



**REGULAR MEETING OF THE • MINTURN TOWN COUNCIL**  
**Wednesday, June 21, 2006**

**REGULAR SESSION 5:45 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

**REGULAR SESSION – 5:45 P.M.**

**1. Call to Order**

Hawkeye F. called the meeting to order at 5:54pm. Those present included George Brodin, Bill Burnett, Tom Sullivan, Jerry Bumgarner, Shelley Bellm, and Kelly Brinkerhoff.

Staff present were 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; Town Annexation Attorney, Arthur “Boots” Ferguson; and Torrey Maxwell, Court Clerk/Admin Tech. *(Note: Ann Capela, Town Manager was absent and excused due to family emergency.)*

**2. Executive Session      (5:45pm – 6:55pm)**

Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purpose of consulting with Town Attorney, Town Water Attorney & Town Annexation Attorney on pending legal actions and legal strategy.

Colorado Revised Statute (C.R.S.) 21-6-402(4)(b) for the purposes of reviewing the Town Attorney and Town Manager's employment contracts.

Motion by George B. to convene in Executive Session pursuant to (C.R.S.) 21-6-402(4)(b) for the purpose of consulting with the Town Attorney, Town Water Attorney, & Town Annexation Attorney on pending legal actions and legal strategy and pursuant to (C.R.S.) 21-6-402(4)(e) for the purpose of reviewing the Town Attorney and Town Manager's employment contracts", second by Bill B; all voted in favor, Jerry B. voted nay.

### **3. 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 Bill B., second by George B., to approve the agenda as presented; all voted in favor.

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

- June 7<sup>th</sup>, 2006

Kelly B. requested discussion be noted that occurred regarding Page 15, Item 14, Resolution 7-2000; Council confirmed item 2A and 7A of Resolution 7-2000 and and requested they be added to the minutes.

Motion by George B., second by Shelley B., to approve the June 7<sup>th</sup>, 2006 minutes as amended; all voted in favor.

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

- Recognition of Officer Marsha Rich, who is be leaving Minturn
- Recognition of retiring P & Z Commission Members Rob Davis and Bill Sisk

**Mayor Flaherty Recognized the listed individuals with certificates.**

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

Ms. Lael Enstrom, 112 Taylor Avenue, Minturn Town Homes, Minturn, CO addressed the Council regarding speed bumps on Taylor Avenue. Speeding has been an issue on Taylor and now that they are paving it she is concerned that the speeds of vehicles will increase. In a discussion between her and Mr. Jim Comerford of the Minturn Towne Home project it was requested that Ms. Enstrom come before Council with her request for speed bumps and if Council approves, Minturn Town Homes will pay for their installation.

Hawkeye F. said Council could not take action however they would add the discussion to the next Council meeting's agenda.

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

### STAFF REPORTS AND OTHER ITEMS

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

### a. Economic Development Director

Karen E. introduced the Minturn Express newsletter. Announced that it is on the website, there are copies available at the Town offices and Kelly B. was handing them out door to door to get the word out.

She added that this past Saturday's Minturn Market (June 19) was the largest turnout in years and just a great start for the season.

She also reminded everyone of the Independence Day celebration which will be held Sunday July 2<sup>nd</sup> with the parade at 6pm and then the party will begin at 6:30pm on Nelson Avenue. Washington HS Prep Band will perform as will Suave (Pena Brothers). Fireworks may not occur due to fire danger, may have to save them for a winter celebration.

### b. Public Works

Hawkeye F. stated that the street lights in the 100 block of Main Street don't work and they need cleaning. Was it ever decided if the Town is responsible for maintenance and Marka Brenner has ownership? Rod C. responded that most of those lights are beyond repair, most of them don't have any electrical guts in them.

Hawkeye F. brought up that the State's light at Main Street and Nelson is out; Jay B. was directed by Hawkeye F. to provide Rod C. with the phone number/contact person for Excel as Rod C. stated he does not have good luck getting Excel to respond.

Hawkeye F. asked if Rod C. has received any comments or concerns regarding Taylor Avenue project; no.

