



## **Official Minutes**

### **MEETING OF THE MINTURN TOWN COUNCIL**

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

**Wednesday October 5, 2016**

**Work Session – 5:00 pm  
Regular Session – 6:30 pm**

**MAYOR – Matt Scherr  
MAYOR PRO TEM – Earle Bidez**

#### **COUNCIL MEMBERS:**

Terry Armistead  
Harvey Craig  
Sidney Harrington  
Sage Pierson  
John Widerman

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 – 5:00 – 6:30 pm  
Please remember to bring your FY2017 Budget Book**

- 2017 Budget Review – Brunvand
- Discussion regarding Code Enforcement – Powell

**Regular Session – 6:30 pm**

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

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

- Roll Call

Those present included: Mayor Matt Scherr, Mayor Pro Tem Earle Bidez, Town Council members Harvey Craig, Terry Armistead, Sidney Harrington, and John Widerman. Note Sage Pierson was excused absent.

Staff present: Town Manager Willy Powell, Town Attorney, Mike Sawyer, Town Planner Janet Hawkinson, Econ Dev Coordinator Michelle Metteer, and Clerk/Treasurer Jay Brunvand.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Add consideration of the Turntable water agreement as the first item under Public Hearing/Discussion/Action.

Motion by John W., second by Sidney H., to approve the agenda as presented. Motion passed 6-0. Note Sage Pierson was excused absent.

## **3. Approval of Minutes**

- September 21, 2016

Motion by John W., second by Harvey C., to approve the minutes as amended/presented. Motion passed 6-0. Note Sage Pierson was excused absent.

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

- Update from Sheriff James Van Beek and Under Sheriff Mike McWilliams. Discussed items such as the service levels afforded Minturn, inmate labor, and Coffee with a Cop.
- Jill Ryan, Eagle County Commissioner candidate, was on the agenda but was unable to attend. Requested to be moved to October 19, 2016 meeting.
- Mr. Chris Romer, Vail Valley Partnership, discussed and spoke in support of Ballot Issue 1a, a ballot to set a tax to support affordable workforce housing.
- David O'Neal, workforce housing developer. Discussed options available for workforce housing in Eagle County. Council desired to tour the Wellington subdivision in Breckenridge. It was noted that it would be a public tour and it would be posted as a Worksession for the public. Dates were considered and set as Wednesday October 26 8:45 meet at Town Hall and drive over to Breckenridge.
- Pastor Dan Matney thanked the town for the Community Unity event held recently.

## **5. Special Presentations**

- Committee Reports
- Council Comments

Terry A. praised the work that was done on the various existing and new hike and bike trails in town. A thank you to Michelle M. and her efforts. Reminded everyone that the Minturn Community Fund fund raiser costume party is October 28 at the Saloon; all are invited.

Matt S. noted we are looking at changing water rates. He encouraged anyone interested in learning more about the water rates or the 2017 budget to contact Jay B. at the Town Hall.

## **PUBLIC HEARINGS, DISCUSSION, AND ACTION ITEMS**

### **6. Discussion Item: Westside Café as related to past due water costs – Powell**

The owners of the Westside Café in Vail were present as the new lessees of the Turntable at 160 Railroad Ave. They outlined what they were looking to do: a restaurant and the hotel. They plan on a restaurant with good food, a liquor license, and clean up the property and rooms. They have been working hard to make the place look nice.

Matt S. noted he felt he had a conflict of interest and recused himself. Mayor Pro Tem Earle B. took order of the meeting. Willy P. outlined the issues of the delinquent water bill. With the new owners, Westside Café, we have come to an agreement to pay the delinquency. The proposed payment plan is to pay \$2,500 upfront and \$1,000 additional each month. This would be a base plan and if money can be paid sooner it would. Any money paid by the Darla Goodell estate or a security deposit returned from the UPRR will be paid to the Town. The intent is to have the bill paid and still afford a viable business plan for the new owners.

Sidney H. asked if we could attach the delinquency to the tax bill; Mike S. stated this provision is not in our municipal code. The Town has and maintains a lien on the property and can shut the water off if the payment plan falls delinquent. This lien would be held until such time the delinquency is paid in accordance with the agreement.

Direction to staff was to include this agreement on the October 19 meeting for consideration.

Matt S. resumed his seat at the Council table.

### **7. Public Hearing/Discussion Item: Parking in Downtown area – Powell**

Willy P. outlined the issue and discussed the concerns for parking in the core area. The major issue is that some that live in the area park all day and night thereby limiting the use for the businesses. An option discussed would be to have time limited parking of up to two hours. He stated that if this were to be approved that we have a resolution to how this would be enforced at staff level. Willy P. noted a potential grant that Michelle M. had located that might be utilized to study, address, and upgrade potential parking needs.

Michelle M. outlined the parking grant; discussion ensued. It was noted the plan would be to review the 100 block but could extend based on what is found to be in need as the study proceeds.

Matt M. encouraged the public to comment.

John W. felt this was a positive direction. Discussion ensued as to what is required to undertake this grant. It was noted the grant decision would be made by November but the time commitment would extend well beyond that.

