



2012

Minturn Council Meeting

Wednesday March 7, 2012

Work Session: **5:00pm**
(Town Center)

Regular Session: **6:30pm**
(Town Center)

TOP COUNCIL PRIORITIES:

- Street Repairs with Drainage (by priority) Sidewalk Installations
- Expand Parking and Improve Appearance of Municipal Lot
- Improve Planning and Apply for Infrastructure Grants and Loans.
- Continue Sidewalk Installation Program and Improve Plan with Lafarge
- Implement Streetscape Plan
- Strengthen Marketing and Events
- Clean Up Parking Area on North Taylor Street



Agenda

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

Wednesday March 7, 2012

Executive Session – 5:00pm
Regular Session – 6:30pm

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

TOWN MANAGER – Jim White
TOWN CLERK/TREAS – Jay Brunvand

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
Jerry Bumgarner
Aggie Martinez
John Rosenfeld

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays

Work Session – 5:00pm

- Presentation on updated estimates for road improvements – White/A. Martinez (30min) Pg 4
- Question and Answer – Cerimele (30min)
 - Ordinance 1 – Series 2012 Pg 38
 - Ordinance 2 – Series 2012 Pg 44
- OSAC Presentation Discussion – Cerimele/White (30min) Pg 12

Regular Session – 6:30pm

- 1. Call to Order**
 - a. Roll Call
 - b. Pledge of Allegiance

2. Approval of Agenda

- a. Items to be Pulled or Added

3. Liquor License Authority

- Minturn Country Club Inc. Annual Renewal of a Hotel & Restaurant License; 131 Main St.; TJ Ricci, Owner/Manager – Brunvand (5min)

4. Approval of Minutes and Action Report

- February 15, 2012 Pg 23
- Action Item Report Pg 31

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

6. Special Presentations

- **Special Presentation: Chris Romer - Vail Valley Partnership/Eagle County Economic Council - White**

7. Planning Department Update Pg 33

8. Town Manager's Report Pg 34

9. Town Council Comments

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

10. Discussion/Action: Ordinance 1- 2012 an Ordinance (First Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition in section 16-2-20 of the Town of Minturn Municipal Code – Cerimele (20 min) Pg 38

11. Discussion/Action: Ordinance 2- 2012 an Ordinance (First Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications – Cerimele (30 min) Pg 44

12. Discussion/Action Item: – Resolution 09– Series 2012: A Resolution Appointing a Town Planning Commissioner – Cerimele (20 Min.) Pg 59

13. Discussion/Action: Ordinance 3 – 2012 (First Reading) an Ordinance allowing the sale of Medical Marijuana (45min) Pg 69

EXECUTIVE SESSION

- 14. Pursuant to CRS 24-6-402(4)(a) for the purposes of discussing the purchase of certain USFS land and pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding negotiations – White/Christensen** Pg 91
- 15. Executive Session – Action by Council or Direction to Staff as a result of the Executive Session (5min)**

FUTURE AGENDA ITEMS

16. Next Meeting – March 21, 2012

- Meeting: Special Presentation: Eagle Valley Trails presentation and discussion – Cerimele (30min)
- Discussion/Action: Ordinance 1- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition in section 16-2-20 of the Town of Minturn Municipal Code – Cerimele (20 min)
- Discussion/Action: Ordinance 2- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications – Cerimele (30 min)
- Discussion/Action: Ordinance 3 – 2012 (Second Readings) an Ordinance allowing the sale of Medical Marijuana (20min)
- Council Elect swearing in – Quinn (30min) (4/4/12)

17. Future Meeting

- Council Elect swearing in – Quinn (30min) (4/4/12)

18. Set Future Meeting Dates

a) Council Meetings:

- March 21, 2012
- April 4, 2012
- April 18, 2012

b) Planning & Zoning Commission Meetings:

- April 11, 2012
- May 9, 2012
- June 13, 2012

c) Other Dates:

- Municipal Election – April 3, 2012

19. Adjournment

Jim White
P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
Email: manager@minturn.org



TOWN COUNCIL
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
Councilwoman – Shelley Bellm
Councilwoman – Earle Bidez
Councilman – Jerry Bumgarner
Councilman Aggie Martinez
Councilman – John Rosenfeld

AGENDA ITEM COVER SHEET

AGENDA TITLE: Town of Minturn Road Repair Priorities
MEETING DATE: March 7, 2012
PRESENTER(s): Jim White, Town Manager/Arnold Martinez, Public Works Supervisor
BACKGROUND: The objective for this meeting is to provide an opportunity for Town Council to review bids for roadwork supplied by B&B Excavating in the Town of Minturn and begin planning repairs. Proposed Discussion Items: <ol style="list-style-type: none">1. B&B Bids (need to add 10% to listed price)/Review Proposals2. Photos of Top 2 priority Streets3. Drainage Needs to be Addressed4. Consolidate New Sidewalks into Road Repair planning
CORE ISSUES: Council may want to ask about funding for improvements, CDOT's view of roundabouts, how they feel about slowing traffic down in town (traffic calming), and steps that we can take as a Town to develop and get improvement projects into their budget cycle.
BUDGET/FINANCE IMPLICATIONS: \$10,000 currently budgeted in 2012 \$80,000 sought through Eagle County grant Would need to use some of savings to complete projects
STAFF RECOMMENDATION/MOTION: Recommend approval of at least one priority to be completed in 2012. Continued delay will result in further deterioration and even higher costs in the future.

B & B
EXCAVATING

REDI-MIX

PAVING

SAND &
GRAVEL

P.O. Box 4870
Eagle, CO 81631
Ph. 970-328-1734
Fax 970-328-1735

To: Town Of Minturn	Contact: Chris Cerimele
Address: P.O. Box 309	Phone: 376-4270
Minturn, CO 81645	Fax: 827-5545
Project Name: Pine Street Drainage Project	Bid Number:
Project Location: Pine Street, Minturn, CO	Bid Date: 5/27/2011

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Mobilization & Project Management.	1.00	LS	\$1,474.04	\$1,474.04
2	Bo-Mag Existing Asphalt To A Depth Of 4 Inches (595 LF Of Roadway, Approx. 34 Feet Wide), 20,230 SF.	20,230.00	SF	\$0.50	\$10,115.00
3	Remove, Haul-off And Dispose Of 130 LF Of Existing Concrete Pan.	130.00	LF	\$19.95	\$2,593.50
4	Prep, Form, Pour And Finish 900 LF Of 2 1/2 Foot Concrete Pan.	900.00	LF	\$27.54	\$24,786.00
5	Prep Roadway For Paving (Including 1 Inch Of Additional Road Base), 595 LF (30 Feet Wide).	595.00	LF	\$16.77	\$9,978.15
6	Pave Roadway With 4 Inches Of Asphalt, 17,850 SF	1.00	LS	\$46,442.10	\$46,442.10
7	Misc Tie-ins, Adjustments And Add-ons.	1.00	LS	\$8,703.66	\$8,703.66
Total Price for above Items:					\$104,092.45

Total Bid Price: \$104,092.45

Notes:

- This is a budget only: Scope of work to be reviewed prior to final proposal.
- Utility locates are the responsibility of the owner/owner representative. Price does not include relocation of utilities if needed.
- Additional excavation due to unsuitable materials (rock, soft spots, etc.) can be done at time and material rates.
- Permits, fees, meters, PRV's, manhole and gate valve adjustments are excluded.
- Owner to provide water on site for construction crews.
- Asphalt pricing is based on today's asphalt oil price. Due to the volatility in the asphalt oil market, the price will need to be adjusted based on the asphalt oil price when the project is constructed.
- Price is contingent on fuel cost: Bid price to be adjusted at time of construction.
- Bond(s) payment(s) are excluded.
- Rock excavation as defined by the CDOT specifications is excluded.
- Items not included are excluded!

Payment Terms:



B & B
EXCAVATING

RED-MIX

PAVING

SAND &
GRAVEL

P.O. Box 4870
Eagle, CO 81631
Ph. 970-328-1734
Fax 970-328-1735

To: Town Of Minturn	Contact: Arnold Martinez
Address: P.O. Box 309 Minturn, CO 81645	Phone: 376-4270 Fax: 827-5545
Project Name: Town Of Minturn - Eagle Street	Bid Number:
Project Location: Minturn, CO	Bid Date: 9/30/2011

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Mobilization & Project Management.	1.00	LS	\$3,687.05	\$3,687.05
2	Sawcut Existing Asphalt, Remove, Haul-Off And Dispose Of Approx. 16,551 SF.	16,551.00	SF	\$0.73	\$12,082.23
3	Cut Subgrade To A Depth Of One Foot, To Make Room For 8 Inches Of Class 6 Roadbase And 4 Inches Of Asphalt, Approx. 16551 SF.	16,551.00	SF	\$1.67	\$27,640.17
4	Install Two Inlets (Tie- Into Existing Storm Water Systems).	2.00	EACH	\$4,916.48	\$9,832.96
5	Prep Roadway For Asphalt With 8 Inches Of Class 6 Roadbase, Approx. 16,551 SF.	16,551.00	SF	\$2.30	\$38,067.30
6	Pave Roadway With 4 Inches Of Asphalt, Approx. 16,551 SF.	16,551.00	SF	\$3.51	\$58,094.01
Total Price for above Items:					\$149,403.72

Total Bid Price: \$149,403.72

Notes:

- This is a budget only: Scope of work to be determined prior to final pricing.
- Additional excavation due to unsuitable materials (rock, soft spots, etc.) can be done at time and material rates.
- Utility locates are the responsibility of the owner/owner representative. Price does not include relocation of utilities if needed. price does not include Pot Holeing.
- Owner to provide water on site for construction crews.
- Elevations are critical for proper drainage. We CAN NOT warrant any work without 2% slope for drainage.
- Asphalt pricing is based on today's asphalt oil price. Due to the volatility in the asphalt oil market, the price will need to be adjusted based on the asphalt oil price when the project is constructed.
- Price is contingent on fuel cost: Bid price to be adjusted at time of construction.
- Permits, fees, bonds, testing, meters, PRV's, manhole and gate valve adjustments are excluded.
- Landscaping and revegetation are excluded.
- Items not included are excluded!