### c. Police

Lorenzo M. reminded everyone that the bears are out walking the neighborhood. Make sure you have a bear-proof trash container and put your trash out the morning of trash pickup day. Fines are progressive \$150 - \$250 for first offense and then each offense is \$250 additional up to \$1,000 fine. People who do not have a bear-proof trash container are to call Jay B. at Town Hall. Citations won't be issued to citizens if BFI hasn't supplied a bear proof trash container. Please

view Minturn's website for information or contact The Police Department if you have questions. Brochures are available if the public would like them.

Market parking is a real issue. The Market will be getting bigger every weekend; we really need to look at it.

Kelly B. inquired if the Market visitors are being directed to the Municipal lot; yes, but vendors are required to park there as part of their agreement. There is parking at the Forest Service with free shuttle service to and from the Market.

Kelly B. asked if more loading zones would be helpful. Lorenzo M. responded that two loading zones were approved this year, one at the liquor store and one on the 100 block. They were presented to CDoT as truck delivery parking.

d. Treasurer/Clerk

e. Town Planner

Town Council has asked staff to look at building heights and revisit the zoning code so Wiley S. would like to ask that we reactivate the ad hoc Chapter 16 committee. Wiley S. feels that would be a more efficient way of getting this done; Town Council agreed. Shelley B. and Hawkeye F. will be on the committee in addition to a new member from the P&Z Commission and those that currently are on the committee.

Hawkeye F. stated that Boots Ferguson is coming up next week for orientation of new P&Z members and wanted to know if Council would like to meet with them at this upcoming P&Z meeting on June 28<sup>th</sup>? He asked for council to consider this and he would ask for a decision at the end of the meeting.

Wiley S. stated that meeting will be at 5pm not the usual 7pm.

f. Town Attorney

Allen C. referred to a memo he wrote explaining that he has met with Marka Brenner and her property manager and the Market lease details are being set up for a two year contract.

Bill B. asked if the contract was paid; no it is still being negotiated

Allen C. stated when Marka Brenner returns from out of the country he will get with her to work out the final details of the agreement.

First Market has occurred and they actively tried to work out any bugs, establish rules for future communication.

As clarification, Wiley S. is doing orientation for P&Z and he has allowed himself and Boots F. to come and participate.

g. Town Manager

Not Present

h. Town Council

Hawkeye F. brought up for consideration later in the meeting a Council member appointment to the Eagle County Open Space Committee to replace former Council Member Darell Wegert.

He also reminded all that the Sheriff has issued a fire ban for all of Eagle County.

## DISCUSSION, HEARINGS AND ACTION ITEMS

### **9. Discussion/Action: St. Patrick's Parrish Parking and Minturn Car Wash traffic flow (brought forward from 5/17/06 TC meeting) - by Capela**

Allen C. directed that the report in the packet should contain all information necessary.

Tom S. shared that installing chain to designate the parking lot is just not a good idea; unsafe. Allen C. responded that Bocco's used to have it chained off with flags and that worked well, you just have to install it responsibly.

### **10. Discussion/Action: St. Patrick's Parish request for church bell ringing (brought forward from 5/17/06 TC meeting) - by Capela**

Deacon Mike Gallagher, 474 Pine Street, Minturn, CO asked for a correction showing that the Parrish did not come to the Town Manager asking for permission to ring the bells, the church does not have to ask for permission to ring the bell, they came to the Town Manager asking permission for the Carillon system.

The Parrish is going to get the old bell repaired and start using it again as they can not afford to purchase the Carillon system with the chance of being told at a later date by the Town that they can not use it.

As background Deacon Gallagher noted that up until 1972 the ringing of the bells was done by at which time a celluloid striker unit was set in with a timer and that worked fine until a number of years ago when it quit. It is that system that they are going to have repaired.

Deacon Gallagher added they will be installing a plastic landscape chain and chain off the parking lot when there isn't any legitimate church use going on. It will require punching in holes for post, etc, on their budget it will be awhile before that is completed..

## **11. Discussion/Action Items – Conditional Use Request: Turntable Restaurant and Motel, Railroad Avenue – by Slocum**

Hawkeye F. went over the rules and guidelines for a public hearing and introduced the item.

