



Official Minutes

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

Wednesday August 5, 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

- Updates on Entry Way project, Railroad Ave., Norman Ave., and TAP Grant – Powell

Direction was to move forward with the entry way and Railroad Ave this summer/fall. The grant should be known by the meeting.

- Discussion on Human Resources

Regular Session – 6:30pm

1. Call to Order

The meeting was called to order by Mayor Hawkeye F. at 6:38pm.

- Roll Call

Those present included: Mayor Hawkeye Flaherty, Town Council members, George Brodin, Matt Scherr, Earle Bidez, and Jason “Ozzy” Osborne. Note: Shelley B. and John R. were excused absent.

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

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added
 - Pull the discussion regarding Charlie Davis/Safebuilt and put on the August 19, 2015 Council Meeting

Motion by Ozzy O., second by George B., to approve the agenda as amended. Motion passed 5-0. Note: Shelley B. and John R. were excused absent.

3. Approval of Minutes

- July 15, 2015

Motion by George B., second by Ozzy O., to approve the minutes as presented. Motion passed 5-0. Note: Shelley B. and John R. were excused absent.

4. Liquor Authority

- Eagle County Republicans Request for Special Event Permit; 800 Cemetery Rd.; Kaye Ferry, Chairman – Brunvand

Jay B. presented and noted Staff recommendation was for approval.

Mr. Randy Milhoan was present for the applicant.

Public Hearing, no comments, public hearing was closed.

Motion by Ozzy O., second by George B., to approve the proposed Special Event Permit for Eagle County Republicans Request for a Special Event Permit; 800 Cemetery Rd.; Kaye Ferry, Chairman to sell malt, vinous and spirituous liquor beverages to be located as defined in the attached application as presented with the following conditions. Motion passed 5-0:

- The application was received on July 10, 2015 and the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on July 24, 2015 at least 10 days prior to the Council Meeting consideration.
- That the selling liquor in the manner currently proposed in the application is not in violation of the Minturn Municipal Code.
- Staff requires at least one T.I.P.S, or equivalent certified server be present, and at least one person to check ID's be present at all times while alcoholic beverages are sold. We would like that those servers and certifications be identified to us in advance.
- Staff requests each entrance/exit and premises be monitored and secured to ensure no outside liquor is introduced to the event and that no liquor is removed from the premises.

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

6. Special Presentations:

- Water update from John Volk – Powell

John V. reviewed the tri-annual inspection letter from the State of Colorado Dept of Public Health in the packet and noted the turbidity violation. John V. noted the system is tested and monitored to ensure it is safe; however, it is not monitored as per the process the State now recommends. John V. fielded questions from the Council. This condition can be corrected by increasing the chlorine (CL2) contact time by using the transmission line between the Treatment Plant and the master meter. John V. reviewed with Council the proposal to initiate the process. He also reviewed how this will be corrected with the Maloit Park system.

John V. noted that was the only condition noted in the inspection and again, it will be corrected as discussed.

John V. has been working on leak detection. Leaks have been located and will be addressed. He noted the leak goal is fewer than 10% water loss. The town is at approximately 20%. He stated that approximately 4.1m gallons were billed last month and a little over 5m gallons were produced; the approximate 800k difference is leak loss.

John V. noted Marine Dive Solutions will dive the main tank in September to clean and maintenance the tank. Tank inspections are required every 5years. It was noted that the Maloit Park tank was upgraded last year and fully maintenance so no further action is required at this time.

- Committee Reports

George B. stated the RR committee has not had any luck with the Railroad so they will be looking at other options for trail alignment.

PUBLIC HEARINGS AND ACTION ITEMS

7. Discussion/Action Item: Appealing the interpretation of the Sign Code by the Planner; Eric Cregon, Magustos – Hawkinson

Janet H. stated Eric Cregon, Magustos, has proposed a 15in x 8ft. fully animated sign for the front of Magustos, 101 Main St. She stated it was reviewed at Staff level and denied, appealed to the Planning Commission and the denial was upheld, and he is not appealing that decision to the Town Council. Janet H. cited the Minturn Code stating animated signs are explicitly not allowed.

Eric Cregon, applicant, spoke to overturn the denial. He stated this is a fully animated sign, he had already purchased it, felt it was simply a matter of completing a sign application, and would like to install it. The sign would be placed on the north side of the building along Hwy 24.

George B. asked what would be the case if all Minturn businesses resorted to fully animated signs and felt it would not be in the best interest of the Town. He felt allowing this would open this door.

Earle B. concurred with George B.

Matt S. agreed and felt that any proposed change to the existing sign code should be brought forward through the Planning Commission. He also felt this was not the appearance we would like to see in Minturn.

Willy P. stated with a fixed sign you can control the appearance during the review process; however, with a fully animated sign this is not the case as it can be changed quickly in color and appearance.

Mike S. stated a variance would not be the proper process as this does not have an unavoidable hardship as required by a variance.

Public hearing was opened.