Payment Terms:

2



P.O. Box 4870
 Eagle, CO 81631
 Ph. 970-328-1734
 Fax 970-328-1735

To:	Town Of Minturn	Contact:	Arnold Martinez
Address:	P.O. Box 309 Minturn, CO 81645	Phone:	376-4270
Project Name:	Town Of Minturn - Norman Street (West End)	Fax:	827-5545
Project Location:	Norman Street, Minturn, CO	Bid Number:	
		Bid Date:	9/30/2011

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Mobilization & Project Management.	1.00	LS	\$2,735.08	\$2,735.08
2	Sawcut Existing Asphalt, Remove, Haul-off And Dispose Of Approx. 2,300 SF Of Material.	2,300.00	SF	\$0.93	\$2,139.00
3	Remove Existing Sidewalk 29 X 5.	145.00	SF	\$5.73	\$830.85
4	Cut Subgrade To A Depth Of One Foot, To Make Room For 8 Inches Of Class 6 Roadbase And 4 Inches Of Asphalt, Approx 2,300 SF.	2,300.00	SF	\$2.10	\$4,830.00
5	Prep, Form, Pour And Finish 145 SF Of New Concrete Sidewalk And 94 LF Of 2 1/2 Foot Concrete Pan, 380 SF.	380.00	SF	\$19.49	\$7,406.20
6	Prep Roadway For Asphalt With 8 Inches Of Class 6 Roadbase, 2,100 SF.	2,100.00	SF	\$2.81	\$5,901.00
7	Pave Roadway With 4 Inches Of Asphalt, Approx. 2,100 SF.	2,100.00	SF	\$4.24	\$8,904.00
Total Price for above Items:					\$32,746.13

Total Bid Price: \$32,746.13

Notes:

- This is a budget only: Scope of work to be determined prior to final pricing.
- Additional excavation due to unsuitable materials (rock, soft spots, etc.) can be done at time and material rates.
- Utility locates are the responsibility of the owner/owner representative. Price does not include relocation of utilities if needed. Price does not include Pot Holeing.
- Owner to provide water on site for construction crews.
- Elevations are critical for proper drainage. We CAN NOT warrant any work without 2% slope for drainage.
- Asphalt pricing is based on today's asphalt oil price. Due to the volatility in the asphalt oil market, the price will need to be adjusted based on the asphalt oil price when the project is constructed.
- Price is contingent on fuel cost: Bid price to be adjusted at time of construction.
- Permits, fees, bonds, testing, meters, PRV's, manhole and gate valve adjustments are excluded.
- Landscaping and revegetation are excluded.
- Items not included are excluded!

Payment Terms:

3

B & B
EXCAVATING

REDI-MIX

PAVING

SAND &
GRAVEL

P.O. Box 4870
Eagle, CO 81631
Ph. 970-328-1734
Fax 970-328-1735

To: Town Of Minturn	Contact: Arnold Martinez
Address: P.O. Box 309 Minturn, CO 81645	Phone: 376-4270 Fax: 827-5545
Project Name: Town Of Minturn - Norman Street (East End)	Bid Number:
Project Location: Minturn, CO	Bid Date: 9/30/2011

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Mobilization & Project Management.	1.00	LS	\$2,848.89	\$2,848.89
2	Sawcut Existing Asphalt, Remove, Haul-off And Dispose Of Approx. 3,135 SF.	3,135.00	SF	\$0.81	\$2,539.35
3	Cut Subgrade To A Depth Of One Foot, To Make Room For 8 Inches Of Class 6 Roadbase And 4 Inches Of Asphalt, Approx. 3,135 SF.	3,135.00	SF	\$2.41	\$7,555.35
4	Prep, Form, Pour And Finish 96 LF 2 1/2 Foot Concrete Pan, 240 SF.	240.00	SF	\$20.03	\$4,807.20
5	Prep Roadway For Asphalt With 8 Inches Of Class 6 Roadbase, 3,135 SF.	3,135.00	SF	\$2.72	\$8,527.20
6	Pave Roadway With 4 Inches Of Asphalt, 3,135 SF.	3,135.00	SF	\$3.71	\$11,630.85
Total Price for above Items:					\$37,908.84

Total Bid Price: \$37,908.84

Notes:

- This is a budget only: Scope of work to be determined prior to final pricing.
- Additional excavation due to unsuitable materials (rock, soft spots, etc.) can be done at time and material rates.
- Utility locates are the responsibility of the owner/owner representative. Price does not include relocation of utilities if needed. Price does not include Pot Hoing.
- Owner to provide water on site for construction crews.
- Elevations are critical for proper drainage. We CAN NOT warrant any work without 2% slope for drainage.
- Asphalt pricing is based on today's asphalt oil price. Due to the volatility in the asphalt oil market, the price will need to be adjusted based on the asphalt oil price when the project is constructed.
- Price is contingent on fuel cost: Bid price to be adjusted at time of construction.
- Permits, fees, bonds, testing, meters, PRV's, manhole and gate valve adjustments are excluded.
- Landscaping and revegetation are excluded.
- Items not included are excluded!

Payment Terms:

4



P.O. Box 4870
 Eagle, CO 81631
 Ph. 970-328-1734
 Fax 970-328-1735

To: Town Of Minturn	Contact: Arnold Martinez
Address: P.O. Box 309 Minturn, CO 81645	Phone: 376-4270 Fax: 827-5545
Project Name: Town Of Minturn - Mann Street	Bid Number:
Project Location: Mann Street, Minturn, CO	Bid Date: 9/30/2011

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Mobilization & Project Management	1.00	LS	\$3,279.03	\$3,279.03
2	Sawcut Existing Asphalt, Remove, Haul-off And Dispose Of Approx. 4,660 SF.	4,660.00	SF	\$0.93	\$4,333.80
3	Cut Subgrade To A Depth Of One Foot, To Make Room For 8 Inches Of Class 6 Roadbase And 4 Inches Of Asphalt, Approx. 4,660 SF.	4,660.00	SF	\$2.55	\$11,883.00
4	Prep, Form, Pour And Finish 240 LF Of 2 1/2 Foot Concrete Pan, 600 SF.	600.00	SF	\$19.11	\$11,466.00
5	Prep Roadway For Asphalt With 8 Inches Of Class 6 Roadbase, 4,060 SF.	4,060.00	SF	\$1.95	\$7,917.00
6	Pave Roadway With 4 Inches Of Asphalt, 4,060 SF.	4,060.00	SF	\$3.76	\$15,265.60
Total Price for above Items:					\$54,144.43

Total Bid Price: \$54,144.43

Notes:

- This is a budget: Scope of work to be determined prior to final pricing.
- Additional excavation due to unsuitable materials (rock, soft spots, etc.) can be done at time and material rates.
- Utility locates are the responsibility of the owner/owner representative. Price does not include relocation of utilities if needed. Price does not include Pot-Holing.
- Owner to provide water on site for construction crews.
- Elevations are critical for proper drainage. We CAN NOT warrant any work without 2% slope for drainage.
- Asphalt pricing is based on today's asphalt oil price. Due to the volatility in the asphalt oil market, the price will need to be adjusted based on the asphalt oil price when the project is constructed.
- Price is contingent on fuel cost: Bid price to be adjusted at time of construction.
- Permits, fees, bonbs, testing, meters, PRV's, manhole and gate valve adjustments are excluded.
- Landscaping and revegetation are excluded.
- Items not included are excluded!