Darrick S. stated the Turntable Restaurant & Motel as requesting a Conditional Use Permit approval for the restaurant and motel, located on property which is currently owned by the Union Pacific Railroad Company in the Planned Unit Development Holding Zone of the Game Creek Character Area. The proposal is on property consisting of approximately 81,150 square feet. The applicant is proposing to continue the use of this lease for restaurant and motel customers and employees.

Staff review of this application includes a comparison of the policies outlined in the 1998 Re-adopted Minturn Community Plan and the Game Creek Character Area Policies, pertinent zoning regulations, background activity, and analysis of comments including a comparison of the project to policies and goals outlined in the Zoning Code, Article XII, Section 16.12.1, and 16.12.3 Game Creek Character Area Zoning Regulations and Section 16.12.5, Game Creek Character Area Use Table.

The Planning Commission approved the Conditional Use application with the following conditions:

1. All parking must be within the leased area.
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad.
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. *(The purpose is to ensure that the use is served by an adequate supply of well planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use.)*
4. The restaurant and motel must be maintain in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code *(The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use.)*
5. Emergency access of 20' through the leased area.
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened.
7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner).
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days.
9. The parking area must not be used for repair, maintenance or storage of vehicles.
10. Letter stating the hour and dates of operation to staff
11. All-season use will require site storage of snow and keeping emergency access cleared.

12. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.

Two additional conditions were added by Town Staff to include:

13. No overnight camping allowed as stated in the Minturn Municipal Code Section 10-175.
14. A valid business license through the Town of Minturn. M.M.C. Chapter 6.

Mr. Ryan Flaherty, 160 Railroad, Minturn, CO, Maintenance Manager for the Turntable stated they are providing a service, revenue for the Town and that they request approval to continue operation.

Public Hearing open at 8:01pm hearing no public comment Public Hearing was closed at 8:02pm

Jerry B. asked if the parking calculation in the packet was in error; yes, Derrick S. will correct as part of the approval.

Hawkeye F. questioned with all these conditions if the applicant had complied with any of them; Derrick S. replied that the applicant has complied.

Motion by George B., second by Shelley B., to approve the Conditional Use Permit for Turntable Restaurant and Motel with the conditions as presented, all voted in favor.

1. All parking must be within the leased area.
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad.
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. *(The purpose is to ensure that the use is served by an adequate supply of well planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use.)*
4. The restaurant and motel must be maintain in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code *(The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use.)*
5. Emergency access of 20' through the leased area.
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened.
7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner).
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days.

9. The parking area must not be used for repair, maintenance or storage of vehicles.
10. Letter stating the hour and dates of operation to staff
11. All-season use will require site storage of snow and keeping emergency access cleared.
12. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
13. No overnight camping allowed as stated in the Minturn Municipal Code Section 10-175.
14. A valid business license through the Town of Minturn. M.M.C. Chapter 6.

## **12. Discussion/Action Items – Conditional Use Request: Eagle River Wood and Landscape Services, North Minturn Road – by Slocum**

Hawkeye F. introduced the item and referred it to Derrick S. for presentation.

Derrick S. stated Eagle River Wood & Landscaping Services is requesting a Conditional Use Permit approval for a storage yard for tools, machinery and equipment and for the fabrication of wood (firewood). The proposed use is located on property which is currently owned by the Union Pacific Railroad Company in the Planned Unit Development Holding Zone of the Game Creek Character Area. The proposal is on property consisting of about 5,000 square feet. The applicant proposes to lease the land from UPRR

Staff finds the proposed use is classified as a Conditional Use in a Planned Unit Development zone district requiring approval from the Town Council.

Considering the findings and other information provided at the Planning Commission meeting June 14, 2006, the Planning Commission recommends approval of this application with the following conditions to be considered:

1. A conditional use permit may be revocable;
2. May be granted for a limited time period, or;
3. May be granted subject to such other conditions as the Council may prescribe;
4. Bathrooms at the site for daily employee usage.
5. All parking must be done within the fenced yard and/or building
6. Any chemical storage will require material safety data sheets
7. Emergency access of 20' through the yard and at both access gates
8. Any refuse/trash material must be stored on property and must be properly screened.
9. Letter stating the hour and dates of operation to staff
10. Off-season use will require site storage of snow and keeping emergency access cleared.
11. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.

