



## Official Minutes

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

**Wednesday April 15, 2015**

**Work Session – 5:30pm**  
**Regular Session – 6:30pm**

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

**COUNCIL MEMBERS:**

Shelley Bellm  
Earle Bidez  
John Rosenfeld  
Matt Scherr  
Jason Osborne

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 970/827-5645 302 Pine St. Minturn, CO 81645.

### **Work Session – 5:30pm**

- Entry way/100 Block project update – Powell/Hawkinson

### **Regular Session – 6:30pm**

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

The meeting was called to order by Mayor Pro Tem George B. at 6: 30pm.

- Roll Call

Those present included: Town Council members, George Brodin, Matt Scherr, John Rosenfeld, Earle Bidez, Shelley Bellm, and Jason Ozzy Osborne. Note: Mayor Hawkeye Flaherty was excused absent.

Staff present: Town Manager Willy Powell, Town Attorney Michael Sawyer, Town Clerk Jay Brunvand, and Town Planner Janet Hawkinson.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added
- Request to add an update on the status of a TAP grant Staff had applied for to the agenda as item 7a .

Motion by Johnie R., second by Ozzy O., to approve the agenda as amended. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent.

## **3. Approval of Minutes**

- March 18, 2015

Motion by Earle B., second by Johnie R., to approve the minutes of March 18, 2015. Motion passed 5-0. Note: Mayor Hawkeye Flaherty was excused absent and Ozzy O. abstained as he was not present for part of the March 18 meeting.

- April 1, 2015

Ozzy O. requested:

#4 public comments by Darren T, would like more detail

#7 Ozzy wants to amend to say safe passages for the bikes

Motion by Johnie R., second by Ozzy O., to approve the minutes as amended of April 1, 2015. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent.

## **4. Liquor License Authority**

- Minturn Country Club Annual Renewal of a Hotel & Restaurant License; 131 Main St.; Tom Ricci Owner/Sec – Brunvand

George B. opened the Public hearing; no comments were made.

Jay B. updated the Council on the license and stated Staff had no concerns with this license and Staff was recommending approval.

Motion by Ozzy O., second by Earle B., to approve the Minturn Country Club Annual Renewal of a Hotel & Restaurant License; 131 Main St.; Tom Ricci Owner/Sec as presented. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent.

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

Mr. Barry Clark, 974 Main, read an email that he wrote to the Council in opposition to a proposed lease on the Lease Lot (810 Cemetery Rd) for a greenhouse operation. The lease would be held by Johnie's Garden.

It was confirmed by the Attorney that Johnie R. did not have to step down from the Council during the discussion because their was Public Comment and not a decision item. However, Johnie R. would recuse himself from any vote taken.

Motion by Ozzy O., second by Earle B., to add this discussion to the agenda as item 7b. Motion passed 5-0. Note: Mayor Hawkeye Flaherty was excused absent and Johnie R. abstained.

**6. Special Presentations:**

**PUBLIC HEARINGS AND ACTION ITEMS**

**7. Discussion/Action Item: Entryway/100 Block Project Update**

Janet H. outlined and updated the Council on how staff is working on proposals to increase the safety factor for vehicles, bicycles, and pedestrians in the 100 Block of Main St. The proposals include better traffic flow using Hwy 24 and side streets, safer cross areas, and identified parking. Six concept plans were reviewed and will be further developed based on comments. Staff requested Council direction as to moving forward with the Circulation analysis. By giving affirmative direction Staff will be able to present the concept to CDOT for further approval from them. It was noted that this is NOT the final approval, merely allows the plan to advance to CDOT. It was noted that a community presentation and discussion will be held on April 23 at 6pm at the Minturn Fitness Center. Any member of the community wishing to participate is encouraged to attend.

Mr. Barry Clark, Weston Snowboards, recommended the plan and noted his property is the most impacted.

Motion by Ozzy O., second by Shelley B., to direct staff to move forward with the proposal as presented. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent.

**7a. TAP Grant**

Willy P. updated the Council on the proposed grant that was applied for and awarded which would allow the Town partial funding to engineer sidewalks from Bellm Bridge through south Minturn. The grant award is \$324,000 and the Town match is \$64,000. Staff will present a budget proposal for supplemental funding in the 2015 budget at the May 6 meeting to accommodate this project.

Council spoke in favor of moving forward and emphasized the safety matter sidewalks would be resolving and that this has been a priority for a long time.

Motion by Shelley B., second by Johnie R., directing Staff to move forward as presented and to include the grant in the 2015 fiscal year budget. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent.

**7b. Discussion of the Greenhouse lease**

Mr. Eric Dyba spoke in favor of the lease and felt any and all funds should be identified to enhance the Town and our economic standing.

Mr. Aggie Martinez, 962 Main St, spoke in opposition of the lease. He asked if there was other land that could be used in the Town. He felt this process should be more public because the lease of the land is to a sitting Council Member.

Ms. Vicky Trujillo, 1192 Main St, works for Johnie's Garden and spoke in support of the lease citing the benefits that the money could be used for to create revenue for the Town.

Willy P. addressed the questions posed by Mr. Barry Clark in his email (Attachment A)

Willy P. outlined the details of the proposed lease and the uses the land has had in the past. He stated this lease is complementary to the other leases on the property and that the land is zoned as light industrial and this would be a conditional use. The Town has worked hard to clean up the site to better utilize it for leases such as this. Council has asked that uses such as this not be on the railroad land as you enter town due to sight issues. Willy P. outlined the issues that created the need for the lease. Until such time as the complete lease could be developed, due to needs for the growing plants, a temporary short term lease has been granted to allow one. Currently the Town is investigating the lease, comparable values, etc. Willy noted his communications with Mr. Clark over the past few days. Today, the Public Works crew erected poles to show the estimated height and he stated that he had met with Mr. Clark at his home this afternoon.

Mike S. noted the Town has the right to lease land owned by the Town and the precedent of the past encourages this opportunity.

Shelley B. stated the Town has worked hard to clean the land up, extend and furbish a berm on the site, and noted the Council has requested leases be pursued for this site. She noted that if one desires to have vacant land they need to acquire that land.

Earle B. noted that a long term lease would be presented to Council, reviewed, and potentially approved based on the merits of the proposal. This lease current issue revolves around a short term solution to allow for circumstances resulting from the growing of live plants while a longer term plan can be developed.

Janet H. noted some of the history of the land in that it is to be used for public use and for light industrial use. The buildings proposed have been reviewed by the Town Building Inspector and all permits have been submitted and paid.

Mr. Barry Clark noted the land was given to the town for light industrial and recreation. He felt in the interest of transparency the land is owned by the town which is made up by the citizens. He stated he felt the actions to this point have been inappropriate.

Matt S. asked if we have followed proper channels; Willy P. noted that what staff did is consistent with past leases. Matt S. asked if we need to develop a more formal process. Matt S. noted a lease will be forthcoming within 60 days and a complete review will be done as the process proceeds.

Ms. Melissa Clark, 974 Main St, asked the Council to encourage individuals and companies to come to town that provide potential to the Town and not allow unattractive things on the hill side.

Ozzy O. stated we are stewards of the Town and that we need to find a way to inform and make a win for everyone involved.

Johnie R. addressed the meeting from the podium as a citizen residing at 1141 Main St. He has been researching other sites as his current leased property has been for sale. He felt it was best for his business and for the community that he stay in Town. He provides taxes, jobs, and value to the Town as a vibrant business.

George B. summarized that the process was not completed and we would also review possible changes to the lease process.

## COUNCIL AND STAFF REPORTS

### **8. Town Planner**

Reported to Council two Design Review applications that were considered and approved by the Planning Commission.

- Design Review Approval – 98 Mann Ave
- Design Review Approval – 64 Harrison Ave

Janet H. answered questions on the various projects.

### **9. Town Attorney**

- EPA Feasibility Study Update

Mike S. outlined the point that BMR had submitted an updated study. Holland and Hart had prepared a memo that was included in the packet.

### **10. Town Manager**

- Manager's Report

Reviewed his report and opened for questions.

Willy P. outlined the open position at the Town offices. Questions asked about the conflict of interest with one writing a ticket and then being in court as the Court Clerk. Shelley B. stated the Code Enforcement Officer should be out in the Town not in the office. Willy P. stated the direction from Council was to code enforce by complaint and that will affect the time commitment of the position. Discussion ensued as to the definition and time commitment of each position.

It was requested that this discussion should be added to a near future Worksession.

- Action Report

Willy P. reviewed and opened for questions. He stated the TAP grant would take some time, would require a lot of conversation with CDOT on their paving commitment and depth of asphalt, and would include an IGA with CDOT.

#### **11. Town Council Comments**

Shelley B. updated the Council on the Scholarship Fund program. They have two applications for review. She also stated that April 21 6pm will be a re-dedication of Bellm Bridge.

Matt S. reminded the audience of the Open House to review the design concept for the 100 block of Main St. This Open House will be held April 23 from 6-8pm at the Minturn Fitness Center.

Earle B. state the Minturn Garden is taking shape for the season. Those interested in getting a plot should stop by 160 Main St. and sign up.

### **EXECUTIVE SESSION**

#### **12. Executive Session: An executive session for the purpose of conferencing with the Town attorney for the purposes of receiving legal advice on a specific legal question under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) – Battle Mountain**

Motion by Ozzy O., second by Shelley B., to convene in Executive Session for the purpose of conferencing with the Town attorney for the purposes of receiving legal advice on a specific legal question under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) – Battle Mountain. Motion passed 6-0. Note: Mayor Hawkeye Flaherty was excused absent

Direction given as a result of the Executive Session: No direction was given as this was informative not directive.

**FUTURE AGENDA ITEMS**

**13. Next Meeting – May 6, 2015**

- Tap grant supplemental budget
- Staffing issue and finance issues of the staff position and the tap grant \$64k matching funds.
- Water Rate recommendation

**14. Future Meetings:**

- 2015 Building Code update – Charlie Davis

**15. Set Future Meeting Dates**

- May 6, 2015
  - May 20, 2015
  - June 3, 2015
- a) Planning & Zoning Commission Meetings:
- May 13, 2015
  - June 10, 2015
  - July 8, 2015

**16. Other Dates:**

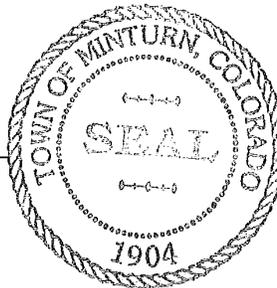
**17. Adjournment**

Motion by Johnie R., second by Ozzy O., to adjourn the meeting at 9:30. Motion passed 6-0.  
Note: Mayor Hawkeye Flaherty was excused absent.

  
Hawkeye Flaherty, Mayor

ATTEST:

By:   
Jay Brunvand, Town Clerk



*Attachment A*

Text of letter send to Minturn Town Council Monday, April 13, 2015;

Dear Minturn Town Council,

I'm writing to urge the council to stop the construction of 2 large greenhouses on public owned property in south Minturn until a proper public notification process can be completed and the neighboring property owners have a chance to respond to the impact of this project.

Sincerely,

Barry Clark

974 Main

Questions about the project;

1. Doesn't the lease require full council approval? It seems as though the temporary lease was granted without council approval by only the town manager.
2. Were residents that might be impacted by this project notified and given a chance to provide public comment?
3. Did other businesses have the opportunity to lease this public owned asset?
4. Was the property listed in any commercial real estate multiple listing service?
5. Was there some kind of market analysis done to determine the market value of the leased property?
6. How was the value of the leased property determined?
7. What is the monthly rent?
8. Did the Town of Minturn Planning and Zoning commission approve construction of the project?
9. Did the Town attorney approve the temporary lease?
10. What safeguards are in place to avoid a conflict of interest for a lease requested by a sitting town council member?\*\*\*