

**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, June 7, 2006**

**WORK SESSION 5:30 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** – George Brodin      **TOWN CLERK/TREAS** - Jay Brunvand

**COUNCIL MEMBERS:**

Jerry Bumgarner  
Bill Burnett  
Tom Sullivan  
Kelly Brinkerhoff  
Shelley Bellm

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 – 5:30 P.M.**

1. Minturn Community Fund Presentation – by Brinkerhoff
2. Phase II of CDPHE NRD’s Funds Presentation – by Capela
3. School Bus Stop, Toledo & Main – by Bellm
4. Review of F.M. Saloon deck parking requirements – by Flaherty

**REGULAR SESSION – 7:00 P.M.**

**1. Call to Order**

Hawkeye F. called the meeting to order at 7:08pm. Those present included George Brodin, Bill Burnett, Tom Sullivan, Jerry Bumgarner, Shelley Bellm, and Kelly Brinkerhoff.

Staff present were Ann Capela, Town Manager; Wiley Smith, Town Planner; Derrick Slocum, Town Planner 1; Jay Brunvand, Town Clerk/Treasurer; Karen Earley, Economic Development

Director; Lorenzo Martinez, Chief of Police; Rod Cordova, Public Works Director; Allen Christensen, Town Attorney; and Torrey Maxwell, Court Clerk/Admin Tech.

Hawkeye F. led everyone in the 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 was made by Bill B., second by George B., to approve the agenda as presented; all voted in favor.

## **3. Liquor Authority**

- **Special Events Liquor Permit for the Town of Minturn Independence Day Celebration on July 2, 2006 – by Brunvand**

Jay B. no issues. Lorenzo M. passed out reports on each of the three request for liquor licenses. There appears there is a problem with where we have the function. Jay B. added we have a time line to get permit back to us by end of June. Fall back when can use is 67 Nelson, Molly G 's patio area. Any approval would be conditional on premise. Karen E. needs written approval, she has verbal approval. Chief has three standard conditions:

- Tips certified or equivalent
- Crowd and Access control
- Parking and Traffic Control

Karen E. responded that she is awfully pleased that Dan Ritsch from Molly G is willing to let them have a beer garden on his premise. Seven of thirteen markets will have the beer garden.

Public hearing open at 7:21pm. No public comments. Public hearing closed at 7:22pm

Motion by Tom S., second by Bill B., to approve the Special Events Liquor Permit for the Town of Minturn Independence Day Celebration on July 2, 2006 with the following findings and conditions and pending approval of premise as presented; all voted in favor.

- That the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on May 25, 2006 at least 10 days prior to the hearing, and that the publication of the hearing was published in a newspaper of general circulation at least 10 days prior to the Public Hearing
- That selling liquor in the manner currently proposed in the application is not in violation of the zoning codes as stated in the Minturn Municipal Building Code – Chapter 16.

- That pursuant to C.R.S. 12-47-313(1)(d) – Restrictions for applications for new license, the physical location where the applicant proposes to exercise the privilege of selling liquor at retail does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary
- That Minturn Police Chief Martinez has conducted a background investigation on Karen Earley, Event Coordinator for the Town of Minturn. This investigation was not able to identify any conditions or information, which in and of it self would forbid the approval of the applicant’s license. However, the following considerations will be attached to the approval:
  - At least one person involved with the sales and service of alcohol be T.I.P.S. or equivalent trained and that that contact person be identified in advance.
  - Crowd control and access control plans be developed in advance with the Police Department and the plans be implemented as agreed upon.
  - Personnel be identified to assist with traffic control and parking.
  - The Local Liquor Authority has duly emphasized the requirement of operating an orderly establishment as related to live entertainment and the well being of the neighborhood.
  - Written permission for use of the detailed premises and applicable liability insurance be obtained prior to the event.
- **Special Events Liquor License (Multiple Events) for the Town of Minturn’s Minturn Market on specific dates throughout the summer – by Brunvand**

Lorenzo M. stated his conditions are the same as previous:

- Tips certified or equivalent
- Crowd and Access control
- Parking and Traffic Control

Beer garden at specific markets, no concerns with staff. It will be in the Molly G courtyard located at 67 Nelson Ave.

Public hearing open at 7:26pm No public comments. Public Hearing closed at 7:27pm

Motion by Bill B., second by George B., to approve the Special Events Liquor License (Multiple Events) for the Town of Minturn’s Minturn Market on specific dates throughout the summer with the following findings and conditions as presented; all voted in favor.

- That the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on May 25, 2006 at least 10 days prior to the hearing, and that the publication of the hearing was published in a newspaper of general circulation at least 10 days prior to the Public Hearing
- That selling liquor in the manner currently proposed in the application is not in violation of the zoning codes as stated in the Minturn Municipal Building Code – Chapter 16.
- That pursuant to C.R.S. 12-47-313(1)(d) – Restrictions for applications for new license, the physical location where the applicant proposes to exercise the privilege of selling liquor at retail

does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary

- That Minturn Police Chief Martinez has conducted a background investigation on Karen Earley, Event Coordinator for the Town of Minturn. This investigation was not able to identify any conditions or information, which in and of it self would forbid the approval of the applicant's license. However, the following considerations will be attached to the approval:
  - At least one person involved with the sales and service of alcohol be T.I.P.S. or equivalent trained and that that contact person be identified in advance.
  - Crowd control and access control plans be developed in advance with the Police Department and the plans be implemented as agreed upon.
  - Personnel be identified to assist with traffic control and parking.
  - The Local Liquor Authority has duly emphasized the requirement of operating an orderly establishment as related to live entertainment and the well being of the neighborhood.
  - Written permission for use of the detailed premises and applicable liability insurance be obtained prior to the event.
- **The Gourmet Cowboy Bar Hotel/Restaurant Retail License Application, Thomas McNeill owner/manager, 455 Main Street – by Brunvand**

Motion by Hawkeye F., second by George B., to establish the neighborhood for the liquor establishment to encompass the town limits; all voted in favor.

Jay B. detailed the findings of fact on the proposed establishment as required by law. It was noted these findings were hand delivered to Mr. McNeil not less than five days prior to the hearing.

Hawkeye F. asked if anyone has been contacted regarding this matter, Jerry B. stated that he had been approached about signing but declined.

Lorenzo M., stated his only concern is pending documentation of the parking plan. Some of the spaces are on church property and there is no written approval. He has requested that they get it in writing.

Derrick S. stated that he needs 25 spaces, he has 14 on lot, 6 on street, and it will require 5 extra spaces to be covered by a verbal agreement between Gourmet Cowboy and the church. Derrick has requested the agreement be in writing but it has not been received yet.

Allen C. added that reciprocal parking for this property and the church has occurred in the Town's past.

Thomas McNeil, 226 Elk Lane, Eagle Vail, CO said he plans on holding private events, not a day to day operation. Décor is Old Saloon setting. Two or three events a month. He has dropped trying to get parking permission written from Archdiocese because he doesn't think it will happen, he didn't realize the Town was waiting for it. He is agreeable to going down to 80 seats from the current request of 120.

Direction: Hawkeye F. directed that Ann C. or Derrick S. notify Mr. McNeil if parking ordinance changes.

Public hearing opened at 7:49pm. No public comments. Public hearing closed at 7:50pm.

Motion by Tom S., second by Jerry B, to approve The Gourmet Cowboy Bar Hotel/Restaurant Retail License Application, Thomas McNeill owner/manager, 455 Main Street including that a TIPS certified person always be on duty, 80 seats instead of the 120, and with the findings and conditions following conditions:

- That the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on May 25, 2006 at least 10 days prior to the hearing, and that the publication of the hearing was published in a newspaper of general circulation at least 10 days prior to the Public Hearing
- That selling liquor in the manner currently proposed in the application is not in violation of the zoning codes as stated in the Minturn Municipal Building Code – Chapter 16.
- That pursuant to C.R.S. 12-47-313(1)(d) – Restrictions for applications for new license, the physical location where the applicant proposes to exercise the privilege of selling liquor at retail does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary
- That Minturn Police Chief Martinez has conducted a background investigation on Karen Earley, Event Coordinator for the Town of Minturn. This investigation was not able to identify any conditions or information, which in and of it self would forbid the approval of the applicant's license. However, the following considerations will be attached to the approval:
  - All persons involved with the sales and service of alcohol be T.I.P.S. or equivalent trained.
  - The Local Liquor Authority has duly emphasized the requirement of operating an orderly establishment as related to noise and or live entertainment and the well being of the neighborhood.

Adjourned as Liquor Authority at 7:52pm.

#### **4. Approval of the Minutes:**

- May 17, 2006

Motion by George B., second by Shelley B., to approve the May 17, 2006 minutes as presented; all voted in favor.

#### **5. Special Presentations/Citizen Recognition/Project Update**

- Mike Wheelersburg – Minturn Towne Homes Update

Water tank work has begun, sanding and primer is completed, painting has started, should be done by Wednesday, 14<sup>th</sup> of June. Curb and gutter on Lyons Lane E&D by July 1<sup>st</sup>. Phase III Bldg G footers, shoring so that the workers would be protected. Hiking trail is open with a barricade to

keep people off of the property. Invited Tom S. to come see the grade and he will walk with him. Hawkeye F. inquired if it is paved; no not yet.