Janet H. felt many of the vehicles are employees for the businesses that are asking for the parking changes. Michelle M. noted that the businesses that do not have sufficient parking as required by Municipal Code are charged a fee for those required parking spaces. However, this is not payment in to the Municipal Parking lot rather it is a fee for the required but missing parking spaces; a cash in lieu of system.

**8. Discussion/Action Item: Memo of Understanding relating to Battle Mountain Project – Powell**

Mike S. and Mr. Tim McGuire, Battle Mountain, outlined the proposed Memo of Understanding (MOU). Mike S. noted that nothing in the MOU grants rights, rather it only lays out how applications for the project will be considered. The MOU also recognizes the money outlined in the 2012 agreement and that that money has been spent properly to date so is not an issue or repayment concern of the town. Of the remaining money, the MOU states the Town will allocate some for water court applications and fees, and \$200,000 will be used for property applications for various required town permits and applications as the development moves forward.

Terry A. stated this is a document to allow them to proceed with new development proposals, it does not touch the original annexation agreement.

Earle B. stated it is a very workable agreement to allow the developer to proceed with development of the property in an order that best benefits both the town and the developer in a balanced manner as long as we, the town and the developer, work together. This proposal will still include public comment but still recognizes the development is for land owned as private property.

Willy P. specifically noted this proposal is only for the originally annexed land. The recent USFS land trade option and any other potential land is no longer being considered; this is only the original Battle Mountain annexed land.

Mr. Tim McGuire stated this is a road map for BMR and the Town to move forward. He noted the agreement is long and complicated but does lay forth very clear action plans and processes. He stated this MOU covers the Mountain Top and involves 35 acre parcels with onsite well and septic and the Bolts Lake parcel which would not be served with individual wells.

John W. stated he had a lot of comments and asked if the Council was being asked to make a decision tonight; Mike S. stated yes. It was stated that voting yes did not mean he totally agreed with the plan. He felt it was very aspirational. It was noted his agreement to the MOU was not an agreement of the finished plan. Mr. McGuire stated again this agreement is a roadmap and is intended to move the development forward again by laying forth a plan to start the process. This is an agreement on the process not an agreement on specific aspects of development. John W. asked if any kind of bond would be required? Bonding would be negotiated based on the annexation agreements and as submittals are turned in. Discussion ensued as to how best to discuss any questions the public, council, or staff might have.

It was noted the MOU lays forth a schedule of approval however it was impossible to say how the public process would play out. Rather this was an agreement that set a process to follow and give assurances to the developer as to a time frame. Discussion ensued that the process has been in-depth however it remains very important to have public input opportunity at every necessary junction. All noted and agreed with the importance of public process and input.

Council felt it prudent to take this up on the October 19 meeting in order to allow the MOU to be released to the public. Because this was in the packet and now public, and because it will now be in the newspaper, postponing a decision is prudent.

Matt S. opened the meeting to public comment

Mr. George Brodin, 273 Boulder St, has read the MOU. He stated he is concerned that we are possibly changing the code to accommodate a development. It was clarified that we do not have in our existing code a process to approve large lot concepts, this proposed process would accommodate that. Mr. Brodin noted that by allowing large parcels we are losing revenue on the sale of water etc. Mike S. stated the appropriateness of large lots and gated communities is something that should be addressed when applications are submitted. Mike S. stated that although the density is being potentially modified the appropriateness of density levels is something that should be addressed at the submittal level. It was clarified that the 35acre parcels are considered only on the Mountain Top parcel, not other parts of the project.

Willy P. noted that the agreement and schedule is almost totally reliant on the developer providing complete and timely information to the Town. The Town has some conditions on a process for a timely reviewing and consideration for approval.

Mr. Bob Sachinski, 560 Taylor St, felt changing the code for lower density is much better than changing the code to allow higher density. He felt this would be a beautiful development. Discussion ensued that 35acre lots are defined at the county level, in a municipality they are not normally considered or defined as few would have a need for that size lot. Using the county 35acre lot concept allows for a proven conceptual use. The lots could not be further subdivided without Town approvals. Mike S. noted the cost and impact to install water and sewer infrastructure to allow for denser development at that altitude and that is a concern for all.

Mr. Ross Stein, Vail Daily, stated to feel free to reach out to him if they need for this project he would be happy to help with media and news coverage.

A motion Harvey C., second by Earle B., to table consideration of the Battle Mountain Memo of Understanding to the October 19, 2016 Council meeting. Motion passed 6-0. Note Sage Pierson was excused absent.

**9. Discussion/Action Item: Ordinance 05 – Series 2016 (Second Reading) an Ordinance considering Zoning Code Text Amendment as it concerns the 100 Block commercial development – Hawkinson**

Janet H. outlined the changes from the last meeting.

Proposed changes:

- 1) Added a list of materials that are not allowed. Discussion ensued as to why EIFS siding would not be allowed. EIFS is a very thin layer, where stucco is more sustentative.
- 2) Require a 3-dimensional model of the proposed building and site for lots 5,000 feet and larger.
- 3) Council included the condition that a residential unit could continue as a residential as identified.

Public Comments opened

No comments

Public comments closed

Motion by Terry A., second by Harvey C., to approve Ordinance 05 – Series 2016 (Second Reading) an Ordinance considering Zoning Code Text Amendment as it concerns the 100 Block commercial development as amended. Motion passed 7-0.

**10. Action Item: Council motion to formally accept the FY2017 Preliminary Budget – Brunvand**

Jay B. outlined that this was an acceptance of the FY 2017 Budget and would set forth the public hearing dates.

Motion by Sidney H., second by Terry A., to accept the Fiscal Year 2017 Proposed Annual Budget and set Public Hearings at 6:30pm on November 2 and November 16, 2016 to be held in the Council Chambers at 302 Pine St, Minturn as presented.

**COUNCIL AND STAFF REPORTS**

**11. Town Planner**

- Planning Commission open position

Janet H. noted a resignation on the Planning Commission. Currently Burk Harrington is an alternate commissioner. Janet H. recommended Burk H. be moved up to a sitting commissioner.

He will sit as an alternate Commissioner at the next Planning Commission meeting and appointed by resolution at the October 19 Council meeting.

- **Boneyard Conservation Easement**

Janet H. outlined the proposed Conservation Easement. She noted this was for discussion only, it would not be approved at this meeting.

Harvey C. asked about uses of the park, Janet H. outlined the uses. It does allow some new uses but does not allow commercial development.

Earle B. was very concerned and stated he thought there would be much less development and landscaping and more left natural and native. Discussion ensued on this concern of which the intent was to have a natural forested green space, not a community park. Matt S. stated he would like to see explicitly what is and is not allowed on the site in addition he would like to know what could and could not be built on the site in the future. He felt this should be included in the document for historical guidance. There was concern of the no-dog rule and how impactful that would be. It was stated that the no-dog rule would be hard to enforce and would be ignored by those using the Conservation Easement and by those crossing the Easement to access trail heads.

Direction was to bring this back to a future meeting with the concerns addressed.

## **12. Town Manager**

- **Manager's Report**

### **Turntable Issues**

The vacant trailers have been red tagged stating they cannot be occupied until an inspection and corrective measures are complete and approved by the town. Westside has told me they intend to replace all four trailers.

I sent an email to Westside and the Hansens demanding payment of the water bill by Oct. 4. See attached email.

### **Minturn to Dowd Trail**

I hope to have an update at the meeting regarding an easement from the State Land Board.

### **Zoning Code Revisions**

Following code revisions for the 100 block, the next priority is to develop a zoning code amendment for Dowd Junction. Staff has begun this task.

### **General Items**

Staff has been working hard on the 2017 Budget and Battle Mountain MOU negotiations.

Street lights in the 100 block of Main St are scheduled to be delivered on Friday and installed shortly thereafter.

Matt S. asked Council for direction on the gun range. It is extremely dirty with trash and debris and it is in the county. Matt S. recommended to contact the gun club and tell them the town requests it be cleaned and maintained or the Town will recommend to the USFS that it be closed. Options were discussed.

Direction was to have staff contact the gun club and discuss. If the site is not cleaned up and maintained, staff is directed to contact the USFS to have the USFS maintain it or close it.

- Action Report

### 13. Town Attorney

## EXECUTIVE SESSION

14. **Executive Session:** Executive Session: An Executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Eagle River Properties v. Town of Minturn, and an Executive Session for the purpose of receiving legal advice on specific legal questions 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 Resorts

Executive Session was not needed. Mike S. stated the Eagle River Properties has filed a Motion to Dismiss and Mike S. will petition the court for attorney fees. He will keep the Council informed.

## FUTURE AGENDA ITEMS

### 15. Next Meeting – October 19, 2016

- Special Presentation: Public Access Channel 5
- Budget Review – FY 2016 Decision Points (Worksession) – Powell/Brunvand
- Resolutions in support of the county ballot measures
- Resolution rolling back the lease lot restrictions.

### 16. Future Meetings:

- Meeting: Discussion/Action – 1st Public Hearing on proposed fiscal year 2017 Budget – review public funding requests – Brunvand 11/2/16
- Meeting: Discussion/Action – 2<sup>nd</sup> Public Hearing on proposed fiscal year 2017 Budget and First Reading of Budget Ordinances – Brunvand 11/16/16
- Meeting: Discussion/Action – 2<sup>nd</sup> and Final Reading of proposed 2017 Budget Ordinances – Brunvand 12/7/15
- Boneyard Management plan and conservation easement – Hawkinson
- Work Session on housing – Hawkinson

### 17. Set Future Meeting Dates

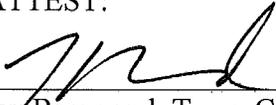
- a) Council Meetings:
- October 19, 2016
  - November 2, 2016
  - November 16, 2016

**18. Other Dates:**

**19. Adjournment**

Motion by Earle B., second by Harvey C., to adjourn the meeting at 10:31pm. Motion passed 6-0. Note: Sage Pierson was excused absent.

  
\_\_\_\_\_  
Matt Scherr, Mayor

ATTEST:  
  
\_\_\_\_\_  
Jay Brunvand, Town Clerk