An additional condition was added by Planning and Zoning Commission to include:

12. Fence no higher than 6 feet, screened and access through two (2) entries.

An additional condition was added by Town Staff to include:

13. A valid business license through the Town of Minturn. M.M.C Chapter 6.

Mr. Robert Burnop, 4255 Columbine Way #15, Vail, CO summarized that he has been in business since 97' but unfortunately has had to move several times due to zoning changes, people selling property and would like to set up their business (landscape yard, shed, storage of some trailers, and storage of wood which is their primary source of business; cutting down dead lodge pole pine) here. They would operate Monday-Friday with an occasional Saturday. Mr. Burnop is requesting approval for this operation.

Public Hearing opened at 8:11pm

David Clapp 392 Taylor, Minturn, CO stated that public notice does not mention if there is going to be any chain saws, cutting, etc. Mr. Clapp asked if there was an issue here with noise ordinance or a nuisance. He also noted that the public notice does not state operation, just storage of.

Mr. Ryan Flaherty, 160 Railroad Avenue, Minturn, CO inquired about the trailers; flat bed trailers and one dump trailer, not box trailers.

George B. inquired how much chain saw time there will be; in a regular forty hour week two to three hours per week of chain saw time on average. During August through September when most of the wood gets cut it could be all day each day. Halloween to Thanksgiving they buy from a commercial logger due to snow pack in this elevation. There was general discussion about the noise that will be produced by the chain saws. The trees are cut into 6' to 10' lengths at the initial site. Then brought to the yard and cut down to 16-18" pieces and split. Late summer and early fall will be their busiest time. They bring the trees onto the site, stack and let them dry. The dryer the wood the better the kindling it makes. They try also to minimize sawdust and chips on the site. Mr. Burnop stated they do as much of the cutting as they can at the initial site but the larger pieces they need to bring down for the machine to cut.

Hawkeye F. asked for a clearer explanation of what entails fabricating wood; cut into 18" blocks and then split. 6 to 10' lengths are brought into yard to cut into 16-18". Try to minimize sawdust and chips and always clean up our yards in the spring in May.

Kelly B. questioned if she was correct in stating two weeks of full time in August first part of September; no it is full time August and September, probably the latter part of August into September, 80% of our cutting occurs during that time. March 1 to June or July there would be no cutting. Fairly limited time when the noise occurs. He understands that it is loud.

Wiley S. referred council to the noise nuisance ordinances we have are loud speakers not this type of noise. 65 decibels.

Kelly B. can you do more of the cutting at the site where you initially cut it; they do as much as they can there but the big pieces they need to bring in to the site.

Jerry B. asked about the lease, he would like to see it; there is only an email confirmation at this time. Jerry B. added he feels noise with its high decibels would be a problem especially with our residents who work during the evening and sleep during the day.

Mr. Ryan Flaherty, 160 Railroad, Minturn, CO added there was a log fabrication running at North Star Lumber yard and there is noise from welding shop, metal pounding, have there been any complaints about those businesses? Not a great thing for the motel either, the chainsaw noise.

Wiley S. responded that there had not been any complaints about noise in the railroad district.

Hearing no further comment Hawkeye F. closed the Public hearing at 8:30pm

Mr. Burnop asked if he could add some information; no we are past that time in the process.

Kelly B. what other businesses are over in that area; Valley Fabricators, Old Lumber Yard area, Ellison occasionally uses different machinery on his property. Three noise admitting uses in that area.

Hawkeye F. asked if a 6' screened fence will be installed; yes. He suggested tabling or approving just a short term lease maybe through October if the railroad would allow a shorter lease.

George B. stated he would like to see them look at property farther down or just use the site for storage and transfer lot and no cutting. Deliver from there, etc, but cutting would occur elsewhere.

Kelly B. added that the Town is setting a precedence in that area where there is residential.

Hawkeye F. said it is an industrial area, it is zoned for this type of use.

Motion by George B., second by Bill B., to approve the Eagle River Wood and Landscape Services, North Minturn Road Conditional Use as presented including the 13 conditions and with the additional condition of no sawing on site; all voted in favor, Jerry B. voted nay.