Lorenzo M. added that Mr. Tito Pina contacted him regarding the truck traffic on Taylor Street and Mr. Wheelersberg said he would address this concern; it has been addressed per Mr. Wheelersberg.

- Presentation of Certificates of Appreciation – Minturn Clean-Up Day Volunteers

Hawkeye F. presented Certificates of Appreciation for those who participated in the 2006 Minturn Clean up Day:

Jim Kleckner	Bruce Plummer	Wendy Andler	Eric Andler
David Clapp	Steve Johannes	Julie Johannes	George Crowder
Arthur Salazar	Dominic Mauriello	Floyd Duran	Randy Quintana
Jamie Quintana	Waste Management	Ginn Companies	George Brodin
Kenneth Brodin	Derrick Slocum	Wiley Smith	

If we missed anyone please know your help was appreciated and Minturn is a cleaner place to live because of all you have done. Thank you.

- Presentation by Colorado Emergency Services Association VFIS to Town of Minturn

Worker's Compensation award for no injuries for 2005. Great job Minturn Staff.

## **6. Public comments on items, which are NOT on the agenda**

Darla Goodell, 160 Railroad Avenue, Minturn, CO stated she had three concerns this evening:

- A sign is missing that states "more restaurants" Eagle and Hwy 24 in front of Two Elk.
- United Pacific (UP) contacted her asking if she was sub leasing land to someone? Why wasn't she contacted first before the Town called UP?
- She is in receipt of a letter from UP saying she owes them 45k for a water line
  - Apparently account hadn't been rolled over to her.
  - She gets bills for water every month; she assumed she was getting all of them.

Hawkeye F. stated she can request a line locate, find out how many lines are going to her. And he requested that Public Works looks into the location or replacement of the missing sign.

## **7. Discussion/action of Emergency Items, if necessary**

### STAFF REPORTS AND OTHER ITEMS

## **8. Reports/Correspondence/Announcements/New Business**

- a. Economic Development Director

Photos will be put in windows tomorrow that will be a part of the historic walking tour of Minturn.

She thanked Carter & Burgess and our Historic Preservation Committee for all of their hard work. 4<sup>th</sup> of July celebration will be Sunday July 2<sup>nd</sup>. Theme for this year is: "Minturn, Small Town USA". Washington Prep High School Band will be performing. Minturn Market begins June 17<sup>th</sup> bigger, better, booth for kids. The Market still needs volunteers.

b. Public Works

Clean Up day was a success. Collected large dumpsters, 248 tires, 16 refrigerators, 40 other appliances. Water plant is doing well with the heavy runoff. Hawkeye F. asked if they had heard back about the bag system; no formal statement from inspector yet.

c. Police

Hot summer, no staff report, training with new officer is going well, Marsha is has given her notice.

d. Treasurer/Clerk

Recall petitions have been pulled

e. Town Planner

No report, he will have it next week.

f. Town Attorney

g. Town Manager

Seminar on Affordable Housing, continue to review policies and processes. Bill B. asked if we have a Deed on property; no, but she met with school district. They are giving 1 acre to a Wilderness program and with the property still in the county, to do an 18 acre parcel; it is going to take awhile.

Railroad asserts they own 100' on both sides of the railroad; 100 year old survey, will determine that, the Duke is working on it. Even if the Town owns the land within the 100' they still have a right of way. UP asserts a lot of things; but this doesn't pass the smell test. What are UP's rights; they own the land under the rail and on the sides. Ann C. is still pursuing them, still asking questions. It was also noted that in some areas of Avon there is a 50' right of way.

Direction to Staff: Hawkeye F. stated we should have a legal strategy within 10 days plus a full report by June 21<sup>st</sup>,

Hawkeye F. asked if the Town ever contacted Denver to see how they have dealt with the railroad; Elitch's, Stadium, etc; No. He also inquired about the quiet title for the La Playuela park; Duke will have the survey completed within a day or two.

h. Town Council

George two new buses and new ticket system have been implemented.

*Council will recess as Town Council and convene as the Town of Minturn Water, Sanitation and Recreation Activities Enterprise ("Enterprise").*

*Hawk read a statement that he is no longer a member of the Eagle River Water and Sanitation District.*

## DISCUSSION, HEARINGS AND ACTION ITEMS

### **9. Discussion/Action: Approval of Side Letter of Agreement for Minturn Waste Water Treatment Plant between the Town of Minturn and collectively, the “Ginn Entities”**

**Motion by Tom S., second by Bill B. to approve the Side Letter of Agreement for Minturn Waste Water Treatment Plant between the Town of Minturn and collectively, the “Ginn Entities”; all voted in favor. *Hawk abstained.***

*Town Council will close the meeting as Minturn Water, Sanitation and Recreation Activities Enterprise and convenes as Town Council*

### **10. Discussion/Action Items - White River National Forest; Vail Valley Forest Health Project,**

Cal Wetstein – 610 Mesa Drive, Eagle, CO presented the council on a report regarding the Pine Beetle epidemic, it is not good news, spreading at a high rate, and proceeded to explain why it is as bad as it is. Lodge pole pine trees were established after the big fires of 1800, then followed two draughts and now there is a lot of lodge pole stress, this forest is 150-160 years old which makes for prime pine beetle food. Lot of dying pine up above Minturn and by Beaver Creek ski area, Grouse Creek and Cross Creek. The fire danger over the next few years is a concern. Our first high risk for fire is when the red needles are on the trees, they will burn very fast. Our second high risk of fire is in 15 to 20 years when the trees start to fall, plus the needles on the ground. Conditions are ripe when you have this many mature trees. Pine Beetles are always around, it isn't just the Pine Beetles, it is that the conditions are prime for Pine Beetles to feed with so many mature trees. Once a fire starts it can drop burning ambers and also start it's own weather system. The Forest Service is doing pre work this summer, then there will be logging activity next year. Biggest impact on Minturn will be above Martine Creek Parcel using the King Ranch road will be bringing out 60 or 70 loads of logs which isn't a lot considering there are 600-700 loads of logs up there. They have been working on the project for five years.

Hawkeye F. inquired why are people against this project; it is because they are cutting down trees.

Mr. Wetstein stated that the road will probably only be open to loggers when Hawkeye F. inquired if the public will be able to go up and cut fire wood.

### **11. Discussion/Action Items – Vail Resort’s Bone Yard CDPHE report – by Capela**

Report is included in agenda packet and survey is to follow. Ann C. will place in council's mailboxes upon its arrival.

### **12. Discussion/Action Items – Union Pacific reactivation of Minturn Rail Yard – by Capela**

Ann C. has inquired about extra funds or additional personnel if the train cars are moved to Minturn; she was told there will be neither provided by UP. County assessor has not been able to determine what is operational or not operational. Avon is trying to pass an ordinance making it illegal to park rail road cars in their town. A copy of a letter that the Town of Avon sent to UP has been provided to council as it makes a reference to Minturn.

Kelly B. inquired if the railroad is exempt to the 30' setback; there is nothing published or posted that anyone is aware of, regarding any special set backs for the railroad.

Direction to Staff: Inquire if that mile long train between Eagle and Gypsum is a problem and find out how they deal with it.

### **13. Discussion/Action Items – Ordinance 8 – Series 2006 (First Reading) an ordinance establishing a smoking ban within the Town of Minturn – by Christensen**

There may be a problem with a 25' No Smoking Ban; we may have to have some play with that. Hawkeye F. stated that there is a group in Denver that is challenging the state ordinance. If they win how does it affect us; we are home rule, it does not affect us.

Andy Kaufmann, 146 Main, Minturn, CO stated that if you look at the wording on the ballot when the vote took place it was written indoors, it didn't talk about a 15' it only talked about indoors. We are making an assumption that we know what the citizens want. 25' from Saloon puts them in the river, other people's property, the road, etc. Logistical problems. They are wanting to hold employer and employee responsible if ordinance is not enforced; Mr. Kaurmann does not like that at all. Also there will be other enforcement issues; pitting enforcement officers against town businesses. Customers aren't going to know where 25' is or is not and their tendency is going to be to walk out the door with the drink that they have in their hand. Also, women are strongly encouraged to not leave their drinks due to concerns of drugs such as Ruffies, being dropped in their drink when they are not there.

Allen C. added that CML summary of the law is in everyone's packet; Minturn has always handled the enforcement for a couple of reasons; our officers don't have to go to Eagle Court and we get to keep the money in Minturn.

Hawkeye F. inquired if we can amend to include smoking in outdoor seating areas; Yes.

Kelly B. added that she would like to look at designated smoking areas.

Hawkeye F. asked for council's feedback on moving forward with approving First Reading.

Tom S. and Bill ok with passing on first reading. Shelley B wants to look at the options, Kelly B. ok to pass in first reading as long as changes can be made before second reading.

Jerry B. added that he wants to look at employee's health and safety, if you sit outside for fresh air during your drink or meal, you don't want a smoker sitting next to you, and he does not like holding employees and owner accountable if they don't enforce the smoking.

Motion by George B., second by Jerry B. to approve the First Reading of Ordinance 8 – Series 2006 An ordinance establishing a smoking ban within the Town of Minturn; all voted in favor.

**14. Discussion/Action Items – Town of Minturn Resolution 7-2000 establishing procedures to govern Town Council – Sec VII (a)(b) – by Capela**

Ann C. stated that the reason she brought this to the agenda is to affirm council's position on designating agenda items due to amount of work involved when directed by Mayor to research and report. Tom S. stated that they have made it clear in the past that the Council is to direct. There was some discussion back and forth between Allen C., Ann C. and Hawkeye F. regarding what has been assigned for Ann C. to accomplish for the meetings.

Tom S. interjected that the council needs to make sure the meeting is legal, referring to a rolling meeting. Allen C. was asked to confirm what a rolling meeting is? Allen C. explained that it is a meeting with three council members or more or circumventing by email or going to each person individually to circumvent a council meeting.

**15. Discussion/Action Items – Appointment of Town of Minturn Planning & Zoning Commission Members – By Smith**

Kelly B. removed herself due to a conflict of interest; her husband, Jim Brinkerhoff is one of the applicants.

Wiley S. stated that he had briefly interviewed each applicant and was satisfied with each.

Tom S. stated he doesn't feel we would do any justice if we didn't accept the applicants that we have. Each have good backgrounds and are willing to step forward.

Motion by Jerry B. to approve the applications of Jim Brinkerhoff, Ernie Glesner, Lynn Teach, and Woody Woodruff, second by George B.; all voted in favor.

Direction to Staff: Future Discussion/Action Item: Review increase in Planning Commission's pay.

**16. Discussion/Action Items - Minturn Community Fund - by Brinkerhoff**

Direction to Staff: Come up with an ordinance amending open container law, making the entire park exempt from open container and modify lease agreement with rules and regulations. Also research composting toilet.

Tom S. added that council is creating a problem where there is none.

**17. Discussion/Action Items – Phase II CDPHE NRD's Fund – by Capela**

Please reference report which has been included in the packet.

**18. Discussion/Action Items – Ordinance No. 9 – Series 2006, an Ordinance authorizing the Mayor of the Town of Minturn to sign a limited non-exclusive license and indemnity**

**agreement between Minturn Realty and the Town of Minturn contracting for Minturn Market and 4<sup>th</sup> of July celebration use of parking lot in the Town of Minturn, Colorado – by Earley**

Motion by Bill B., second by Tom S., to approve Ordinance No. 9 – Series 2006, an Ordinance authorizing the Mayor of the Town of Minturn to sign a limited non-exclusive license and indemnity agreement between Minturn Realty and the Town of Minturn contracting for Minturn Market and 4<sup>th</sup> of July celebration use of parking lot in the Town of Minturn, Colorado; all voted in favor

**FUTURE AGENDA ITEMS / WORK SESSIONS**

Council discussed and requested that the following items be added to future agenda/work session:

- Closed session (executive session) to review Town Manager and Town Attorney employment contracts; Tom S. was opposed
- Future of old Town Hall building.
- Town of Minturn new construction height limitation
- Legal strategy
- Business License renewal update
- Radio Tower lease

**19. Items to be added to future agendas / work session**

- Ordinance 26 – Series 2005 (First Reading): An Ordinance authorizing the Mayor to enter into a lease agreement with the Radio Tower Contract. – Tabled until completed
- Ginn Annexation Public Hearing – September 6, 2006
- Mike Wheelersburg – Minturn Towne Homes Update – July 5, 2006
- Water meter ownership and maintenance discussion
- Designate parking at park by painting lines – June 21, 2006
- Parking East side of Toledo – One way or diagonal – June 21, 2006

**20. Set Future Meeting Dates**

Council Meetings

- June 21<sup>st</sup>, 2006
- July 5<sup>th</sup>, 2006
- July 19<sup>th</sup>, 2006

Planning & Zoning Meetings

- June 14<sup>th</sup>, 2006
- June 28<sup>th</sup>, 2006
- July 12<sup>th</sup>, 2006

Other

**21. Adjournment**

As there was no more business to attend to the meeting was adjourned at 10:15pm.

Gordon "Hawkeye" Flaherty  
Mayor Gordon "Hawkeye" Flaherty

ATTEST:

Jay Brunvand  
Town Clerk, Jay Brunvand