



REGULAR MEETING OF THE • MINTURN TOWN COUNCIL
Wednesday, October 5, 2005

WORK SESSION 5:45 PM

REGULAR SESSION 7:00 PM

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

MAYOR - Gordon "Hawkeye" Flaherty, **TOWN MANAGER** - Ann K. Capela
MAYOR PRO TEM - Darell Wegert **TOWN CLERK/TREAS** - Jay Brunvand

COUNCIL MEMBERS:

George Brodin
Jerry Bumgarner
Bill Burnett
Fred Haslee
Tom Sullivan

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 – 4:30pm, Monday through Friday, by contacting the Town Staff at 970/824-5645 302 Pine St. Minturn, CO 81645

WORK SESSION – 5:45 P.M.

- 1. Review Budget and Explanation of Highlights**
- 2. Other**

REGULAR SESSION – 7:00 P.M.

1. a) Call to Order

Mayor Gordon "Hawkeye" Flaherty called the meeting to order at 7:00 p.m. Those present included Mayor Flaherty, Bill Burnett, Tom Sullivan, Fred Haslee, George Brodin, and Darell Wegert (*NOTE: Jerry Bumgarner was excused absent*).

Staff present were Ann Capela, Town Manager; Jay Brunvand, Town Clerk/Treasurer; Karen Earley, Town Economic Development Director; Derrick Slocum, Town Planner 1; Allen Christensen, Town Attorney; Lorenzo Martinez, Police Chief; and Rod Cordova, Public Works Director.

b) Pledge of Allegiance

2. Discussion of the Agenda

- a. Items to be pulled from Action Calendar
- b. Items to be pulled from the Discussion Calendar.
- c. Items to be pulled from the Consent Calendar.
- d. Emergency Items to be added.
- e. Order of the Agenda Items.
- f. Approval of the agenda.

Motion by George B., Second by Tom S. to approve the agenda as presented as modified with the addition of Resolution 7 – Series 2005 and Resolution 8 – Series 2005.

3. Approval of the Minutes from September 21, 2005

Fred H. stated that he felt Mr. Duran's comments on Page 8 recommended doing away with the Code of Ethics carried in the Minturn Code. Fred H noted that if this were the case and if Mr. Duran ran for Council, he would not have to follow the code of ethics. He stated that we might want to review the TV tape to determine the record more clearly as parts of the tape were garbled. He asked if that was the recollection of other Council Members; none were sure.

Darell asked if the petition submitted by Randy Milhoan was a petition for action or if it was not; Allen C. stated that Mr. Milhoan presented a petition indicating individuals and businesses were not in support of removing the parking from the 100 block of Eagle Street. Mr. Milhoan had stated that he would follow up on the item but did not ask for action.

Tom S. state that the minutes of the Lafarge contract are correct but are not represented such in the Lease.

Motion by Fred H., second by Bill B., to table the minutes from September 21, 2005 until the TV tape can be reviewed by staff and clarified by the next meeting; all voted in favor (*NOTE: Hawkeye F. was abstain and Jerry Bumgarner was excused absent*).

4. Special Presentations/Citizen Recognition/Project Update

- Mike Wheelersburg – Minturn Towne Homes Update

Mr. Mike Wheelersburg, Minturn Towne Homes, began by apologizing for the disruption of power caused by the development on last Friday. Apparently the locate company hired to locate the lines missed three locates that the construction crew was able to find.

They have TCO's on several units; they will begin TCO's on Bld A next week. It is still the goal to get asphalt going up Lion's Lane this fall. In the event they are not able to pave they will use roto mill for the winter. Bld E is framed and moving along well.

Tom S. Asked how far the sidewalk will extend; it runs from the property line to Lion's Lane along the front of the property. Tom S. asked if there was any lighting for the sidewalk; there is a street light by blding A and two other lights within the property. Hawkeye asked if they are ready for snow as to the pavement; yes along Taylor they will need to do some patching then a complete overlay this year if possible, next summer definitely. Tom S asked about the unit parking for the residences due to the fact that it is still under construction; they will make sure the area is organized and they will install no-parking signs along the area in question.