Payment Terms:

5

① Pine St Toledo - Norman





Jim White
 Town Manager
 P.O. Box 309 ♦ 302 Pine Street
 Minturn, CO 81645
 Phone: 970-827-5645
 Fax: 970-827-5545
 Email: manager@minturn.org



Town Council
 Mayor – Gordon “Hawkeye” Flaherty
 Mayor Pro Tem – George Brodin
 Councilmember – Shelley Bellm
 Councilmember – Earle Bidez
 Councilmember – Jerry Bumgarner
 Councilmember – Aggie Martinez
 Councilmember – John Rosenfeld

Proposal for U.S. Forest Service Bone Yard Parcel

Investment:

Town of Minturn Contribution	\$ _____
Battle Mountain Contribution	\$ _____
TOTAL	\$ _____

Other Costs:

Restrooms (OSAC Design Guidelines)	\$ _____
Parking Lot (OSAC Guidelines)	\$ _____
Barb Wire Removal (Town)	\$ _____
Split Rail Fence Installation (Town)	\$ _____
River Access Points (OSAC Guidelines)	\$ _____
TOTAL	\$ _____

Maintenance (by the Town of Minturn in perpetuity; OSAC oversight in perpetuity)

Annual Weed Mitigation
 Restroom Service
 Trash Pickup
 Snow Plowing

Summer Uses:

River Access, Fishing, Boating, Tubing, Wading, Picnics, Nature Walk with interpretive signage, Wildlife Viewing.

Winter Uses:

Snow Shoeing, Cross Country (Nordic) trail, Snowman Contest

Future Uses:

ECO Trail Bike Path Segment

Price: \$2.3 million

Requested Funding from OSAC

\$ _____

Public Relations:

Road Signs designating Open Space Area through OSAC Funds

Sign Design

This Open Space was provided through funding from the Eagle County Open Space Advisory Committee
Circa 2012
Eagle County Commissioners: Peter Runyon, Sara Fisher, & Jon Stavney.

OSAC Desired Elements

Protecting open space from the imminent threat of development
Quarter mile of public access to the Eagle River
Public access to restroom facilities
Represents first investment in open space in eastern area of Eagle County

Jim White
Town Manager
Town of Minturn
302 Pine St / PO Box 309
Minturn, CO 81645
(970) 827-5645 (w)
(970) 390-5102 (cell)
manager@minturn.org

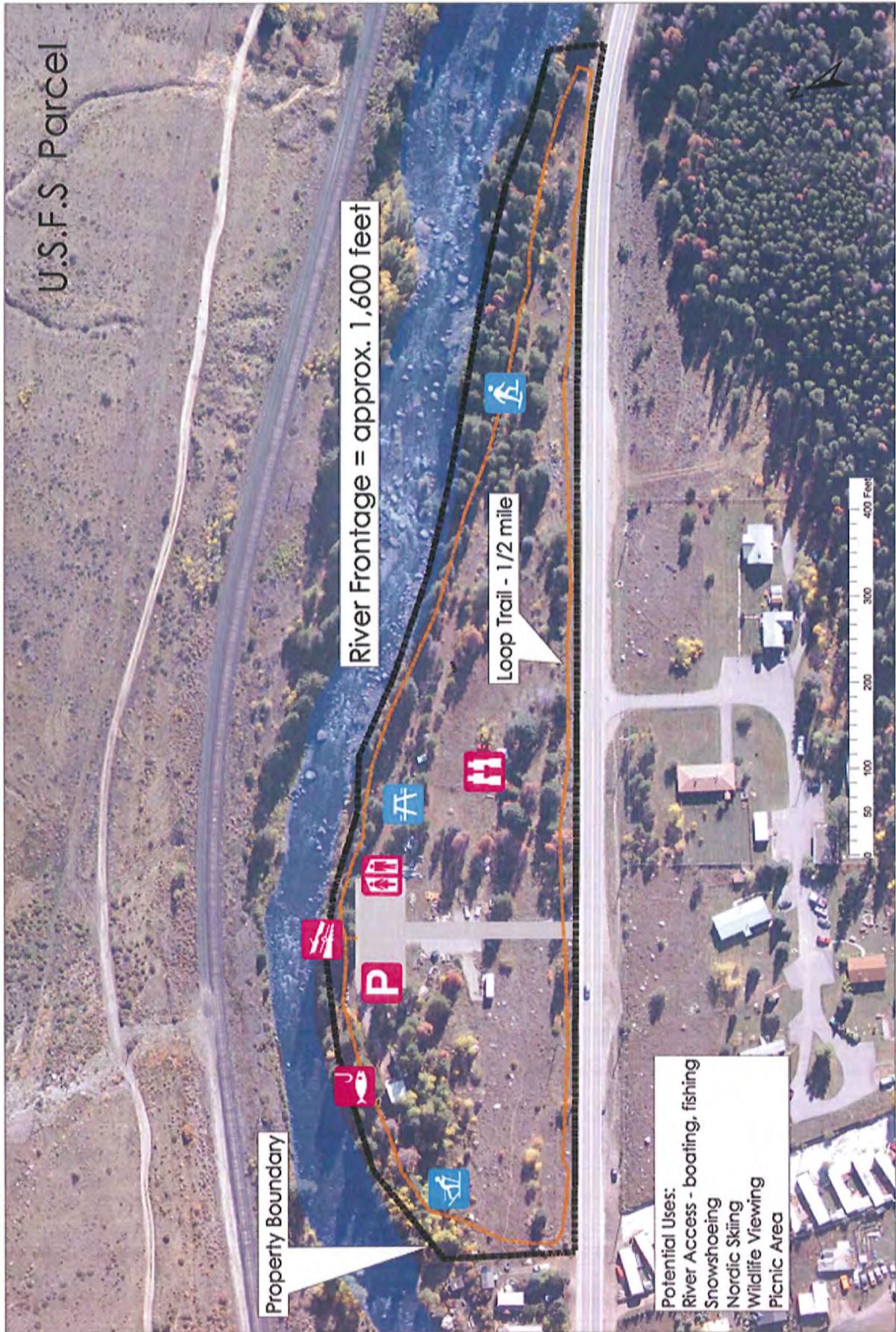


This Open Space was provided
through funding from the

Eagle County Open Space Advisory Committee
Circa 2012

Eagle County Commissioners:
Peter Runyon, Sara Fisher & Jon Stavney

U.S.F.S Parcel



Property Boundary

River Frontage = approx. 1,600 feet

Loop Trail - 1/2 mile

Potential Uses:
River Access - boating, fishing
Snowshoeing
Nordic Skiing
Wildlife Viewing
Picnic Area

**P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
Jay Brunvand, Treasurer/Clerk
Email: treasurer@minturn.org**



Town Council
MR. HAWKEYE FLAHERTY, MAYOR
MR. GEORGE BRODIN, MAYOR PRO TEM
MR. AGGIE MARTINEZ, COUNCILMAN
MR. EARLE BIDEZ, COUNCILMAN
MS. SHELLEY BELLM, COUNCILWOMAN
MR. JERRY BUMGARNER, COUNCILMAN
MS. JOHN ROSENFELD, COUNCILWOMAN

AGENDA ITEM COVER SHEET

AGENDA TITLE: Minturn Country Club Inc, annual renewal of a Hotel/Restaurant Liquor License; 131 Main Street; TJ Ricci, Owner/Manager
MEETING DATE: March 7, 2012
PRESENTER: Brunvand
BACKGROUND: This is an application for annual renewal of a Hotel/Restaurant liquor license. The application has been reviewed by the Clerk, Police Chief, and the Town Attorney. Any concerns were addressed at Staff level and this application is clear for approval.
CORE ISSUES:
BUDGET/FINANCE IMPLICATIONS: An annual renewal fee of \$125.00 has been paid to the Town.
STAFF RECOMMENDATION/MOTION: "Motion to approve the Minturn Country Club Inc, annual renewal of a Hotel/Restaurant Liquor License; 131 Main Street; TJ Ricci, Owner/Manager as presented."

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**



MINTURN COUNTRY CLUB INC
 MINTURN COUNTRY CLUB
 PO BOX 517
 MINTURN CO 81645-0517

License Number 04-92147-0000	License Type 1970
Liability Information 44 030 713910 C 060790	
Business Location 131 MAIN ST MINTURN CO	
Current License Expires JUN 06, 2012	
DEPARTMENTAL USE ONLY	
Total Amount Due	
Total Paid \$	Date

- This renewal reflects no changes from the last application. Complete page 2 and file now!
- Yes there are changes from the last application.** If applicant is a Corporation or Limited Liability company, use DR 8177 and send in with this renewal. Any other changes of ownership require a transfer of ownership. See your Local Licensing Authority immediately.

Wholesaler, manufacturer, importer, and public transportation system license renewals do not need Local Licensing Authority approval and must be returned directly to the Colorado Department of Revenue at least 30 days prior to the current license expiration date.

This application for renewal must be returned to your CITY OR COUNTY Licensing Authority at least 45 days prior to the expiration date of your current license. Failure to do so may result in your license not being renewed. Include both pages of this renewal and payment.

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature <i>J. Garcia</i>	Date 2/16/12	Business Phone 970 827 4114
Title SECRETARY/TREASURER	Sales Tax Number 04-92147-0000	

REPORT AND APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S.
THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority for	Date
Signature	Title
Attest	

DO NOT DETACH

DO NOT DETACH

DO NOT DETACH

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your banking account electronically.

21

Business Name MINTURN COUNTRY CLUB	LICENSE NUMBER (Use for all reference) 04-92147-0000		PERIOD 06-13
TYPE OF LICENSE ISSUED HOTEL AND RESTAURANT LIQUOR LICENSE - MALT, VINOUS, AND SPIRITUOUS	CASH FUND 2320-100(999) \$ 50.00	STATE FEE 1970-750(999) \$ 25.00	CITY 85% OAP 2180-100(999) \$ 425.00

SUB-TOTAL \$ 500.00

ADD \$100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) \$ _____

TOTAL AMOUNT DUE \$ _____

ATTACHMENT TO LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

**This page must be completed and attached to your signed renewal application form.
 Failure to include this page with the application may result in your license not being renewed.**

Trade Name of Establishment MINTURN COUNTRY CLUB		State License Number 04-92147-0006	
1. Operating Manager TJ Ricci J J HOWNESSY III		Home Address 2576 DAVOSTR, VAIL, CO RR CASTLE PEAK, EAGLE, CO	
		Date of Birth 8/29/46 9/18/55	
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: RENTED If rented, expiration date of lease: 5/2018			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6. Does the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), have a direct or indirect interest in any other Colorado liquor license (include loans to or from any licensee, or interest in a loan to any licensee)? If yes, attach a detailed explanation.			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7. Corporation or Limited Liability Company (LLC) or Partnership applicants must answer these questions. Since the date of filing of the last annual license application:			Yes <input type="checkbox"/> No <input type="checkbox"/>
(a) Are there, or have there been: any officers or directors; or managing members; or general partners added to or deleted from applicant for renewal of a 3.2 beer or liquor license?			<input type="checkbox"/> <input checked="" type="checkbox"/>
(b) Are there or have there been: any stockholders with 10% or more of the issued stock of the Corporation; or any members with 10% or more membership interest in the LLC; or any partners with 10% or more interest in the partnership added to or deleted from the applicant for renewal of a 3.2 beer or liquor license?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(c) If Yes to (a) or (b), complete and attach Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, and all supporting documentation, and fees your Local Licensing Authority immediately.			
8. Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships:			
EVIDENCE OF LAWFUL PRESENCE			
Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card.			
In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):			
<input type="checkbox"/> I am a United States Citizen			
<input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States			
<input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law			
<input type="checkbox"/> I am a foreign national not physically present in the United States			
I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.			
Signature TJ Ricci		Printed name TJ Ricci	
		Date 2/16/19	

Liquor License Renewal

Question 6:

Joseph J. Honnessy III	25 % Shareholder	Steamboat Country Club, Inc
T. J. Ricci	25 % Shareholder 50 % Shareholder	Steamboat Country Club, Inc The Mint Country Club, Inc

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE

I, Scott Gessler, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

THE MINTURN COUNTRY CLUB, INC.

is a **Corporation** formed or registered on 11/14/1986 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871697225.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 02/17/2012 that have been posted, and by documents delivered to this office electronically through 02/21/2012 @ 16:48:45.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 02/21/2012 @ 16:48:45 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8173142.



A handwritten signature in cursive script, reading "Scott Gessler".

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click Business Center and select "Frequently Asked Questions."



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-4049
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

To: Chief Lorenzo Martinez
Allen C., Town Attorney (via fax PDF email)
CC:
Date: 2/22/12 8:12 AM
RE: Liquor License

Attached please find a copy of an Annual Renewal of a Hotel/Restaurant liquor license for the Minturn Country Club located at 131 Main St, Tom Ricci Owner/Manager. Please review and advise.

PLEASE NOTE: Our standard reviewing process is for both Lorenzo and Allen to review AND approve PRIOR to this being scheduled for a Council meeting. Please inform me if you have any questions when you approve for forwarding to the Council.

Please let me know if you have any questions or concerns, which I may be able to answer.

Thanks, jay

Jay Brunvand

From: Lorenzo Martinez
Sent: Monday, February 27, 2012 9:03 AM
To: Jay Brunvand
Cc: Jim White
Subject: Minturn Country Club

Jay,
Sorry I didn't get to this as promised on Friday though as I reported, didn't anticipate any issues. Got caught up with Ski Jouring Prep.

- An inspection of the premise was done yesterday evening, no deficiencies noted.
- A review of the conduct of the establishment for the preceding year was done with no concerns noted.
- A background check was done of the principals identified and nothing was found that would be derogatory toward approval.

Chief Martinez

Sent from my iPhone



Official Minutes

MEETING OF THE MINTURN TOWN COUNCIL

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

Wednesday February 15, 2012

Executive Session – 5:30pm

Regular Session – 6:30pm

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

**TOWN MANAGER – Jim White
TOWN CLERK/TREAS – Jay Brunvand**

COUNCIL MEMBERS:

Shelley Bellm

Earle Bidez

Jerry Bumgarner

Aggie Martinez

John Rosenfeld

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

Regular Session – 5:30pm

EXECUTIVE SESSION

- **Pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney(s) and receive legal advice regarding negotiations with Battle Mountain Resort regarding agreement for distribution of the escrow funds and funding – White/Christensen**

Motion by John R., second by Aggie M., to convene in Executive Session Pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney(s) and receive legal advice regarding negotiations with Battle Mountain Resort regarding agreement for distribution of the escrow funds and funding; motion passed (6-0). (George B, absent, excused)

No action was taken as a result of the Executive Session.

Regular Session – 6:30pm

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Those present included: Mayor Hawkeye Flaherty, Town Council members Shelley Bellm, Aggie Martinez, Earle Bidez, John Rosenfeld, and Jerry Bumgarner. (George B, absent, excused)

Staff present: Town Manager Jim White, Town Attorney Allen Christensen, Treasurer/Clerk Jay Brunvand, Deputy Clerk/Events Michelle Metteer, Town Planner Chris Cerimele, and Attorney Allen Christensen.

2. Approval of Agenda

- a. Items to be Pulled or Added

Recommendation to move item 5 to item 8

Motion by Shelley B., second by John R., to approve agenda as presented; motion passed (6-0). (George B, absent, excused)

3. Approval of Minutes and Action Report

- February 1, 2012
- Action Item Report

Motion by Shelley B., second by Jerry B., to approve the minutes of February 1, 2012 as presented; motion passed (6-0). (George B, absent, excused)

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

Mr. Frank Lorenti, 1081 Main St, wanted to add relative information regarding lot coverage code and definitions. He discourages 3' projections into the setbacks and recommends 18" as an alternative option. He recommends reviewing Eagle County's building code. Eliminating ambiguity in the code is recommended to avoid issues. Mr. Lorenti also requests sheds be limited per property. Possibly one shed per property or requiring an ILC per shed.

Mr. Darrel Wegert, 1716 Main St, expressed a point of concern regarding setbacks, it's important to consider firefighters and their need to get in-between houses.

5. Special Presentations/Citizen Recognition

- Battle Mountain update – Battle Mountain Sub Committee

Mr. Frank Lorenti, 1081 Main St, asked about the 4 million and if there will be an itemized list of what the money will be allocated to. Mr. Lorenti also asked what the bottom line dollar amount for the Town will be. Discussion ensued.

Mr. Andy Kaufman, Minturn Saloon, 146 N Main St asked if it's possible to put these funds in a Town of Minturn account and then do a bond issue?

Mr. Frank Lorenti asked for the dollar amount of what the Town of Minturn has to spend. Councilmember Bidez explained that the number is not a set number as it is undeterminable what will be spent on legal costs.

Mr. Matt Scherr, 511 Main St, asked when the funds will be available.

Mr. Darryl Wiggert, 716 Main St asked about the sewer treatment plant and Mr. Dave Kleinkopf explained that the obligation for the sewer remains in place and the improvements can be an option and a new sewer plant is an obligation of the development.

Ms. Marka Brenner, Minturn Realty asked who will have control of the scholarship fund and will the Town seek consultation on investment.

6. Planning Department Update

The Planning Dept is accepting applications for the vacancy on the Planning commission. The Commission meets on the second Wednesday of each month.

7. Town Manager's Report

Battle Mountain Update

Current issues include pending lawsuits related to responses to the EPA, quiet title action, and legal challenges to the annexation agreement. On a separate matter, the Town Council has submitted a revised term sheet for the proposal made by Battle Mountain regarding the potential release of escrow funds. Our subcommittee met on August 9, 2011, August 30, 2011, October 27, 2011, November 10, 2011, and on December 13, 2011. We also met on January 5, February 6, and February 7, 2012.

Vail Valley Partnership

The Vail Valley Partnership has also assumed the role of coordinating agency for the Economic Council of Eagle County. Chris Romer provided a brief report at the most recent Eagle County Mayors/Managers' meeting in Eagle on February 3, 2012. They will be providing an economic research center through the efforts of Kathy Chandler Henry.

Chris will be attending the March 7, 2012 Minturn Town Council to make a presentation and solicit thoughts and ideas from Town Council.

Eagle Fire Protection District Notice to Town Council

The Eagle County Fire Protection District sent a formal notice to the Minturn Town Council to fulfill statutory requirements providing contact information to the Town.

Edward O'Brien is the Chairman of the Board of Directors and Karl Bauer, General Manager and Fire Chief (see attachment).

Eagle River Watershed Council

The 2012 Water Quality Coordination Meeting was held on February 6, 2012 at the Avon Library. Results of monitoring and assessment efforts on the Colorado and Eagle Rivers were presented. Discussion centered around coordination of efforts, assessment efforts, and more uniform methodology in collecting data. A request was also made of all the reporting entities to identify where there results are reported and where they are published.

Ski and Snowboard Club Vail/Maloti Park State Championship Meet

Ski and Snowboard Club Vail will be hosting a State Championship Nordic event on Thursday and Friday, February 16th and 17th at Maloti Park, in Minturn. The event is scheduled to begin at 3pm and finish at approximately 5pm.

Ski Joring in Minturn/Horses Pulling Skiers!!!

Ski Joring will be held in Minturn on old Minturn Road **Saturday and Sunday, February 25 and 26, 2012**. Registration begins at 8am. **Children's races start at 10am and adult races start at 12 noon!**

Colfax Marathon Challenge

The 2012 Kaiser Permanente Colfax Marathon Challenge at Denver's City Park is May 20, 2012. The Mayor of Aurora, Steve Hogan; the Mayor of Denver, Michael Hancock; and the Mayor of Lakewood, Bob Murphy have issued their annual challenge to municipalities throughout Colorado (see attachment).

7th Copper Triangle Bike Event

The Town of Minturn will provide an aid station during next year's 7th Annual Copper Triangle on August 4, 2012. We have been asked to provide space at Little Beach Park. This event is a fund raiser for the Davis Phinney Foundation (Parkinson's disease research). Set up will be at 6:30am and will be broken down by 1pm. Assisted Cycling Tours will manage the aid station with 12-15 volunteers. We have rescheduled our meeting with the organizers until February 29th.

8. Town Council Comments

The Mayor wished everyone a Happy Valentine's Day.

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

9. Discussion/Action: Resolution 5 – 2012 a Resolution approving an Agreement regarding escrows and funding – White/Christensen (15min)

Mr. Tom Sullivan, 116 Nelson Ave, thanked the council on an outstanding deal and appreciates the Council's hard work.

Ms. Jodi Jahrling, Minturn Community Fund also thanked the Town Council for their hard work.

Motion by Shelley B, second by John R, to approve Resolution 5 – 2012 a Resolution approving an Agreement regarding escrows and funding. Motion passed (6-0) (George B, absent, excused)

10. Discussion/Action: Resolution 6 – 2012 a Resolution approving the first amendment to agreement (Little Beach Park and Scholarship Fund) – White/Christensen (15min)

Motion by John R, second by Aggie M, to approve Resolution 6 – 2012 a Resolution approving the first amendment to agreement (Little Beach Park and Scholarship Fund). Motion passed (6-0) (George B, absent, excused)

11. Discussion/Action: Resolution 7 – 2012 a Resolution approving the first amendment to escrow agreement (water storage) – White/Christensen (15min)

Motion by Shelley B, second by Aggie M, to approve Resolution 7 – 2012 a Resolution approving the first amendment to escrow agreement (water storage). Motion passed (6-0) (George B, absent, excused)

12. Discussion/Action: Resolution 8 – 2012 a Resolution approving the first amendment to escrow agreement (pedestrian and bike path and recreation/community center) – White/Christensen (15min)

John R expressed that with the passing of the last resolution, that this is a great day for the Town of Minturn and a very good opportunity for Minturn.

Shelley B also expressed thanks to the Battle Mountain Development

M. Frank Lorenti, 1081 Main St, is concerned about the seven million going to Battle Mountain.

Motion by Earle B, second by Jerry B, to approve Resolution 8 – 2012 a Resolution approving the first amendment to escrow agreement (pedestrian and bike path and recreation/community center). Motion passed (6-0) (George B, absent, excused)

13. Discussion/Action: Medical Marijuana discussion with Rachelle Allen, CML Legal Counsel and Marco Vasquez, Dept of Revenue – White (60min)

Ms. Rachel Allen, CML Attorney, gave an overview of the history of medical marijuana since Amendment 20 passed.

Earle B asked if contracted Building inspectors can be held liable under Federal law for the inspection of medical marijuana centers. Ms. Rachel Allen deemed it unlikely.

John R asked about the risk of prosecution at the Council level given this is still illegal at the federal level. Ms. Rachel Allen said that there is a degree of risk.

Discussion ensued regarding the vote of the Minturn residents and the Council actions thereafter.

Mr. Marco Vasques & Mr. Brian Diet of the Medical Marijuana Enforcement Division explained their role of upholding the State law. One of their primary goals is to develop and maintain relationships with the local law enforcement. They regulate the “for-profit” side of medical marijuana in the State of Colorado.

GENERAL IMPROVEMENT DISTRICT

14. Administrative Matters

- Approval of Agenda
- Review and approve minutes from the November 2, 2011 GID Board Meeting.

Motion by Shelley B, second by John R to approve the agenda as presented. Motion passed (6-0) (George B, absent, excused)

Motion by John R, second by Shelley B to approve the minutes as presented. Motion passed (6-0) (George B, absent, excused)

15. Financial Matters

- Discussion/Action – Consider adoption of Resolution No. 2012-02-01 Resolution an application for Exemption from Audit – Brunvand (5min)

Motion by Shelley B, second by John R to adopt Resolution No. 2012-02-01, a Resolution for exemption from Audit. Motion passed (6-0) (George B, absent, excused)

16. Legal Matters

17. Other Business

- Discuss and set meeting dates for 2012:
 - Board Meeting to consider budget approval set for November 7, 2012 6:30pm at the Minturn Town Center, 302 Pine Street, Minturn, CO 81645.
 1. Alternative Date: This item closely follows the State and the Town of Minturn’s budget cycle. If an alternative is considered it should be considered as the Board in conjunction with the GID Council.

18. Adjournment (as GID and reconvene as Town Council)

Motion by Shelley B, Aggie M, to adjourn as the GID. Motion passed (6-0) (George B, absent, excused)

FUTURE AGENDA ITEMS

19. Next Meeting – March 7, 2012

- Meeting: Special Presentation: Eagle Valley Trails presentation and discussion – Cerimele (30min)
- Discussion/Action: Ordinance ____– 2012 (First and Second Readings) an Ordinance allowing the sale of Medical Marijuana (20min)
- Work Session: Town Manager and Public Works Supervisor to present updated estimates for road improvements.
- Special Presentation: Vail Valley Partnership- Chris Romer
- Discussion/Action: Ordinance 1 – 2012 an Ordinance (First Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition in section 16-2-20 of the Town of Minturn Municipal Code – Cerimele (20 min)
- Discussion/Action: Ordinance 2 – 2012 an Ordinance (First Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications – Cerimele (30 min)

20. Future Meeting

- Discussion/Action: Ordinance 1 – 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition in section 16-2-20 of the Town of Minturn Municipal Code – Cerimele (20 min)
- Discussion/Action: Ordinance 2 – 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications – Cerimele (30 min)

21. Set Future Meeting Dates

a) Council Meetings:

- March 7, 2012
- March 21, 2012
- April 4, 2012

b) Planning & Zoning Commission Meetings:

- March 14, 2012
- April 11, 2012
- May 9, 2012

c) Other Dates:

- Municipal Election – April 3, 2012

22. Adjournment

Motion by Jerry B, second by John R, to adjourn the meeting at 10:04. Motion passed (6-0).
(George B, absent, excused)

Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand

**Town of Minturn
Council Action Item Memo**

TO: Staff Members/Council Members
FROM: Jim White/ Town Manager
DATE: March 7, 2012
SUBJECT: Status of Action Items from Town Council Meetings

Action Item	Responsible Party	Progress Report
Battle Mountain Annexation/Minturn Scholarship Fund	White	Funding from Annexation interest money and other donations. Current award deadline is 2/15/12 for 2012 applications.
OSAC Funding for Boneyard Purchase	Cerimele	Town staff seeking alternative funding opportunities.

Action Item	Responsible Party	Progress Report
2012 Goal: Town Street Repairs and Drainage.	White/A. Martinez	Obtain updated estimates for repairs. Check with CDOT regarding south Town drainage.
2012 Goal: Expand Parking and Improve Appearance of Municipal Lot.	White/Cerimele/A. Martinez	Preliminary designs are being reviewed at staff level.
2012 Goal: Continue Sidewalk Installation Program/Improve Plan with LaFarge	White/A. Martinez	Plan to contact residents during 2 nd quarter 2012. Staff and Planning Commission reviewing language to code to require sidewalks for new construction.
2012 Goal: Implement Streetscape Plan	White /Cerimele/	Staff to review previously submitted plans to develop an action plan for 2012.
2012 Goal: Strengthen Marketing and Events	Metteer	
2012 Goal: Clean Up Parking Area on North Taylor St	Cerimele/L. Martinez	Continue to monitor and remove abandoned vehicles to allow for organized and structured short term parking.
2012 Goal: Opportunities & Submittals and scheduling and apply for infrastructure grants/loans	White/Cerimele	Staff to provide periodic updates to Council.