### **13. Discussion/Action Items – Resolution 7 – Series 2006 – A Resolution appointing new Members to Minturn Planning & Zoning Commission – by Christensen**

Kelly B. stepped down due to a Conflict of Interest as her husband is on the list of individuals to be appointed.

Hawkeye F. introduced the resolution.

*(Note: Bill B. left the room temporarily.)*

Motion by George B., second by Jerry B., to approve Resolution 7 – Series 2006 – A Resolution appointing new Members to Minturn Planning & Zoning Commission second by Jerry; all voted in favor. *(Note: Bill B. also voted in favor upon returning to the room.)*

*(Note: Hawkeye F. requested a five minute break and Jerry B left the meeting for the evening due to illness.)*

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

Hawkeye F. introduced the item. Discussion ensued that because this was an important issue for Jerry B. that the item be tabled until the July 5<sup>th</sup> meeting.

Motion by Hawkeye F., second by George B. to table Ordinance 8 – Series 2006 (Second Reading) an ordinance establishing a smoking ban within the Town of Minturn; all voted in favor. *(Note: Jerry B. was absent excused.)*

**15. Discussion/Action Items – Ordinance No. 9 – Series 2006 (Second Reading) 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 Tom S., second by Bill B., to table Ordinance No. 9 – Series 2006 (Second Reading) 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. *(Note: Jerry B. was absent excused.)*

**16. Discussion/Action Items – Business License Renewal Update – by Maxwell**

Torrey M. provided her update on the business license renewal process. There are a handful who have not paid or applied at this time. Ongoing process. Council directed Torrey M. to update Jerry B. who had requested this as an agenda item.

Tom S. inquired how we get these people to pay; a set procedure of letters all the way to Municipal Court summons.

T. Maxwell responded that due to her being new she has given lenience to all, however essentially their licenses to do business in the Town of Minturn expired March 31, 2006. She has been in contact with all through either email, phone or US mail, so next step she will bring them in front of Ann C. for further direction.

## **17. Discussion/Action Items – Pilgrim Communication Tower Lease agreement progress – by Capela**

Allen C. directed council to Ann C.'s report.

Dr. Jean Hood, 216 South 17<sup>th</sup> Avenue, Beach Grove, Indiana stated that they have had a radio tower for years. Last year the lease ran out between Pilgrim Comm. and the Town of Minturn and we started going month to month, really thought rent should be raised. He received a letter from Mr. Alan Lanning (previous Minturn Town Manager) notifying Pilgrim about the RV Park and asked if Pilgrim would be willing to move the tower; yes. There ensued a long discussion with Vail Resorts and Pilgrim agreed to move to a specific location. Mr. Lanning left then Ann C. came and it was decided the Town wanted to build a house there. Pilgrim doesn't need a facility; they don't want living quarters there. Pilgrim wants a tower and a trailer. The Town said our trailer is an eye sore. The Town stated they were going to put in a soccer field. Bill B. inquired of Dr. Hood about what size of a building they wanted; the tower and a small trailer or shed. If you want us to move we will move however it will cost Pilgrim Comm a quarter of a million. There was an agreement that we would tear down our tower and build one that we could charge high rents for some type of services. We could put two or three tenants on a new tower.

Alpine Engineering said it will cost ½ million to run water to that property. Karen E. asked Dr. Hood about the parade and he said they would get the Market and events some radio coverage. We are in the radio business; we are not in the water business. This lease came back saying that Pilgrim will pay for all of the water and sewer system and then what is left will then be split between Pilgrim and the Town. Town told Pilgrim that they have to have water and sewer but the Fire Department said they don't have to have it out there unless then want it. Their staff only goes out there very infrequently from 20-30 minutes at a time.

Hawkeye F. added that from what he has gathered, the frustration is that you are on a month to month and that you are not in a hurry to complete this; Mr. Tom McCoy (Pilgrim Comm's attorney) replied that Ann C. was under the impression at that time that Pilgrim was only paying \$1,100 but they have been paying \$3,000 a month since January 1, 2006.

Hawkeye F. asked if they have submitted their lease to the Town.

