



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

**Wednesday, August 15, 2007**

**Work Session – 5:00 PM**

**Regular Session – 7:00 PM**

**MAYOR - Gordon “Hawkeye” Flaherty**  
**MAYOR PRO TEM – George Brodin**

**Interim Town Administrator – Gary Suiter**  
**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 Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

**Work Session: 5:00PM**

- Business License Code Review – Dylan/Jay
- Carter Burgess
  - Private Roads and other infrastructure requirement for the Battle Mountain Project
  - Revised PUD Guide

**Regular Session – 7:00PM**

**1. Call to Order**

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 5:03 pm. Roll call: Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Bill Burnett, Tom

Sullivan, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner (*Note: Tom and Kelly were late*).

Staff present were, Interim Town Administrator Gary Suiter, Town Planner Chris Cerimele, Town Treasurer Jay Brunvand, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova, Economic Development Director Ashley King and Assistant to Town Manager Dylan Zastrow.

## EXECUTIVE SESSION

### **2. Minturn Town Council will convene into executive session: (30 Min)**

Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys Allen Christensen and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation

Motion by George B, second by Shelley B, to convene into Executive Session pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys Allen Christensen and Anne Castle for the purpose of receiving legal advice on the Ginn Annexation/PUD

### **3. Discussion/Action or Direction to Town Manager and Town Attorneys from the Executive Session (5 Min.)**

There was no direction to Staff or Town Attorneys from the executive session

Council Adjourned into a work session at 5:41pm to discuss the current status of the MMC relating to Business Licensing in the Town Of Minturn and for updates and advise from Carter Burgess on Private Roads and other infrastructure requirement for the Battle Mountain Project and the Revised PUD Guide for the Ginn resorts project. (*Note: Shelley B. left @ 6:45pm*)

Council Reconvened into regular session at 7:14pm

### **4. Approval of Agenda (5 min).**

- a. Items to be pulled or added
- b. Order of the Agenda Items

Motion by Kelly B, second by George B, to approve the August 15, 2007 Council Meeting Agenda as presented. *All Voted in Favor (Note: Shelley B. was absent/excused)*

### **5. Approval of Minutes and Action Report (5 Min)**

- August 1, 2007 Town Council Meeting
- Review/Comment – Council Action Report

Motion by Bill B, second by Kelly B, to approve the August 1, 2007 Council Meeting Minutes as presented. *All Voted in Favor (Note: Shelley B. was absent/excused)*

## **6. Liquor License**

**Town of Minturn, Special Events Liquor License; September 22, 2007, 302 Pine Street; Ashley King, Event Coordinator - Christensen/Martinez**

Council Convened as the Town of Minturn Liquor License Authority:

Agenda item was introduced and referred to Ashley K. for summary. She stated the application information was on page 43 of the Council packet. This liquor license application is for the Spirit of the West Fest/Cowboy Poetry Special Event. Staff recommends the Council approves the special event liquor license request.

Hawkeye: He opened the public hearing on the liquor license and explained the process.

Motion by Hawkeye, second by George B, to set the boundaries for the liquor license as 801 Cemetery Road Minturn CO/Little Beach Park as to be held by Town Staff Ashley King at 302 Pine Street Minturn CO. He then asked if there were any comments from the audience for or against this liquor license request.

There were no public comments and Hawkeye then closed the public hearing.

Hawkeye: The premises for the liquor license will be the location of the Little Beach Park area.

Motion by Tom S, second by George B, to approve the Town Of Minturn Special Events Liquor License, Ashley King, as presented. *All Voted in Favor (Note: Shelley B. was absent/excused)*

## **7. Special Presentation/Individual Introductions/Citizen Recognition/Project Update**

- Minturn Town Homes – Hall

Chris C: He had nothing to add to his report or the special presentation.

Steve Isom: 214 Capital Street, Eagle CO- On behalf of Minturn Town Homes.

We have been working with the project manager and Alpine Engineering on what the detailed plans were for the project and where the project is currently. Jim McNeil of Alpine Engineering asked for an overlay of the project and after reviewing our plans everything was done within a foot of what the original plans were. We then looked at the parking on the site. It shows there are 58 parking spots on the property and there are only 54 required for the project. As for the snow storage there is snow storage @ G & E buildings, and in between buildings A & B. The transformer is also a problem and has to be moved 18 inches to be out of the right of way. Most of the sidewalks have been built but there needs to be a sidewalk

built in the area the transformer is currently located. We will have to do this once we figure out where the transformer will be relocated.

Chris C: I would like to interject for a moment and comment on his statement. The area he is describing as snow storage is not sufficient. The area is on a slide and will create seepage and runoff. Staff and Chuck Lanci have looked over the snow storage and it is unacceptable. Also the Town has to survey the other areas he has described as snow storage before it is approved. There are some outstanding issues that need to be addressed before this project is complete.

Mr. Isom: We have built everything to Carol Mulson's (Deputy Chief Fire Protection ERFD) specifications after her approval.

Chris C: Aspects in the project plans have changed since they were reviewed and approved by Carol, we need an updated plan since the changes and we need to revisit the issues. Carol needs to review the changed plans and address these issues.

Mr. Isom: Since the beginning of planning we have only changed the location of one building in the project. Alpine Engineering is researching and addressing the snow storage concerns the Town Council has. We will get a hold of Carol regarding proposed changes from the original plans and seek her approval. The issue is when the ILC is lined up over our plans it is very close, we are not far off here. Is there anything else that needs to be addressed before we attempt to finish this project?

Tom S: How did you come up with the painted line for the parking?

Aubrey Hall of C & B Development: The surveyor came out and marked the area and created those lines.

Tom S: There were spots marking the lined area and then when the line was actually painted the line was about 1-2 feet off of what it needs to be. Also, the sidewalk that has been constructed is unacceptable. You need a curb and some asphalt to make the sidewalk level with the road.

Jim McNeil-Alpine Engineering: To make the side walk and drainage work we have to move the transformer. To get the sidewalk in there I don't think there is going to be enough room if we keep the transformer in that location even if it is moved back 18 inches or so. We will need to move the transformer to another location and widen the entire area in order to build a standard sidewalk. We will have to lay some piping for wiring to the relocated area of the transformer.

Tom S: How are you going to raise the sidewalks 6 inches to make them standard?

Mr. McNeil: We are going to raise it up and have it flush with the asphalt.

Tom S: You need a curb to have a sidewalk. You built your buildings too low thus creating the gap in the road and sidewalk.

McNeil: It seems that the plans are to what Mr. Isom presented for approval.

Tom S: The formation there doesn't constitute a sidewalk. Also, did you get permission to build a shotcrete wall in that location?

Mr. McNeil: I believe the project manager has gotten approval but, that is not Alpine Engineering's issue.

Tom S: It wasn't approved, it wasn't planned and we are not going to have the sight of a shotcrete wall as an entrance to our Town. Is this project and the changes required going to be done before the beginning of winter?

Mr. McNeil: The paving, sidewalks and drainage will be done before winter. The relocation of the transformer depends on Xcel Energy and their availability.

Allen C: It seems that the whole drainage needs to be moved in order to be uniform and to standards.

Mr. McNeil: There isn't enough room to deal with the drainage that will ensue on the property so we will have to lay piping and divert the drainage from the site.

Tom S: There was an agreement with the Town to have 40 ft easements which stated there are to be no retaining walls within that easement. There are retaining walls within those easements up to 10 ft tall, that area is supposed to be an access area. You cannot have an access area with 10 foot retaining walls.

Jim Cummeford of C & B Development: We had to put the retaining wall in order to maintain the access area you are talking about.

Tom S: In a previous meeting your attorney agreed to not having the retaining walls in the access point area.

Mr. Cummeford: We have always had the retaining wall in the project plans in order to preserve the access area.

Tom S: Do you have permission to have a retaining wall in the Union Pacific (UP) Railroad right of way?

Mr. Cummeford: We will talk it over with UP and get back to the Council.

Chris C: I would like to add that the parking stripe is a concern as well. I asked them if the dots on the pavement were the surveyed line and they weren't sure. Then the line was painted and it was about a foot off what was originally there. I would like the surveyor to sign off on the surveyed area and location of the parking boundaries.

Mr. Cummeford: The issues with the snow storage plan.....

..... Chris C: There was snow storage on the concept plan and then the plans changed and I never saw a new plan for the snow storage.

Mr. Cummeford: We have new plans and we will present them to the Town.

Tom S: When do you think the Council will have answers to our concerns?

Mr. Cummeford: I will be back here within two weeks and report to Council on our progress.

Mr. Gallagher-A Minturn Resident located at 475 Pine Street: I cannot believe that this project was ever approved and I appreciate Tom's efforts in correcting all the problems and mistakes involved in the project. I was up there today and saw a truck in the right of way, past the line that was painted for parking. I would like to have those areas posted as parking.

Hawkeye: I remember the agreement, we said if the cars can't fit in the designated areas without being in the right away then it needs to be marked as no parking.

Mr. Cummeford: We have spoken to Chief about such concerns and we will work with the Town and Chief to fix the problem. People are using the garages as storage unfortunately and that is creating some of the problem. We will also have to work with the residents to remedy the situation.

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

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

## **10. Town Administrator's Report (10 Min)**

Gary Suiter: You may notice this is a new format for Staff reports. I have compiled all of the Staff reports and consolidated them into the Manager's report. Not going through line by line I have put an asterisk next to the items I need Council direction on. One issue is to set a date for the Manager/Town Council retreat. I have listed some suggested dates in my Manager's report. I am also wondering if Council members prefer if the retreat is in or out of

Town. I also recommend all Council members attend, if some do not it will not be productive.

Bill B: Can we hold two evening meetings and not one full day meeting, I think we will get a better response that way?

Gary S: Yes we can do what ever Council wants to do, I just need direction. We need to do this sooner than later though.

Kelly B: I will be gone until the 25<sup>th</sup> of August

Bill B: I won't be here the 28<sup>th</sup> of August.

Hawkeye: We will try the 29<sup>th</sup> and 30<sup>th</sup> but can we have a few dates in September as well in case Shelley cannot make it?

Gary S: I will call Shelley and find out what she can make and call all the Council Members with specific dates. I will put together an agenda and talk to the Mayor about the process and what our future plans are looking like.

Also, a brief update: We met with the United States Forest Service (USFS) and it was productive meeting. We have decided we are waiting for the survey and appraisal of the "bone yard" that will be done in October and we have set up a meeting with the USFS and Congressional Representatives for October 9 2007 @ 1:00pm. We know their cash thresholds at this point and know where they are coming from and what they are looking for.

Old Town Hall: I have spoken to Staff and the Mayor on what we want at that site. The Staff has some concerns. We are suggesting we wait through the winter before taking any major or costly action on this property. This is an important piece of property and asset to the Town so we need to put some thought into what the future of the site will be. We can get public comment and approach it that way. I am looking for direction from Council on this issue.

Bill B: I suggest we use it as parking now and during the winter as a snow storage location for the Town. We have had parking problems for a long time and we should address those issues with this piece of property.

Kelly B: How much prep work would it take to make that property a suitable parking lot for the winter time?

Rob S: It was filled with native fill and we would have to put more refined fill in there and grade it.

Jerry B: Is that property zoned for a parking lot?

Chris C: No, but we can apply for a conditional use.

George B: It is an ugly site right now and is becoming a mud hole right now, so we need to address it now so it doesn't become a bigger mess.

Jerry B: We can put gravel on the piece of property but, snow storage will make it an even bigger mess.

Bill B: We have been dumping there even when the Old Town Hall building was there, what would the difference make?

Gary S: I can take this back to the Staff level and come up with some proposals for Council.

George B: See what it will take to make it a parking lot.

Jerry B: A parking lot will create a storage unit for non-running cars and other junk not belonging to the Town.

Gary S: Staff will come up with some things and get back to Council with some valid proposals.

Tom S: Does any project on the site need to go out to bid?

Gary S: The only suggestion I have is to follow the law.

Tom S: Didn't Johnnies give us some numbers on what it would take to put in a sprinkler system and sod the area?

Hawkeye: We have gotten numbers for sod, sidewalk and sprinklers at the last meeting from Carter Burgess.

Tom S: We are not going to be building any structure there in the near future so we need to make it more presentable for the neighbors until it is decided what will be put there.

Hawkeye: We told the Citizens we were going to put sod on that property and we need to follow through with what the Council has said.

George B: I agree

Tom S: I agree.

Gary: I will be candid with the Council. Once you make it green people will get use to it and if you want to change it people will fight it. If you are going to make it a park, then keep it park and open space.

Kelly B: Long term it is too valuable to construct something in the immediate.

Hawkeye: I say we go with the sod and not the sprinkler.

Bill B: Weren't we going to put sod there, no sprinkler system and just a freeze free spigot?

Gary S: I am hearing from Council to put soil, sod, sidewalk and spigot. Staff will present something to Council at the next meeting.

Hawkeye: Rob, have you gotten word from CDOT that if we don't use the grant money soon what will happen to it?

Rob S: Not as of yet I will review it and possibly have them roll it over to next year. I will update Council at the next meeting.

## 10. Town Council Comments (10 Min)

Hawkeye informed the audience that the next Ginn Public hearing is on 9/5

### DISCUSSION, HEARINGS AND ACTION ITEMS

## 11. Discussion/Action Item - Public Hearing on CU 07-04; Hi Cranes, Inc Mechanic Shop Conditional Use - Cerimele (15 Min)

Chris C: He introduced the CU public hearing of the applicant Kurt Harvey of Hi Cranes, Inc. He stated there were lease questions from the previous public hearing. He stated they have provided an updated lease agreement with UP which states they have added more property to their lease for parking and that qualifies Hi Cranes, Inc. for approval of their CU. Staff recommends that the Hi Cranes, Inc. application for a CU be approved.

Hawkeye: He opened the public hearing on CU 07-04; Hi Cranes, Inc. Mechanic Shop. He then explained the process of the public hearing: The order of the public hearing is important. It begins with the Staff presentation, the Applicant presentation, Public comment (verbal or written) the applicant's response to any testimony and then staff can provide response to any testimony. Council will then get a chance to discuss it once the public hearing has been closed. Has anyone from Council had contact with the public regarding this public hearing?

Bill B. No, Tom S. No, Kelly B. No, Jerry B. No, George B. No and Hawkeye No. (*Note: Shelley B. was absent/excused*)

Kurt Harvey representing Hi Cranes, Inc.

I am asking Council to approve the Hi Cranes, Inc. CU application. I have added area to my lease and this should be more than sufficient for the CU.

Hawkeye: Is there anyone from the audience that would like to respond to the applicants CU?

Chris C: He did double his area for parking, the area in question, and I think it is more than sufficient to address the Council's concerns.

Hawkeye: I agree.

Jerry B: On the CU permit, it states that your business deals with cranes. There is no reason for you to store hot tubs, cars and other non affiliated items on the leased property. I think that if an item on your leased area doesn't have anything to do with your business then it shouldn't be stored there. It should be only business related items stored on the property. All we ask you to do is what you are suppose to do and if these other items are going to be stored there I can't go along with it.

Mr. Harvey: I understand that there shouldn't be any non work related items stored on the leased property and I have been working on removing them. The broken down vehicle was registered to HI Cranes and it is fixed and sold now. As for Hot tubs I get paid to dispose of them so there are some there every so often. Everything currently there I use.

Jerry B: I see surplus there.

Mr. Harvey: That has all been cleaned up.

Hawkeye: He closed the public hearing and discussion is now between Council. Jerry and I walk down there and it appears things have been getting cleaned up.

Motion by Tom B, second by Bill B, to approve CU 07-04; Hi Cranes, Inc. mechanic shop Conditional Use with the conditions stated in the report. *All Voted in Favor (Note: Shelley B. was absent/excused)*

**12. Discussion/Action Item – Public Hearing on CU 07-06; Tom Sullivan is requesting Conditional Use approval for approximately 1,900 square feet of commercial space in the mixed-use zone of the Old Town Character Area – Cerimele (15 Min)**

Chris C: I recommend the Council table this item until the October 3, 2007 Town Council Meeting.

Motion by George B, second by Kelly B, to table CU 07-06; Tom Sullivan's requested Conditional Use approval for approximately 1,900 square feet of commercial space in the mixed-use zone of the Old Town Character Area until October 3, 2007. *All Voted in Favor (Note: Tom abstained and Shelley B. was absent/excused)*

**13. Discussion Item – Town Council Interaction with Town Manager and Staff – Flaherty/Suiter (20 Min)**

Hawkeye: We need to make sure things are clear on this item, it seemed as though processes and procedures were changed during the last management.

Bill B: Hawkeye, what is your stance on the issue?

Hawkeye: I go to the Town Center maybe twice a week and get my mail and go over the agenda the week before the Town Council Meeting.

Allen C: Council has access to department heads to inquiry but not discussion or direction. There is a Resolution protecting this specific issue. That is why Kelly's enquiry got sent out to every member on the board. I don't think you understand the impact you have on Staff when you address them in person and give direction.

Hawkeye: I think that is the issue I was attempting to convey but not clearly enough.

George B: I feel like you are giving us an order. I feel that you are telling us to smarten up. Are you going to work with staff on this issue? I think Staff should tell us no when they feel like they are in an uncomfortable situation.

Gary S: I will be working with Staff and the Council (during the retreat) to steer everyone in the right direction so we are reading from the same music sheet.

Tom S: George, I think that is hard to address your boss and say no so I think it's up to us to prevent this from happening.

Hawkeye: Gary, are you ok with Council information enquiries, ones we need an answer to? I mean Council Members shouldn't have to wait three weeks to get a Council consensus on if that is ok information to give out. Where do we draw the line?

Gary S: Sometimes a Council Member will ask a Staff Member for information that takes mass amounts of administrative time to gather. If that is the case I will put it on the agenda for Council to vote on to see if everyone is in consensus to be spending Staff time on the issue. I say about 1 hour of administrative time is good before turning it to a Council vote/consensus.

Hawkeye: So you will use your own discretion on these issues?

Gary S: I will take into account time, public policy and anything else that may come up to ensure we are doing what the board wants us to do, not an individual.

**14. Discussion/Action Item – Ordinance 15 – Series 2007 (Second Reading) 15 – 2007 An Ordinance Authorizing the Mayor of the Town Of Minturn to sign an agreement with Brown and Caldwell, Inc, for professional engineering services – Christensen (5 Min)**  
Allen; there were no changes.

Motion by ,George B second by Jerry B, to approve Ordinance No. 15 Series – 2007 (Second Reading) An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Brown and Caldwell, Inc. for professional engineering services. *All voted in favor.*  
(*Note: Shelley B. was absent/excused*)

FUTURE AGENDA ITEMS

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

- Ginn Petitions for Annexation – Continued from: 8/1/07 to 9/5/07
- Public Hearing will be held for the following file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain – Continue 8/1/07 to 9/5/07
- Public Hearing will be held for the following file PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain. – Continue from 8/1/07 to 9/5/07

- Public Hearing will be held for the following file PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan– Continue from 8/1/07 to 9/5/07
- CU 07-03; Tory Enterprises (Budget Trucks) – September 5, 2007
- Possible Water Tank location on Grant Street for the interest of the Town businesses during a water outage –September 5, 2007
- Special Joint Meeting: Town of Minturn and Eagle River Water and Sanitation District - August 22, 2007 @ 10:00am update by Town Attorney
- Detox Program Presentation – Chief

## 16. Set Future Meeting Dates

- a) Council Meetings
  - September 5
  - September 19
  - October 3
- b) Planning & Zoning Commission Meetings
  - August 22
  - September 12
  - September 26
- c) Other
  - Special Joint Meeting: Town Council and ERWSD - 8/22/07
  - Cowboy Poetry – 9/22/07

## 17. Adjournment

Motion by Tom S, second by Bill B, to adjourn the August 15, 2007 Town Council Meeting at 8:33pm. *All voted in Favor*

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Hawkeye Flaherty, Mayor

ATTEST:

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Jay Brunvand, Town Clerk