5. Public comments on items, which are NOT on the agenda

Ann C. stated the Council had received a letter regarding business licenses that was placed at their tables. This would be taken up during the agenda item

6. Discussion/action of Emergency Items, if necessary

STAFF REPORTS AND OTHER ITEMS

7. Reports/Correspondence/Announcements/New Business

- a. Economic Development Director
- b. Public Works –

Darell W. asked about the aggressive leak detection; every town line, hydrant etc will be checked beginning on Tuesday October 12th. Tom S. asked if we know what the cost to repair the International Dump Truck was; it is done but we don't have the cost on it yet. Tom S asked if Rod was comfortable with the ability to maintain the parks and what not next summer; they will look into it but he is unsure at this point. Currently they are working on the water plant filters next week they will really dig back into the winter preparation. Darell asked about the rocks at the Water Tank; Ann stated the rocks will be moved and stored on Forest Service land near where they will be used. Now we will find the personnel or contract to move the rocks to the location.

- c. Police

Hawkeye asked how the hunt for a new officer is going; not well. Is it better to raise the rates of pay for the officers or to hire a fourth officer; it was the request of Staff to have the additional manpower.

- d. Treasurer/Clerk
- e. Town Planner
- f. Town Attorney

g. Town Manager

Ann C. stated that her staff report was on page 27 if they had any questions and she noted the thank you from Battle Mtn HS for the parade work and what not. Dan, Congressman Udall's office was in the audience. Tom S. asked about the water plant land and annexation of the entire Maloit Park land. Both the land for the plant the annexation for Maloit Park and the road easements are all rolled into one agreement and is progressing very well.

Darell asked about the renovation of the office area in the Town Center; an extension was granted but it is moving along slowly.

h. Town Council

DISCUSSION, HEARINGS AND ACTION ITEMS

8. Resolution 7 – Series 2005 A Resolution to honor Minturn Police Chief Lorenzo W. Martinez on the occasion of his 20th Anniversary of his service to the Town of Minturn.

Hawkeye introduced Chief Lorenzo W Martinez for his 20 years of service to the town of Minturn. His lovely six year old daughter Rose joined Lorenzo in front of the Council and his wife, Suzanne, was in the audience. He received a Motion by Darell Second by Fred to approve the Resolution 7 – Series 2005. Lorenzo thanked the Council and noted that Michael Gallagher was in the audience and was the gentleman that hired him so many years ago. Karen E. stated that it was his efforts that make the Minturn Market happen. Lorenzo, over came his Deer-In-the-Headlight look and stated that it was his honor to have spent the years in Minturn.

Ann C. stated they had two cakes, one for Lorenzo and one for Officer Marcia Rich who turned 16 (26) on this very day! *(Note: Officer Rich was too broken up to speak so the Council took a brief recess to allow the two to regain composure and enjoy the cakes.)*

9. Discussion/Action – Ordinance 17 – Series 2005 (Second Reading): An Ordinance entering into an agreement with Lafarge of North American to lease space from the Town of Minturn by: Town Manager.

Hawkeye introduced the item. He questioned Ann C. which of the three versions he needs to be working with Ann C. noted the difference between the differing versions and highlighted the portions of the contract. Mr. Steve Wood, Lafarge General Manager, noted the contract should read a “surcharge of \$2 for each sq yard over 7500 yards. Ann C. stated the contract would be difficult to monitor but that the contract allowed for a method which will be developed.

Ann C. stated that Mr. Wood had a concern that both entities, Town and Lafarge, should have separate entrances so to avoid running between the dangerous equipment. He also stated that the contract contains language to allow additional work hours in the event of an emergency.

Motion by Fred H., second by Darell W., to approve Ordinance 17 – Series 2005 (Second Reading): An Ordinance entering into an agreement with Lafarge of North American to lease space from the Town of Minturn as presented, all voted in favor; Tom S. voted nay. (*NOTE: Jerry Bumgarner was excused absent*).

10. Discussion/Action – Ordinance 29 – Series 2005 (Second Reading): An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Carter and Burgess, Inc. for professional engineering services.

Hawkeye introduced the agenda item and noted it was second reading. Allen C. stated that there were no changes between readings

Motion by Bill., second by George ., to approve Ordinance 29 – Series 2005 (Second Reading): An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Carter and Burgess, Inc. for professional engineering services as presented, all voted in favor. (*NOTE: Jerry Bumgarner was excused absent*).

11. Discussion/Action – Ordinance 26 – Series 2005 (First Reading): An Ordinance authorizing the Mayor to enter into a lease agreement with the Radio Tower Contract.

Hawkeye introduced the item and noted it was first reading. Ann C. stated this was a long standing issue and introduced tower owner, Dr. Hood. Ann C. stated the portions of contract that were significant. Ann C. stated the contract required a partnership with the tower for the purpose of bringing water and sewer across the river. Dr. Gene Hood addressed the Council and noted that when he took over the ownership of the station and tower the contract was in arrears. This has all been brought forward. For this contract negotiation he delegated responsibility to an associate and what started out as a minnow became a whale. He stated they had met with Ann C. last month to try to come to an agreement. He stated that several years ago, he was contacted to move the tower in the event the Town built an RV Park. He stated they had spent approximately \$50,000 for that study. He stated that now he is being required to build a possible \$100k building, move the tower, and various other commitments that he felt he would not be able to fulfill. He stated that he never intended to enter a contract that he could not fulfill. The issue is that Global Communication has bitten off more than they can chew and that the tower has never been on a positive cash flow. It is not advantageous to have a location for a residence or for the purpose of a radio station because they can not afford it.

The renewal is a problem because the cost is too great for a five year lease. Tom S. stated that the land has a value that is not being realized and is not a good return for the town. Dr. Hood stated the current location and a small existing building is all they would need. He stated that he would be willing to move if they are in the way of the park or some other use but the cost to move was too much for a short term lease. He stated that the cellular leases should be 20 years

for the companies. He stated that he does not know what the cellular companies will be doing in the short term. Tom S. asked what income the town could anticipate from the cellular leases: depending on what they offer as services it runs approximately \$4,000 per lease. Tom S. stated that above the \$30,000 they could anticipate approximately the same amount in additional leases. Tom S. stated that the representative the contract had been negotiated with had agreed to no guy wires and would be shorter. With the shorter tower they could not get enough of the leases to make it work. A lattice tower can carry more additional leases.

Hawkeye asked the Council if they felt the Tower could remain where it is for now; Tom S stated it did not need to move for a year or so. Dr. Hood stated the new building is not necessary and they would need 60 days or so to get FCC authorization to move the tower. Tom S. asked about moving the Tower and the web under ground if that would be moved etc. The underground wire mesh is very small and fragile and over the past 25 years the mesh has been degraded.

Dr. Hood stated he would like two extensions. He said there is no way they can live with the \$6k per year increase during the option. He requested that we leave that number out and hold it for renegotiation. Fred H stated he did not want to get a new contract, George agreed. Tom stated that lots of changes had been proposed and he would like to see what the contract looked like in whole. Darell stated he would like to table the contract to allow the Staff to work with the lease and bring forward a contract that both can live with. Allen C. stated he had written the contract based on notes from Ann C.

Dr. Hood's issues are:

- Site location
- One year notice to move
- No number in the extension
- No new building.

Dr Hood stated that if Radio Free Minturn wants to use their current studio they would find a space for them.

Motion by Tom S., second by Darell W., to table Ordinance 26 – Series 2005 indefinitely until a time a contract can be brought forward or word that a contract can not be agreed to. During this time the land lease will be \$3,000 per month, all voted in favor. (*NOTE: Jerry Bumgarner was excused absent*).

12. Discussion/Action – Town Businesses License – List of those not in compliance with the Town Code

Ann C. provided and reviewed with the Council information in the packet and noted the letter for the license from Mr. Harry Gray received at the end of the day, and the current policy the town uses. Hawkeye asked what the next step was for those that had not renewed. Ann C. stated that they are prepared to move forward with summons which carries a 0-180 day jail time and up to \$1000 fine. Council stated the policy is clear and directed Staff to move forward.

13. Discussion/Action – Status of crosswalks in south end of town

Karen E updated the Council with the use of her packet memo. She noted the crosswalk at Toledo and 455 main will be signed.

Direction was given by Council to request permission from CDOT and use the support of the School District to install/paint a minimum two extra cross walks by the Public Works Dept based on our agreement with CDOT to maintain Hwy 24.

14. Discussion/Action – Proposed White River National Forest Service Bill (former HR 4700) by Town Manager.

Mr. Cal Weitstein addressed the Council. The Federal Interior Appropriations bill was passed. Mr. Weitstein stated they have received authority with this bill to sell or trade their facilities. The question is do they still want to continue with HR 4700. Mr. Weitstein stated that the money received from the sale of the facilities would not remain in local control, it would go to Washington to be used with the Dept of Interior. This is a problem. Because of these problems the Forest Service is only looking at trading land for land. Currently they are not considering selling any land in Minturn. The advantage of pursuing Mr. Udall's bill is that money made in the sale of local facilities stays in the White River Forest for the purpose of building new facilities in the area. Mr. Weitstein introduced Mr. Doug Young with Congressman Udall's office. Mr. Young detailed the back ground of the proposed bill and why we would want to pursue the option. Mr. Young has heard unanimously from the local counties and municipalities to go forward with HR4700. He intends on adding the changes recommended in conjunction with Representative Salazar of Colorado. This would create a large area all supporting the revised bill. If the language to drop Dowd Jct parcel is kept then it might not cause a problem because they currently can deal with the parcel in other ways. Fred H. stated he felt it was important to pull Dowd Jct from HR4700. Mr. Young stated it would be a better idea to work with the entities that want Dowd Jct in the mix. Hawkeye stated the other municipalities want to have the Dowd Jct parcel kept in the mix because they would agree to a sewer plant if it were hidden. Also, it is thought that the Dowd Jct parcel should remain a buffer between the municipalities. Tom S. stated that he does not want the land in HR4700. He asked Mr. Weitstein if he felt the land would be kept as a Forest Service facility; he stated it is one of the most frequently visited centers and it is an important site for that reason. Tom S. stated he wanted it pulled because the other Muni's want the land not to be pulled so that it could be a regional sewer plant. All but Hawkeye stated it should be pulled from HR4700. Ann C. stated that a portion of Dowd Jct is in the Town of Minturn so we would have control over the development.

Fred H. asked if the Forest Service would entertain the possibility of annexing the county portion of the land into the town. Mr. Weitstein stated he did not think it would be appropriate to annex federal land while this is being held. Mr. Young stated the Congressman's goal is to present a bill that is fair for all the involved communities. He is happy to help facilitate this with the other communities but feels this is an issue between the entities and should be agreed to between the entities prior to the issue being

Tom S. motioned to approve the former HR4700 excluding parcel E. Second by Fred H. all voted in favor, Hawkeye voted nay. They have support for the proposal less that parcel.

Council took a short break

15. Discussion on the budget by Town Treasurer.

Council was presented with the FY2005 budget as per C.R.S. 29-1-105

16. Discussion/Action – Conditional Use Review for 421/431 Main Street (needs to be tabled until November 16, 2005).

Motion by Fred H., second by Darell W. to table the Conditional Use Review for 421/431 Main Street until November 16, 2005; all voted in favor. (*NOTE: Jerry Bumgarner was excused absent*).

17. Discussion/Action – Resolution 8 – Series 2005 A Resolution supporting referendum 1A – Establishing a Home Rule Charter Commission for the purpose of developing a Home Rule Charter

Motion by Tom S. second by Fred H. to approve Resolution 8 – Series 2005 A Resolution supporting referendum 1A – Establishing a Home Rule Charter Commission for the purpose of developing a Home Rule Charter; all voted yes.

EXECUTIVE SESSION

18. EXECUTIVE SESSION

- Colorado Revised Statute (C.R.S.) 24-6-402 (4)(b) Consulting with the Town Attorney on pending legal matters.

Motion by George B., Second by Tom S., to convene in Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of consulting with the Town Attorney on pending water and legal matters. Those to be included in the Executive Session are the Council present, Town Manager Ann Capela, and Allen Christensen, Town Attorney, Town Water Attorney Anne Castle as needed by phone. Mayor Hawkeye Flaherty is to be excluded due to a conflict of interest; all voted in favor, Hawkeye F. abstained from voting. (*NOTE: Jerry Bumgarner was excused absent*).

Council convened in Executive Session at 9:35pm.

Council convened in Open Session at 10:30pm. No action was taken as a result of the Executive Session.

FUTURE AGENDA ITEMS / WORK SESSIONS

14. Items to be added to future agendas / work session

- Matt Scherr – Recycling Management – 10/19/05
- Old Town Hall – incorporate survey results – 10/19/05
- Public Hearing on the Presented Budget as presented on October 5, 2005 – 10/19/05
- Mike Wheelersburg – Minturn Towne Homes Update – 11/02/05
- Public Hearing on the Presented Budget: Budget adoption (first reading), Mill Levy adoption (first reading), Town Fee Schedule (first reading), and FY 2005 Supplemental Appropriation. – 11/02/05
- Conditional Use Review for 421/431 Main Street – tabled until November 16, 2005
- Budget adoption (final reading), Mill Levy adoption (final reading), Town Fee Schedule (final reading), and FY 2005 Supplemental Appropriation. – 12/07/05

15. Set Future Meeting Dates

1) Council Meetings

- October 19, 2005
- November 2, 2005
- November 16, 2005

2) Planning & Zoning Meetings

- October 12, 2005
- October 26, 2005
- November 9, 2005

3) Other

16. Adjournment

As there was no further discussion the meeting was adjourned at 10: p.m.

Mayor, Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand