Restaurant pursuant to the provision of Section 12-47-310 C.R.S. as amended – Brunvand/Martinez (30min)
 - Executive Session - Pursuant to CRS 24-6-402(4)(b) to consult with the Town's Attorney(s) and receive legal advice regarding Environmental Protection Agency (EPA) and Colorado Department of Public Health comments on the Battle Mountain Resort project Remediation Feasibility Study Amendment– White/Christensen (60min)

- **Set Future Meeting Dates**
 - a) Council Meetings:
 - June 1, 2011
 - June 15, 2011
 - July 6, 2011

 - b) Planning & Zoning Commission Meetings:
 - May 25, 2011 (cancelled)
 - June 8, 2011
 - June 22, 2011

 - c) Other Dates:
 - June 18, 2011 1st Day of Minturn Market
 - June 22-24 CML Annual Conference/Vail

- **Adjournment**

Motion by Jerry B., second by John R., to adjourn the meeting at 9:05pm. All voted in favor.


Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand

