



## Official Minutes

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

**Wednesday May 20, 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**

- Water Rate Structure and Monthly Rates – Powell/Brunvand

### **Regular Session – 6:30pm**

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

The meeting was called to order by Mayor Hawkeye F. at 6:35pm.

- Roll Call

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

Johnie R. noted he had an official conflict of interest on items 6, 7, and 8 of which he will recuse himself from the meeting as needed. Mike S. noted that Johnie R. is the applicant for the Conditional Use and the Lease so he could remain as the applicant for presentation and question but not for the Council consideration.

Motion by Shelley B., second by George B., to approve the agenda as presented. Motion passed 6-0. Note: Jason Ozzy Osborne was excused absent.

## **3. Approval of Minutes**

- May 6, 2015
- Shelly B. stated a section of the Town planner report did not read correctly and was requested to be rephrased.

Motion by Johnie R., second by Shelley B., to approve the minutes of May 6, 2015 as amended. Motion passed 6-0. Note: Jason Ozzy Osborne was excused absent.

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

Mr. Jason Burkey of United Companies, the concrete batch plant on the lease lot spoke of the history of the company and in support of the leases on the land. He stated the need to have the strategic production plant location at this end of the valley due to the short shelf life of concrete once it begins to mix.

## **5. Special Presentations:**

Johnie R. reminded everyone of the Town Clean up Day on Sat May 30 at 7:30am – 1:00pm at the Little Beach Park upper lot.

Willy P. introduced Phillip Cusack, of the Eagle County Sheriff's Office. He is the new full time officer dedicated to Minturn. Deputy Cusack noted his back ground and his excitement with being in the Town. Deputy Cusack stated he is working with the community to begin watch groups that will help open communications with the ECSO and the citizens.

The Town and the Eagle County Sheriff's Office is coordinating to set up a community information system, Neighborhood Information Network (NIN). Once set up, citizens may email the ECSO officers stationed in Minturn at [ECSO@minturn.org](mailto:ECSO@minturn.org) with their questions and community concerns. Matt S. noted how he felt this was a big step in rebuilding our citizen policing. Discussion ensued as to the positive affects having a full time officer will be for the community.

**PUBLIC HEARINGS AND ACTION ITEMS**

**6. Discussion/Action Item: Resolution 5 - Series 2015, a Resolution directing Staff to correct errors on Zoning Map – Hawkinson**

Johnie R. recused himself from the meeting and left the room.

Janet H. outlined to the Council some errors that have been identified in the color coding of the Character area maps. She noted the errors are a result of specific items in the Lions Head character area that should but do not abut due to GIS technology, and coloring issues on the map that are not represented in the text of the code itself. Mike S. stated 16-11-30 of the Municipal Code text identifies the area as light industrial and a Google Map from 1999 confirms the historical use of the land as light industrial and public facilities. Mike S. noted this has been the use for the land since prior to the adoption of the 1999 zoning maps.

Discussion ensued of the intent of the code when it was written. It was noted that the text identifies the land used as a gravel plant as gravel processing area and as a contractors' storage area but was color coded as recreation by accident.

Motion by Earle B., second by George B., to approve Resolution 5 - Series 2015, a Resolution directing Staff to correct errors on the Zoning Map in the area known as the Lease Lot as presented; to correct the Mixed Use designation in the Cross Creek Area to match the corresponding shading as the adjoining private parcel; to correct the color uniformity of the zoning maps to promote clarity; and to have the Mayor sign only after all modifications have been made by Staff. Motion passed 5-0. Note Johnie R. recused himself and Ozzy excused absent.

**7. Discussion/Action Item: Resolution 6 - Series 2015, a Resolution approving Conditional Use application CU 01-15. - Hawkinson**

Note: Johnie R. recused himself from this discussion as well; however, due to the nature of the item, Johnie R. was available for questions as he is the lessee of the property and the individual/company requesting the Conditional Use.

Janet H. introduced the item for Council.

Johnie R. as the applicant presented his needs of a greenhouse operation and how the Conditional Use will satisfy those operational needs. Discussion ensued as to the needs and traffic patterns and winter use. He will have minimal staffing use after growing season other than morning and evening and then even less in the winter period. Johnie R. noted they will not be using grow lights or similar in the operation.

Shelley B. wanted to ensure that no storage of personal items and vehicles would be on the site. She stressed the need for a business like operation.

Janet H. stated the Planning Commission was concerned with subletting of the property. It was noted that the lease contract is specific to the operation as a greenhouse.

Hawkeye opened the Conditional Use permit for Public Hearing, no comment. It was noted that Johnie R. had departed the room during deliberation.

Motion by Shelley B., second by George B., to approve Resolution 6 - Series 2015, a Resolution approving a conditional use application CU 01-15 with the additional condition that no private storage would be allowed on the site. Motion passed 5-0. Note Johnie R. recused himself and Ozzy excused absent.

**8. Discussion/Action Item: Ordinance 3 - Series 2015 (First Reading), an Ordinance authorizing the Mayor of the Town of Minturn to enter into a lease agreement with Johnie's Garden Inc for the lease of real property owned by the Town of Minturn – Powell**

Note: Johnie R. continued to be recused from the meeting and discussion due to a conflict of interest. He was present only as the applicant of the proposed lease.

Discussion ensued as to the comparable costs for land leases. Willy P. noted how the price was set and felt it was comparable to like uses at this end of the valley. Willy P. noted the square foot cost is the same as the cost charged by UPRR and confirmed that the costs were comparable although not necessarily on a one for one basis to the other leases on the lease lot site. Shelley B. felt it was important that we have a standard rate so as to avoid indiscretions or improper favoritism. Matt S. felt this was a good guideline but each lease is approved by Council so it can be reviewed on a one to one specific basis.

Shelley B. stated she felt the term of the lease might be better to expire at a time out of the growing season. Mike S. stated this lease was based on a three year annual, that the dates were negotiated and approved by the lessee, and that it had allowances for short term holdover and could be addressed at the close of the lease.

Hawkeye asked if we should limit subletting by the tenant. It was stated that the Town has the authority to approve such a sublet. Council agreed it should be stronger language to more restrict the possibility of subletting.

Discussion ensued on the ability of supplying water. The goal is to have a permanent water source, currently this is seasonal.

Johnie R. expressed he did not have any issues with restricting the subletting.

Hawkeye opened the Public Hearing, no comments, Public Hearing was closed.

Motion by Shelley B., second by George B., to approve Ordinance 3 - Series 2015 (First Reading), an Ordinance authorizing the Mayor of the Town of Minturn to enter into a lease agreement with Johnie's Garden, Inc for the lease of real property owned by the Town of Minturn as presented with the restriction that subletting is limited and to extending the ending

date to June 30, 2018 in order to avoid growing season. Motion passed 5-0. Note Johnie R. recused himself and Ozzy excused absent.

At this time Johnie R. resumed his seat on the Council.

**9. Discussion/Action Item: Resolution 4 - Series 2015, a Resolution setting leasing procedures for leases with the Town of Minturn for real property – Powell/Hawkinson**

Willy P. outlined the Resolution and asked this be a considered discussion item rather than an action item and that it would be brought back at the next meeting for consideration as an Action Item.

Discussion ensued as to how the procedures will affect the leases and should standardized lease fees be adopted as part of the budget process. Janet H. noted the system currently requires the Planning Commission to review Conditional Use applications on the Lease Lot.

Shelley B. felt the importance of adopting square foot lease rates and fair market value surveys in advance or annually as part of the lease process.

Mike S. noted the policy might need to include not just square foot cost but size of land lease requested and uses that might have more intrusive impact on the land. Matt S. felt we should include temporary leases and how they are managed as well. Matt S. felt the land leases should be developed by the Manager and approved by the Council. A temporary lease should be allowable too for short term occupancy which can be managed at Staff level due to the short term nature. While a long term lease is negotiated by Staff and approved by Council.

Willy P. stated Staff will take the recommendations into account and bring them back at the next meeting with the recommendation for the Resolution.

It was noted no action need be taken tonight on the Resolution; rather it will be placed on the June 3 agenda for consideration.

## COUNCIL AND STAFF REPORTS

### 10. Town Planner

- Design Review: 551 Main St – Approved

Janet H. outlined the item. Hawkeye noted the curb cut for the driveway is too big and that it would be in conflict with the code. Janet H. stated it was an existing driveway and garage; the garage would not be taken down. Hawkeye stated that the existing house was being removed there for the entire project would need to be brought in to code compliance.

It was noted by Mike S. 16-22-30 a lot that is nonconforming can be built on as long as it does not create a larger nonconformance. In this case the curb cut does not create a larger nonconformance.

Janet H. stated the Parks Committee has recommended the name of the park bathrooms be changed to "Adit" which is defined as an entrance to an underground room. The Committee felt it looked like a mine entrance therefore it seems to fit.

Discussion ensued as to the lighting of the 100 block with the remodel. The concern is that it will create a significant daylight effect all night long. At this point the fixtures or illumines have not been selected so, although it is a valid concern, it will be mitigated with our dark sky desires. Shelley B. felt this was a street entry project and that it was not under the purview of the Park's Committee. It was expressly noted nothing has been decided and any decision would be brought to the Council.

Matt S. informed the Council that the Rail Road Committee had met and discussed how relationships could be mended with a thought to working together on things the Town can do to help the railroad in order to get them to work with the town on items such as a considered bike path alinements. Shelley B. noted we already police their lot for them.

The Council felt it was important to move forward with anything that would extend the bike path.

#### **11. Town Attorney**

- Battle Mountain update

Mike S. noted Staff has met with the BMR team. Cliff Thompson asked if BMR could address the Council on June 3. Shelley B. requested it be June 3 or the first meeting in July to ensure a full Council.

#### **12. Town Manager**

- Manager's Report

Re: Hiring of Town Manager and schedule

Per request of Council, attached is a proposed schedule for hiring a full time Manager. Previously Jay B. had emailed you the Powell/Minturn employment agreement.

The employment agreement clearly specifies that on or before August 31, 2015 the town will seek to hire a full time Manager or continue the extension of the Minturn/Powell agreement. See Section IX below. When negotiating this agreement, I stated I would like the summer to determine any further employment with the town and Council agreed. We also discussed the cost savings associated with my employment vs. a full time Manager.

Section IX also says I will assist in a candidate search and serve as manager until a replacement is hired, thus if a new hire takes place in 2016, I will continue my employment. Further, Section III states I will give a six months' notice if I decide to separate from town employment.

#### **Section IX. TERM**

The term of this Agreement shall be from November 1, 2014 through December 31, 2015. On or before August 31, 2015, Powell and Council will consult whether the Town will retain the services of a full time Town Administrator, or whether the Town and Powell desire to continue

under an extension of this Agreement for an additional period of time. In the event that Council decides to retain the services of a full time Town Administrator, Powell will assist with the candidate search and will continue to act as Town Administrator until a replacement is hired.

### Section III. TERMINATION

Town may terminate this agreement by giving written notice to Powell of not less than fourteen (14) days. Powell may terminate this Agreement by giving written notice to Town of not less than six (6) months.

WEEK	TASK
1	Council appoints hiring committee
2	Committee recommends hiring process
3	Council confirms hiring process
3--7	Advertise for Manager position
7	Collect Resumes
8	Narrow field to 6 candidates
9--10	Reference checks by third party
12	Interview candidates
13	Select Finalists
14	Present Finalists to Town Council
16	Public "Meet and Greet" for Finalists
17	Followup questions for Finalists
18	Final Selection made by Council
18--21	Contract negotiation
22	Contract fully executed
22--24	Notice period
25	Manager starts work in Minturn any transition period with Powell working with new Manager

- Discussion regarding the Town Manager contract

Willy P. stated the contract that was signed was not correct. The approved contract includes a provision in the motion that approved Res 18-2014 to amend the date of May 31, 2015 from August 31, 2015.

Shelley B. stated she has brought this up several times now and it does need to be addressed. She stated it will take six months for the job search, his contract expires on December 31 unless extended, and we need to get this moving in order to have the proper time to perform this task.

Mike S. stated the Council has a lot of latitude in that it can terminate the current contract with a fourteen day notice. Willy P. agreed and noted his contract does allow extra time to accommodate a search and hire schedule.

It was directed to have this item on the worksession agenda for the next meeting. Shelly B. noted we have not conducted an evaluation on the Manager and that needs to be done as well and it should not be a form that the manager recommends as that seems inappropriate. Matt S. stated he felt a once a year evaluation is not conducive and it would be better to have an on-going evaluation process. He asked if that was available and if that might be an idea for Minturn. Hawkeye noted the HR director of the Town is the Town Attorney in order to separate the Staff having to address the Manager's performance or shortcomings.

Discussion ensued as to how the Council should address HR. It was directed to be on a near worksession.

Matt S. stated he thought the park bathrooms had a dedication today. Janet H. state the dedication needed to be rescheduled due to the inclement weather.

Willy P. stated we have not received written verification on the TAP grant but it should be coming any day. Hawkeye asked about the Boneyard and the conservation easement. Janet H. stated they are working on a site plan. There is not a deadline on the conservation easement and we are working with the County. The intent is to do the trails and what not now and then approve the conservation easement once it is completed. It was explained that once the easement is approved we cannot bring on heavy equipment to construct the trails and restrooms. Therefore, waiting is a better option and the county is behind this decision.

- Action Report

### **13. Town Council Comment**

George B. requested the topic of Council Comments be addressed at a future meeting in order to have a better report on what is going on in the committees and in the community. It was agreed this was a good idea and should be discussed at a worksession item.

Johnie R. reiterated the Town Clean up and noted what is allowed and that hazmat materials are not. He noted Zippy's Ice Cream is open for the season. He noted that employees of Minturn business have a reduced rate.

Shelley B. noted that electronic recycling is not accepted at the Town Clean up but that on specific days it is allowed at the County Recycling centers for a nominal cost. Willy P. noted it is accepted at the County Landfill recycle site five days a week.

Earle B. noted the Minturn Community Garden is up and running. Earle B. noted that George and Linda B. had set up the fence. There are still some plots available. Applications can be picked up at 160 Main St (the application is on the porch) or at Sticky Fingers.

Hawkeye noted refrigerators and small electronics (computers, monitors, printers, etc) will be collected at no cost. Large TV's are not allowed. Liquid hazardous materials are not allowed but cans of solid paint (dry) and batteries will be allowed. As a courtesy, Freon does not need to be

removed, this will be taken care of by the recycler. Hawkeye also gave congratulations to the new Battle Mountain HS graduates.

**FUTURE AGENDA ITEMS**

**14. Next Meeting – June 3, 2015**

- Water Rate recommendation
- Eagle River Park Bathroom Opening
- BMR presentation
- Town Manager’s Evaluation

**15. Future Meetings:**

- 2014 Audit presentation and Acceptance of 2014 Audit
- 2015 Building Code update – Charlie Davis
- Marijuana discussion in a meeting in 2015
- Discussion of Council Comments from George B.

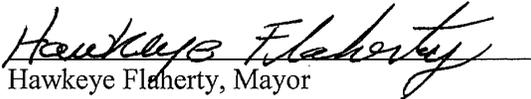
**16. Set Future Meeting Dates**

- May 20, 2015
  - June 3, 2015
  - June 17, 2015
- a) Planning & Zoning Commission Meetings:
- May 13, 2015
  - June 10, 2015

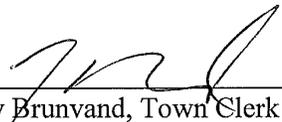
**17. Other Dates:**

**18. Adjournment**

Motion by Johnie R., second by Earle B., to adjourn at 9:20pm.

  
Hawkeye Flaherty, Mayor

ATTEST:

By:   
Jay Brunvand, Town Clerk