- Sage Pearson, Sticky Fingers Café, asked about the Hotel Minturn and how that was approved? And also would the sign be approved if it didn't flash?
 - If the sign meets the intent of the sign code it would be allowed, this sign does not do that.

Public Hearing was closed.

Concern that it was not Dark Sky conforming was discussed.

Motion by George B., second by Earle B., to uphold the Planning Commission decision in that it does meet the definition of an animated sign and that consideration is given to the scale of animated signs that might be applicable to other businesses. Motion passed 4-1 (Ozzy O. Nay). Note: Shelley B. and John R. were excused absent.

Ozzy O. stated that a conversation should be held to allow businesses to advertise their sign and that we should consider the discussion of amending the sign in the future.

8. Discussion/Action Item: Updates on Entry Way project, Railroad Ave., Norman Ave., and TAP Grant – Powell

This was discussed in the Worksession and that discussion was updated by Willy P. for the Council and audience.

Phase 1 will be to address the street and curb in the lower 100 block ("S" turn to the Crosswalk at 100 Main to include planning, bid, and construction. This is estimated to be a 30day project and can be completed yet this fall.

Additionally, repairs will be made to Railroad Ave and Norman Ave and will be planned, bid, and constructed yet this fall.

Each project will be bid as a separate project to allow single staging yet the ability to drop one project or change the order of completion if and as necessary and to apply grants as available. A grant for Main St has been applied for but awards have not been announced.

Ms. Sage Pearson, Sticky Fingers Café, was concerned about the crosswalk because it is such a dangerous area. Council noted the safety aspect of the project and that it is designed to slow traffic in the area. Willy P. noted that Phase 1 does not include the actual crosswalk or the bulb-outs on the corners that will also slow traffic.

Mr. Randy Milhoan, 141 Main St, was pleased the project would be phased as that would allow the public to see the project as it develops and allow for other concepts to be further developed as needed between phases. He felt the snow removal should be taken into account. By beginning the project now will allow for assessment during the winter months.

Hawkeye reiterated his opposition as the project is too rushed. He felt the project will affect the last few weeks of the Market which will affect our own project. In the event of snow, all construction on the Hwy will come to a halt. This will be a very negative to the project and reflect poorly on the Town.

Earle B. stated the staff time has already been completed and the project is prepared to move forward. He stated often our Town projects are delayed months based on a lack of a decision. He stated this phase is only a 30 day building project.

Ozzy O. stated this is a public safety issue and that it should proceed yet this fall.

Direction was to proceed with the bidding on Railroad Ave, the Entry Way, and Norman Ave as presented.

9. Discussion/Action Item: Presentation from Safebuilt and motion to amend the existing service agreement, Charlie Davis, regarding 2015 Building Code and Electrical Inspections – Hawkinson

This item was removed from the agenda and will be presented at a later date.

10. Discussion/Action Item: Resolution 09 – Series 2015 A Resolution to consider Variance Application VAR 15-456RAUCH – Hawkinson

Janet H. presented the project as Staff. The proposal is to build a 560 sq ft two car garage at 456 Pine Street with access from Boulder Street. The variance is requested to allow a zero rear setback to access the garage from Boulder St. A hardship exists on this site as the existing house will not be remodeled therefore the access from Pine St does not exist or would cause a more invasive encroachment in the southern side setback and would increase the impervious surface. A variance can be granted as prescribed by the Code based on the practical difficulties which currently exist on the lot. The proposal as presented meets the 40% density, landscaping, and impervious surface requirements. It was noted for the record the project was noticed and advertised as required in the Code. She noted this was not a burden on the surrounding area and

will best compliment the lot. It was noted there was a garage on the site previously that fit, however, because the previous owner extended the house, the garage could not be replaced and could not be moved closer to the house due to existing windows and fire code concerns.

Applicant presented and noted this was the best way to include a garage on the property and still maintain the setbacks other than the rear setback. It was noted as part of this proposal the makeshift existing driveway will be removed and a path will be installed to the front door (Pine St).

Discussion ensued as to the size of the proposed garage and concerns of how it could be redesigned to better fit the rear setback. Ozzy O. noted that Pine St is much more pedestrian friendly than Boulder and this does meet the hardship requirements.

Hawkeye felt this was exacerbating the problem of cars backing onto Boulder Street.

Mike S. noted Council is considering a quasi judicial request and an approval of the Planning Commission recommendation; therefore, the bullet points included in the Resolution should be included in any motion.

Public Hearing, no comment, public hearing closed.

Motion by Ozzy O., second by Matt S., to approve Resolution 09 – Series 2015 A Resolution to consider Variance Application VAR 15-456RAUCH with the conditions listed as presented. Motion passed 4-1. (Hawkeye nay) Note: Shelley B. and John R were excused absent.

Findings required. The Planning Commission and Zoning Board of Appeals shall make the following findings before granting a variance:

1. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
2. The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.
4. There is no substantial impairment to the public that would result from the granting of the variance.

Motion by Hawkeye to amend the Resolution to require the garage to be moved to connect with the house, died for lack of a second.