To: Minturn Town Council
From: Chris Cerimele, Town Planner
Date: March 2, 2012
Re: Planning Commission Update

Planning Commission - February 8, 2012

The Planning Commission discussed the Council's suggested revisions to the lot coverage definition and DRB submittal requirements. A consensus was reached by the Commission on the suggested changes and these items will be presented to the Town Council at the March 7th meeting.

Additional discussion is taking place to develop parks and open space dedication requirements. These requirements would be applicable to subdivisions, Planned Unit Developments, and multi-family developments that require a Conditional Use Permit.

Pending Applications

Staff has received two new applications for development projects. The first is a Design Review for a new single family home at 974 Main Street. The second is a Variance request to build a detached garage within the 10' rear property setback. The property is located at 273 Boudler Street. The Planning Commission will review both of these applications at their March 14th public meeting. Additionally, the Variance request is scheduled for a Town Council public hearing on March 21, 2012.

Jim White
Town Manager
P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
Email: manager@minturn.org



TOWN COUNCIL
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
Councilmember – Shelley Bellm
Councilmember – Earle Bidez
Councilmember – Jerry Bumgarner
Councilmember – Aggie Martinez
Councilmember – John Rosenfeld

To: Mayor Flaherty and Minturn Town Council
From: Jim White, Town Manager
Date: February 28, 2012
Re: **Manager’s Report for the March 7, 2012 Town Council Meeting**

Battle Mountain Update

Current issues include pending lawsuits related to quiet title action, and legal challenges to the annexation agreement. In addition, Battle Mountain is working on its responses to the EPA. The Escrow Agreement reached on February 15, 2012 between the Town and Battle Mountain is being reviewed by Stewart Land Title.

Colorado City and County Managers’ Association (CCCMA)

Last year, in February of 2011, I was elected by my peers in management positions throughout the state of Colorado as President–elect of the **Colorado City and County Managers’ Association**. On February 10, 2012, I became President of that organization and will serve in that role until February 2013.

Ski Joring a Success!

The Town of Minturn hosted a new event on old Minturn Road on **Saturday February 25th and Sunday February 26th, 2012**. This event was run by Rocky Mountain Ski Joring as part of an annual circuit. The event held in Minturn was done to support the Shaw Regional Cancer Center. Many of our Town staff pitched in to help with the event. We did a debriefing of the event to review what went well and what could be improved. Special thanks to Mike Jackson of Battle Mountain, and to the owners of Beyond the Tree Woodworks.

Copper Triangle 2012 Bicycle Event

The Town of Minturn will provide an aid station during the 7th Annual Copper Triangle on August 4, 2012. We have been asked to provide space at Little Beach Park. This event is a fund raiser for the Davis Phinney Foundation (Parkinson’s disease research). Set up will be at 7am and will be broken down by 1pm. Assisted Cycling Tours will manage the aid station with 12-15 volunteers.

Eagle County Open Space Advisory Committee

The Town of Minturn will make a presentation on the U.S. Forest Service Bone Yard project at the March 12, 2012 OSAC meeting. An update on OSAC activities is included with this report (see attachment).

2/28/12

13th Annual Highway Cleanup

The annual Highway 24 Cleanup will be held on Saturday, April 28, 2012, organized by the Eagle River Watershed Council. For more information, email info@erwc.org or call 970-827-5406.

Flower Barrel RFP Process/ Contract Awarded

Five companies bid on the 2012 Minturn Flower Barrel proposal. The results ranged from \$3900 to \$18,700. The low bidder, including all elements specified in the Request for Proposal (RFP), was Johnie's Garden of Minturn at \$4,675 for 20 individual flower barrels (see attachment with listed bid amounts).

Head Gate Follow Up

At a recent meeting, the Mayor and I spoke to representatives from the offices of Colorado's two U.S Senators, Noah Koerper from Senator Michael Bennet's office and Matt Sugar from Senator Mark Udall's office. We are now receiving help in our efforts to modify the boundaries of the head gate in the Maloit Park area.

2011 Audit Preparation Completed

Swanhorst and Associates sent representatives to Minturn during the week of February 127, 2012- March 1, 2012 to complete the preliminary work on the 2011 audit. Once the audit is prepared in draft form, we will schedule a review for Town Council. Special thanks to our Treasurer, Jay Brunvand, for his thorough preparation for the audit and to our entire staff for cooperation with the auditors.

Cooperation with ERWSD

The Town of Minturn is working with the Eagle River Water and Sanitation District to secure services to dive our main water tank and our clear well in the spring or summer of 2012. By working with ERWSD, we are benefitting by receiving better pricing for the work to be done predominantly by eliminating mobilization charges.

Respectfully submitted,
Jim White
Town Manager

OSAC Mid Month Updates:

- USFS Tree Nursery Parcel – After several months of discussion with the Feds, the USFS has decided to retain ownership of the 40 –acre riparian area adjacent to the Crown Mountain Park in Basalt due to the presence of two endangered plants on the property. This outcome is fine with us to the extent the land will stay in public ownership and the Open Space Program will not have to buy it to keep it that way.
- Planning for Two Bridges, State Bridge continue, we plan to have a more detailed explanation of plans at the March 12 OSAC meeting.
- Bids are being collected for the development of a trailhead at the Homestead L, (OSAC has already recommended the expenditure of up to \$73,000 for this project).
- Eagle County will be submitting a River’s Initiative Grant to GOCO on March 16. The project will ask for funding assistance for
 - A conservation easement on the Colorado River Ranch (1,017 acre ranch with two miles of river frontage on the Colorado River – including a public boat launch, public hunter access to the Bull Gulch Wilderness Study Area). The terms of the conservation easement are being negotiated currently and an appraisal is pending.
 - Fee-title purchase of the 228 Acre Nottingham Ranch, also with two miles of river frontage.
 - A portion of the Eagle Valley Trail that will connect to the Colorado River at Dotsero.
- Pitkin County and Eagle County are also submitting an Open Space Grant for the March 9 grant cycle for Saltonstall. Dale Will, the Director of Pitkin County Open Space & Trails will be meeting with the Town of Basalt to assess their participation level soon. Saltonstall is currently under contract for \$5 million and Pitkin will be issuing a press release to this effect this week. As we have discussed previously, the current thinking is the deal would involve \$2 million from EC, \$2 million from Pitkin Open Space & Trails, perhaps \$500,000 from Basalt, \$25,000 from the Mid Valley Trails Coalition and a \$475,000 GOCO grant request is pending. Pitkin is writing the GOCO grant, thankfully.
- The Gypsum Riverfront project is stalled due to an appraised value that displeased the prospective buyers. We continue to talk with them and are hopeful that some type of open space component can be part of the deal. They are moving forward with an annexation to the Town of Gypsum.
- The Town of Minturn will be presenting the USFS Boneyard project at the March 12 meeting.
- Horn Ranch, the appraisal has been completed and Mr. Runyon has been making efforts to contact the landowner.
- Homestead L – all the documents associated with the Homestead L Project (conservation easements, trail easements, baseline document, surveys, etc) are nearing completion and we are hoping for a closing on or about March 13. Commissioner Stavney and I met with the Homestead HOA Board recently and answered questions about the current status of the project and plans going forward (there was much rejoicing!)
- Management Planning on Rare Duck is moving forward. The Colorado Division of Wildlife has agreed to help manage the property and will soon be submitting a “Fishing is Fun” grant to CDOW to help pay for site improvements, including a boat launch.
- We are nearing completion of MOUs with both BLM offices, Kremmling and Silt for management assistance with State Bridge and Two Bridges, respectively. They will soon be reviewing our plans for these properties to make sure our site design and specifications are consistent with their standards
- Submitted article with John Lewis, Finance Director, to Vail Daily to clarify the nature of the open space budget. There are lots of misconceptions among the public about this fund.
- We will also be hosting another meeting with guides and outfitters to discuss the specifics of our management of State Bridge and Two Bridges. No date has been set.

2/28/12

- The Colorado Department of Transportation announced that the current boat launch at Dotsero may be eliminated as soon as August. We will likely be doing a funding request at the March meeting to prepare for this. We had hoped this would be pushed in to 2013, but I guess we aren't that lucky this time.

That's all for now!

TOWN COUNCIL STAFF REPORT
Public Hearing Date: March 7, 2012

FILE NUMBER: Ordinance 1 - 2012
PROJECT TYPE: Zoning Text Amendment
LOCATION: The incorporated areas of Minturn
OWNER: Not Applicable
APPLICANT: Town of Minturn
REPRESENTATIVE: Chris Cerimele, Town Planner
STAFF RECOMMENDATION: Approval

BACKGROUND

This item is a request for a Zoning Text Amendment to revise the definition of lot coverage as defined in Minturn Municipal Code section 16-2-20. Staff first presented this item at the February 8, 2012 Town Council meeting. When originally proposed, the entire area of second and third level decks was included in the total lot coverage calculation. The Town Council requested that a revision be made so that only 50% of the area of second and third level decks would be counted towards the allowable lot coverage.

There was also some concern with the original definition in regards to roof eaves and how much of the eave would be counted towards the allowable lot coverage. When originally presented, staff proposed that any portion of an eave that extended more than 24 inches from the face of the building be counted towards the allowable lot coverage. This language has been eliminated and staff is preparing a code amendment that would prohibit eaves from extending more than 24 inches into a side yard setback.

PROPOSED CODE AMENDMENT

Lot Coverage: the portion of a lot that is covered by buildings, including all enclosed cantilevered portions of a building, covered porches, covered walkways and similar covered areas. Additionally, fifty percent (50%) of the total area of second and third level decks shall be counted towards the allowable lot coverage.

STAFF ANALYSIS

The proposed amendment is being processed under MMC *section 16-21-410; Amendments to text of land use regulations or Character Area and Zone District Map.*

Section 16-21-420 – Purpose – states:

The purpose of this Division is to provide a means for changing the boundaries or any other map incorporated herein by reference, and for changing the text of these Land Use Regulations. It is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.

The proposed code amendment is consistent with the purpose of this section. The procedure for a Zoning Text Amendment is outlined in section 16-21-440 (b); Procedure. This section states:

Review and recommendation of Planning Commission. The Planning Commission shall conduct a public hearing on an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the staff report and the public testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall recommend to the Town Council either to approve or disapprove the application based on the standards in this Chapter and forward the application to the Town Council.

Action by Town Council. After receipt of the recommendation from the Planning Commission, the Town Council shall conduct a public hearing on the application. At the public hearing, the Town Council shall consider the application, the relevant support materials, the staff report, the Planning Commission recommendation and the public testimony given at the public hearing. After the close of the public hearing, the Town Council, by a majority vote of the quorum present, shall either approve or disapprove the application based on the standards in this Chapter. Any amendment to the Character Area Zoning Map, or any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations approved by the Town Council shall be adopted by ordinance.

Section 16-21-450; Standards - outlines the factors that the Town Council shall consider when reviewing a Zoning Text Amendment. Staff comments are provided in bold text.

(1) Consistency with Master Plan. Whether and the extent to which the proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan.

Staff believes that the proposed ZTA is consistent with the following goals and strategies of the 2009 Community Plan.

Goal (CCG1) – Community Character. Maintain, Build, and Promote the Town’s Image as a Unique, Eclectic Non-Resort Town With A Strong Sense of Community.

- (CCS1.2) – Consider size limits for residential structures.
- (CSS 1.4) – Develop and implement methods to maintain the Town’s eclectic architecture, scale and vibrant color palette.

(2) Compatible with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate Character Area and zone district for the land, considering its consistency with the purpose and standards of the proposed zone district.

Not Applicable

(3) Changed conditions. Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.

The current lot coverage definition does not address cantilevered living spaces. The proposed amendment will add these areas to the lot coverage definition - helping to regulate the mass and scale of new construction projects in the Town of Minturn.

(4) Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife habitat, vegetation and wetlands.

Not Applicable

(5) Community need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.

A consistent theme that is repeated at public meetings is the need to maintain the small town character of Minturn. This amendment will help achieve that goal.

(6) Development patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning, and whether the resulting development can logically be provided with necessary public facilities and services.

Not Applicable

(7) Public interest. Whether and the extent to which the area to which the proposed amendment would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area. (Prior code 16-21-8)

Not Applicable

DRAFT MOTION

I move to approve Ordinance 1 – 2012 on first reading.

Respectfully Submitted

Chris Cerimele, Planner

Attachments:

Ordinance 1 – 2012

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 1 - SERIES 2012**

AN ORDINANCE AMENDING CHAPTER 16 OF THE TOWN OF MINTURN MUNICIPAL CODE BY REVISING THE LOT COVERAGE DEFINITION IN SECTION 16-2-20

WHEREAS, the Town of Minturn, Colorado (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town of Minturn Home Rule Charter of April 6, 1982 (“Charter”) and

WHEREAS, the Town, by virtue of its Home Rule status, may adopt such ordinances relative to local municipal matters as are necessary to effectuate the purposes and intent of the powers granted to municipalities; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, STATE OF COLORADO, THAT:

Section 1. Amendment. The definition of “*lot coverage*” in Section 16-2-20 of the Town of Minturn Municipal Code is revised as follows:

Lot Coverage: the portion of a lot that is covered by buildings, including all enclosed cantilevered portions of a building, covered porches, covered walkways and similar covered areas. Additionally, fifty percent (50%) of the total area of second and third level decks shall also be counted towards the allowable lot coverage.

Section 2. Severability. If any part, section, sub-section, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and the Town Council for the Town of Minturn, Colorado hereby declares it would have passed this ordinance and each part, section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts, sections, sub-sections, sentences, clauses or phrases be declared invalid.

Section 3. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Minturn and the inhabitants thereof.

Section 4. The repeal and re-enactment of any provision of the Minturn Municipal Code as provided in this Ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision or any Ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL THE 7th DAY OF March, 2012. A public hearing on this ordinance shall be held at the regular meeting of the Town Council of the Town of Minturn, Colorado on the **21st** day of **March 2012**, at **6:30 p.m.** at the Minturn Town Center, 302 Pine Street, Minturn, Colorado.

Attest:

Mayor

Town Clerk

INTRODUCED, READ BY TITLE, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS ____ DAY OF _____, 2012.

Attest:

Mayor

Town Clerk

Town Council Staff Report

Public Hearing Date: March 7, 2012

FILE NUMBER: Ordinance 2 - 2012
PROJECT TYPE: Zoning Text Amendment
LOCATION: The incorporated areas of Minturn
OWNER: Not Applicable
APPLICANT: Town of Minturn
REPRESENTATIVE: Chris Cerimele, Town Planner
STAFF RECOMMENDATION: Approval

BACKGROUND

At the January 18, 2012 Town Council meeting, staff presented the proposed code amendment with the purpose of establishing submittal requirements and Design Review Board procedures for all new major building projects. The new code section will be added to Article 16 – Section 21; Administration and Procedures.

During the initial review of the proposed code amendment, the Council suggested a series of changes to the new procedures. These changes were discussed at the February 15th Planning Commission and are summarized below.

- Require that the boundary survey that is submitted with a project application be dated within five years of the application date. (MMC 16-21-615. C-2A)
- Eliminate the requirement that the boundary survey show existing buildings and structures that are within fifteen feet of a shared property boundary.
- Clarify that the required stream setback is based off of the ordinary high water mark. (MMC 16-21-615. C-2I)
- Eliminate the boundary survey exemption for projects that are less than 250 square feet.
- Allow for a one-year extension of a DRB approval. (MMC 16-21-615. D-4d)
- Eliminate the language that would exempt projects that are less than three feet from a property line from having to submit a Foundation Location Certificate. (MMC 16-21-615. E-2)

The above changes have been incorporated into the full text of the proposed code amendment.

PROPOSED CODE AMENDMENT

Section 16-21-615. Design Review Applications

- (a) **Purpose.** The purpose of a Design Review is to ensure that all new development and major redevelopments in Minturn are constructed in a manner that complies with the adopted regulations of the Town.
- (b) **Applicability.** All major construction must receive Design Review approval from the Design Review Board prior to the issuance of a building permit. Major construction is defined as all new construction projects and any building addition that increases the building footprint and or square footage of an existing structure.
- (c) **Application Requirements.** In addition to the requirements of section 16-21-170, the following information must be submitted for a Design Review application.
1. Application form and fee. Application fees are set annually by the Minturn Town Council;
 2. A boundary survey with a wet stamp and signature of a licensed surveyor that includes the following information:
 - a. Date of survey (survey date must be within five (5) years of the project application date)
 - b. Right-of-way and property lines; including bearings, distances and curve information.
 - c. Labeled ties to existing USGS benchmark.
 - d. Property boundaries to the nearest one one-hundredth of a foot (.01) accuracy. Distances and bearings and a basis of bearing must be shown. Show existing pins or monuments found and their relationship to the established corner.
 - e. All existing easements recorded with the Eagle County Clerk and Recorder. Include bearings and distances

- f. Spot elevations at the edge of asphalt along the street frontage of the property at five (5) foot intervals, and a minimum of two (2) spot elevations on either side of the lot.
- g. Topographic conditions at two foot contour intervals.
- h. Existing trees or groups of trees having trunks with diameters of four (4) inches or more.
- i. Rock outcroppings and other significant natural features.
- j. All utility meter locations, including any pedestals on site or in the right-of-way adjacent to the site and the exact location of existing utility sources.
- k. Environmental hazards where applicable. (i.e. rock fall, wetlands, floodplain)
- l. Watercourse setbacks, if applicable. Show centerline and edge of stream or creek in addition to the required stream setback from the ordinary high water mark.