Mr. McCoy, 6734 Running Mead Drive, Sparks, Nevada responded that he has been working with Allen C. and has been working with the Town of Minturn since January. He came out in February and met personally with Ann C. Ann C. stated after that meeting that Pilgrim should prepare a lease; they did that in early March. Ann C. submitted a counter proposal. Pilgrim had proposed a cellular tower, if approved by the Federal Communications Commission (FCC) to move the tower, etc and they would share revenue with the Town of Minturn. Ann C. struck that out and countered that Pilgrim would put in an infrastructure of water/sewer for that area, Pilgrim would front the cost and recoup the cost from additional tower leases that they might secure. Our biggest problem is that we were never told what the cost would be. We don't need water/sewer, it is an unmanned facility, you don't have water, you don't have sewer. Carol Mulson said we don't need it, why do we have to build an infrastructure? It is this issue that is holding up the lease.

Hawkeye F. inquired if Pilgrim is still willing to move it; yes within the confines of what works for the FCC. Engineering study would have to be done if we move the tower over 100 feet and the Federal Aviation Administration (FAA) would have to authorize as well due to height. We are willing to make that move but if it is not necessary we don't want to move. Water and sewer is broader than us, other parties that have similar concerns, not just our issue.

Hawkeye F. suggested putting together a committee to review this issue.

Tom S. asked of their proposed contract from March what was Pilgrim's lease term and how much were you willing to pay in rent; one five year lease with five extensions for a potential total of 25 years \$180,000 each (\$3,000/month) and then there were increments (15%) for each extension.

Tom S. noted that the land the tower is on is not deed restricted. 1/8 of an acre sells for \$400,000 in this town. No way we are going to give you option after option.

Dr Hood added that the cellular rent that will come in with three or four tenants; 36-40k a year on top of the rent of \$180,000/5 years (\$3,000/month).

Tom S. stated that what is new in this round of talks is that Pilgrim is willing to do a study about moving, not that you will move it.

Mr. McCoy stated in the lease prior we said we would at our cost conduct a study to where we could move it and if it met with the town's approval then we will move it. Where the white stakes are is where the previous study approved moving it to.

Tom S. asked what happens if it doesn't meet requirements and you can't move it? That is a 20 million dollar piece of land we don't want to tie our selves down. What happens if they don't?

Mr. McCoy stated his gut reaction is that within the confines of the property we should be able to move it.

Hawkeye F. inquired how long of a lease would you need to make your return.

Dr. Hood responded they would not be able to get a cellular contract lease on the tower, they would do 25 years. We know you can't tell the future.

Bill B. referred council to page 116 where it states how big of a building or structure to house specific equipment. Dr. Hood clarified that in the original discussions several years ago the concept included a building with living quarters. They only need a small building, they don't need or want housing or an apartment.

Allen C. asked what is in it for the town?

Bill B. inquired what does the lease say? Can we read the lease?

Allen C. added that although the proposed changes are not necessarily unreasonable, all the provisions are subject to negotiation, the difference pertaining to Tower relocation and the cost of bringing water/sewer to the property are substantial. We can work through any of these conditions and he doesn't believe that what they proposed is unreasonable..

Mr. Ron Nickel, 538 Kim Bark St., Longmont, CO stated he runs these stations, if we do put cellular up; and they are licking their chops to get into this valley. We can make money with that but even if we could put them on the tower we are on right now, they won't sign unless we guarantee them 25 years. If we don't give them 25 years they are not going to do it.

Bill B. said then let's not do it.

Mr. Nickel noted that if you state only five years, they are not going to do it.

Shelley B. restated that we didn't get their lease to even look at it.

Tom S. responded he thinks we could continue to negotiate but he is reluctant to sign any length of time long term lease. We would devalue that property substantially if we signed a long term lease.

Shelley B. said getting a committee to negotiate is a great idea. People were against long term leases back when we were talking about the RV Park. Short term yes, long term no.

Kelly B. added that instead of starting a committee when Allen C. and Ann C. have put so much work into this already, why not instead get a list of recommended business points that they think makes sense that work for town. Kelly B. said she would like to summarize what the business terms of the contract should be.

George B. said he would like to see what Allen C. and Ann C. can do. Sorry they made the trip but there must be some value there. Maybe not now but later there will be.

Allen C. stated he would like the council to hear from Ann C. He stated he will give an update on the 28<sup>th</sup>, but he wants Ann C. to be heard on this.

Hawkeye F. suggested that they should review their lease, Ann C. and Allen C. will report back to Council and we will take it from there.

*(Note: Hawkeye F. requested a five minute break.)*

## **18. Discussion/Action Items – Report by Town Treasurer on the Town's Water Fund – by Brunvand**

Jay B. stated this was a Council request and was prepared to answer questions if they had any. Hawkeye F. stated he would get with Jay B. during the day if he had questions and encouraged others to do the same.

**19. Discussion/Action Items - Designate parking at Eagle Street Park – by Councilman Sullivan**

Tom S. said that this was brought up previously about the parking to the south of the basketball court and that it should not be designated “No Overnight Parking”. The signs have been removed and he did not feel they should be put back up.

Hawkeye F. stated that staff was going to find out why the no overnight parking signs were up in the first place; research why it should be no overnight. Council was reminded that it was due to Wassmer’s parking lease with the Town. Hawkeye F. stated that it had to do with snow removal also. He asked if Council would like staff to research this and come back; yes.

George B. added that if they could park overnight then residents can park there since they are losing parking.

Allen C. requested that Jay B. look at Wassmer’s lease and see what it is says; Jay B. responded that he has non-exclusive right to park there. The recommendation is that he park there and other places. Hawkeye F. asked if he is paying for parking; yes but not for exclusive parking spots.

Hawkeye F. asked Jay B. to come back with recommendation if it will be a problem for people to park there overnight and he thanked Public Works for painting the lines down there, looks good.

**20. Discussion/Action Items - Parking East side of Toledo Street & possible designation for a one way street - by Councilman Sullivan**

Hawkeye F. reported that the Town is paying to have the right of way surveyed to see if we can put some parking there; East Toledo from Main Street to the river.

Tom S. added that it is the best street because it is closest to downtown but we could research other streets to see what we can do. He also stated that he believes there are solutions to the town’s parking issues.

George B. noted that Boulder Street could be designated one way and diagonal, it is probably wide enough. Close to downtown and the Market.

Direction to Staff: Jay B. tell Ann C. to continue with survey of right of way on east of Toledo Street, from Main to the river.

Council agreed to add items to the Future Agenda section as updated below.

Hawkeye F. directed that Executive Session will be resumed to review legal strategy for railroad and update on the Boyd Litigation will be postponed until next Council Meeting.

Executive Session resumed at 9:49pm

## 21. Items to be added to future agendas / work session

- Ginn Annexation Public Hearing – September 6, 2006
- Mike Wheelersburg – Minturn Towne Homes Update – July 5, 2006
- Water meter ownership and maintenance discussion
- Old Town Hall
- Minturn Municipal Code building height limitations for new construction
- Old Town – Minturn Municipal Code Parking Regulations
- Saint Patrick's and remove six month stipulation and let them get the bells
- Install speed bumps on Taylor Street
- Add discussion of light poles on the 100 block of Main Street
- The appointing Kelly B. to the Eagle County Open Space Committee
- Staff research what pay for P&Z in other communities
- Ordinance 9 be added as a special meeting June 28<sup>th</sup>
- Formalizing communication between P&Z and Town Council to be discussed at June 28<sup>th</sup> Special Joint Meeting which will begin at 5:00pm at Town Center

Direction to Staff: Have Ann C. prepare a thank you letter to Ms. Marka Brenner from Council for the use of her property and the lease work regarding 4<sup>th</sup> of July and the Market

## 22. Set Future Meeting Dates

### 1) Council Meetings

- July 5<sup>th</sup>
- July 19<sup>th</sup>
- August 2<sup>nd</sup>

### 2) Planning & Zoning Meetings

- June 28<sup>th</sup>
- July 12<sup>th</sup>
- July 26<sup>th</sup>

### 3) Other

## 23. Adjournment

As there was no additional business to attend to the meeting was adjourned at 10:30pm

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Mayor Gordon "Hawkeye" Flaherty

ATTEST:

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Town Clerk, Jay Brunvand