COUNCIL AND STAFF REPORTS

11. Town Planner

12. Town Attorney

- In response to a question from the last meeting, the Comcast franchise agreement does not encompass internet service. The Town can discuss with Comcast but the Town by federal law does not have the authority to require Comcast to improve their internet service.
- Bolts Ditch discussion: there is a provision in one of our decrees that requires the head gate for the Bolts Ditch be removed from or approved to be located in a wilderness area. The Bolts Ditch headgate issue must be addressed within six years of the signing of the decree. This diligence period ends in 2016. Our options are to remove the headgate from the wilderness area, which would leave us with no headgate that can deliver water under gravity, have it administratively approved through the Federal Government, or have it designated as a preexisting use by congressional act. Staff recommends that Willy P. discuss with Mr. Tom Glass to assist us in this process. Willy P. has contacted Senator Bennett and Congressman Polis and it is unknown if assistance will be coming forth. Willy P. concurred with Mike S. in his assessment to move forward with Mr. Glass and his expertise in the field.

13. Town Manager

- Manager's Report

Manager Work Hours

Because of the important projects of the town, I am working additional hours during the past few weeks and upcoming weeks. The important projects include the Entryway/100 Block project, Railroad Ave. and Norman street projects and especially the potential sales of Dowd Junction and South Minturn sites. The 2015 budget for the Town Manager line item included an additional \$10,000 for contingency if important projects developed. Total costs for the Manager will not exceed the 2015 budget.

Storm Drainage Inlet

The storm drainage inlet at the intersection of Main and 1st St. is complete. The inlet grate was replaced and raised. Thanks Public Works crews.

ADA Improvements at the Town Hall/Post Office

The USPS has determined the existing handicapped parking space does not meet current standards. The town has authorized the USPS to make the adjustments and construction has started and may be finished by time of Council meeting. The construction will occur on Boulder St. and will replace the concrete parking pad and make curb adjustments. The cost is solely borne by the USPS.

Human Resource Services

I have previously sent to Council links to two human resource services, as follows.

- Mountain State Employment Council www.msec.org \$1275/yr.
- HR Plus www.hrplusinc.com/HOME/tabid/36/Default.aspx \$1185/yr.

It may be helpful for Council to better define the need for such services. If moving forward, likely MSEC is the better service.

HR discussion; Hawkeye contacted Mountain States Employment Council (MSEC), to join it would cost plus a cost when we utilize them. However, MSEC recommended a former Council member be appointed for Staff to contact. Hawkeye recommended the Mayor and the Attorney act as the sounding board for any complaints from Staff regarding the Manager. He stated this process has been used in the past and worked well. He stated this would be an anomaly which would not come forward except in dire circumstances. Janet H. stated that in meetings Staff concurs with the recommendation. Earle B. stated it should be the Mayor and Attorney, but that it should be well written and incorporated within the Employee Handbook.

Direction was to have the proposed concept discussed at the next Worksession.

Dowd Junction and South Minturn Sites

We will have an executive session to update Council.

- Action Report
- FYI

CML Policy Committee direction was to have Hawkeye primary and Matt S. alternate.

Council requested to add the Headgate issue to the Action Item table to keep this on the radar.

Matt S. asked about the Manager search. Willy P. stated he would like to stay with the Town in order to get several important items currently on the table through to completion. He felt this would take longer than six months but was considering his time frame.

14. Town Council Comments

Earle B. would like the Planning Commission to consider the alleys in Town and how they work with access and right-of-way's. It was noted that parts of Boulder is actually a street but other parts are true alleys and should flow traffic as such.

EXECUTIVE SESSION

15. 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) – Dowd Junction – Powell/Sawyer

Motion by Ozzy O., second by George 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) – Dowd Junction, Battle Mountain, and the Minturn Quiet Title action as relates to Little Beach Park. Motion passed 5-0. Note: Shelley B. and John R were excused absent.

As a result of the Executive session direction was given to continue diligence regarding the sale and purchase of the US Forest Service properties.

FUTURE AGENDA ITEMS

16. Next Meeting – August 19, 2015

- Water Rate Structure and Monthly Rates – Powell/Brunvand/Water Committee
- Resolution No. 07 – Series 2015 a resolution setting and approving water rate fees – Powell/Water Committee
- HR discussion in the Worksession

17. Future Meetings:

- Action Item: Marijuana discussion – January 6, 2016
- Discussion regarding Town's code enforcement approach

18. Set Future Meeting Dates

- August 19, 2015
- September 2, 2015
- September 16, 2015

19. Planning & Zoning Commission Meetings:

- August 12, 2015
- September 9, 2015
- October 14, 2015

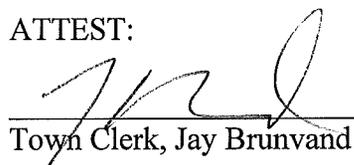
20. Other Dates:

21. Adjournment

Motion by Johnie R., second by Ozzy O., to adjourn at 10:50pm.


Mayor Hawkeye Flaherty

ATTEST:


Town Clerk, Jay Brunvand