3. A scaled site plan showing the following information:

- a. Property line locations and dimensions
- b. Setback lines
- c. Existing and proposed easements
- d. Existing and proposed buildings including sheds and enclosures. Include decks, patios and balconies. Indicate the building face (exterior finish) with a dashed line and the roof edge with a solid line. All cantilevered portions of the building must also be shown with a solid line.
- e. Height elevations of all roof ridgelines and mid-point of roof gables
- f. Driveways and parking areas. Indicate finished surface, heated or unheated, grade, percent slope, dimensions, turning radii, and spot elevations at the property line
- g. Identify all slopes between 30-40%
- h. Identify slopes greater than 40%.
- i. Existing and proposed retaining walls (including materials).

- j. Existing and proposed fences (including height and materials)
 - k. Waterbodies and stream setbacks from the ordinary high water mark.
 - l. Snow storage areas
 - m. Landscaped areas
 - n. Sidewalks and walkways.
4. Elevations of all sides of the proposed structure(s), indicating type and color of all exterior materials, building heights, setback lines, locations of exterior lighting fixtures, roof and building drainage system (i.e. gutters and downspouts).
 5. Color chips and a materials board shall be required for all projects.
 6. A landscaping plan, including existing and proposed vegetation. The plan should indicate the quantity, type and size of the proposed vegetation. For projects less than 250 sf, a landscaping plan is required for the disturbed area of the property only.
 7. Floor plans of all levels shall be included that indicate the proposed uses. For additions to existing structures, floor plans must be provided for the existing building.
 8. Multi-family and commercial developments may require one or more of the following; a three-dimensional model of the proposed project and adjacent buildings to scale; a three-dimensional architectural model including adjacent structures; a two dimensional photo illustration of the proposed building in relation to adjacent structures.
 9. Property corners shall be staked and remain in place throughout the public hearing process.
 10. Such additional information as the Planning Department or Design Review Board may require.

(d) Administrative Procedure.

1. Upon receipt of a completed and proper application, the application for Design Review will be scheduled for a public hearing. The hearing will be conducted in accordance with the procedures set forth in Chapter 16.
2. Criteria and Findings. Before acting on a Design Review application, the Planning Commission, acting as the Design Review Board, shall consider the following factors with respect to the proposal:
 - a. The proposals adherence to the Town's zoning regulations.
 - b. The proposals adherence to the applicable goals and objectives of the Community Plan.
 - c. The proposals adherence to the Town's Design Standards.
3. Necessary Findings. The Design Review Board (DRB) shall make the following findings before approving a Design Review application:
 - a. That the proposal is in conformance with the Town of Minturn zoning regulations.
 - b. That the proposal helps achieve the goals and objectives of the Town of Minturn Community Plan.
 - c. That the proposal complies with the Town of Minturn Design Standards.
4. Conditions of approval. The following conditions shall apply to all projects approved by the Design Review Board:
 - a. No changes to an approved plan or design may be made without the written consent of the Town staff. Staff reserves the right to forward any change to the DRB for final approval;
 - b. Design Review Board approval does not constitute a permit for building.
 - c. DRB approval shall not become valid for 20 days following the date of approval, pursuant to the Minturn Municipal Code Chapter – Appeals

- d. Approval of this project shall lapse and become void one (1) year following the date of final approval, unless a building permit is issued and construction is commenced and is diligently pursued toward completion. A one (1) year extension may be granted by the Design Review Board if the applicant can demonstrate that circumstances beyond their control prevented the authorized work from proceeding.

(e) Construction Process

1. Once an application has been approved by the DRB, the applicant may apply for a building permit. Please consult the Building Department for the applicable submittal requirements.
2. A Foundation Location Certificate must be submitted after the building foundation has been poured. Construction may not proceed until the location of the approved foundation has been verified by the Building Official.
3. After the framing of the structure has been completed, an Improvement Location Certificate is required for verification of the roof height and to ensure that no setback encroachments exist on the property. The framing inspection will not be approved until this survey has been approved by the Building Official.

STAFF ANALYSIS

The proposed amendment is being processed under MMC *section 16-21-410; Amendments to text of land use regulations or Character Area and Zone District Map.*

Section 16-21-420 – Purpose – states:

*The purpose of this Division is to provide a means for changing the boundaries or any other map incorporated herein by reference, **and for changing the text of these Land Use Regulations.** It is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.*

The proposed code amendment is consistent with the purpose of this section. It is necessary to define and codify the submittal requirements and public hearing procedures for Design Review applications.

The procedure for a Zoning Text Amendment is outlined in section 16-21-440 (b); *Procedure*. This section states:

Review and recommendation of Planning Commission. The Planning Commission shall conduct a public hearing on an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the staff report and the public testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall recommend to the Town Council either to approve or disapprove the application based on the standards in this Chapter and forward the application to the Town Council.

Action by Town Council. After receipt of the recommendation from the Planning Commission, the Town Council shall conduct a public hearing on the application. At the public hearing, the Town Council shall consider the application, the relevant support materials, the staff report, the Planning Commission recommendation and the public testimony given at the public hearing. After the close of the public hearing, the Town Council, by a majority vote of the quorum present, shall either approve or disapprove the application based on the standards in this Chapter. Any amendment to the Character Area Zoning Map, or any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations approved by the Town Council shall be adopted by ordinance.

Section 16-21-450; Standards - outlines the factors that the Town Council shall consider when reviewing a Zoning Text Amendment. Staff comments are provided in bold text.

(1) Consistency with Master Plan. Whether and the extent to which the proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan.

Staff believes that the proposed code amendment is consistent with the following goals and strategies of the 2009 Community Plan.

Goal (CCG1) – Community Character. Maintain, Build, and Promote the Town’s Image as a Unique, Eclectic Non-Resort Town With A Strong Sense of Community.

(CSS1.4) – Develop and implement methods to maintain the Town’s eclectic architecture, scale and vibrant color palette.

(CSS1.8) – Enforce ordinances aimed at maintaining the health, safety, welfare and aesthetic of the Town – snow, trash, nuisance abatement and zoning/land use.

(2) Compatible with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate Character Area and zone district for the land, considering its consistency with the purpose and standards of the proposed zone district.

Not Applicable

(3) Changed conditions. Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.

Not Applicable

(4) Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife habitat, vegetation and wetlands.

The proposed amendment will have no negative effects on the natural environment. It will assist the staff and Planning Commission in reviewing development proposals by requiring an applicant to provide additional information to ensure a proposed project complies with Town regulations.

(5) Community need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.

The regulation of new development in the Town of Minturn is in the best interest of the community.

(6) Development patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning, and whether the resulting development can logically be provided with necessary public facilities and services.

Not Applicable

(7) Public interest. Whether and the extent to which the area to which the proposed amendment would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area. (Prior code 16-21-8)

Not Applicable

DRAFT MOTION

I move to approve Ordinance 2 – 2012 on first reading.

Respectfully Submitted

Chris Cerimele, Town Planner

Attachments:
Ordinance 2 - 2012

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 2 - SERIES 2012**

**AN ORDINANCE AMENDING CHAPTER 16 OF THE TOWN OF MINTURN
MUNICIPAL CODE BY ADOPTING SUBMITTAL REQUIREMENTS AND
PUBLIC HEARING PROCEDURES FOR DESIGN REVIEW APPLICATIONS
WITHIN THE TOWN OF MINTURN.**

WHEREAS, the Town of Minturn, Colorado (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town of Minturn Home Rule Charter of April 6, 1982 (“Charter”) and

WHEREAS, the Town, by virtue of its Home Rule status, may adopt such ordinances relative to local municipal matters as are necessary to effectuate the purposes and intent of the powers granted to municipalities.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, STATE OF COLORADO, THAT:

Section 1. A new Section 16-21-615 is added to Chapter 16, Article 21, Division 4.:

Section 16-21-615. Design Review Applications

- (a) **Purpose.** The purpose of a Design Review is to ensure that all new development and major redevelopments in Minturn are constructed in a manner that complies with the adopted regulations of the Town.
- (b) **Applicability.** All major construction must receive Design Review approval from the Design Review Board prior to the issuance of a building permit. Major construction is defined as all new construction projects and any building addition that increases the building footprint and or square footage of an existing structure.
- (c) **Application Requirements.** In addition to the requirements of section 16-21-170, the following information must be submitted for a Design Review application.
 - 1. Application form and fee. Application fees are set annually by the Minturn Town Council;
 - 2. A boundary survey with a wet stamp and signature of a licensed surveyor that includes the following information:
 - a. Date of survey (survey date must be within five (5) years of the project application date)

- b. Right-of-way and property lines; including bearings, distances and curve information.
- c. Labeled ties to existing USGS benchmark.
- d. Property boundaries to the nearest one one-hundredth of a foot (.01) accuracy. Distances and bearings and a basis of bearing must be shown. Show existing pins or monuments found and their relationship to the established corner.
- e. All existing easements recorded with the Eagle County Clerk and Recorder. Include bearings and distances
- f. Spot elevations at the edge of asphalt along the street frontage of the property at five (5) foot intervals, and a minimum of two (2) spot elevations on either side of the lot.
- g. Topographic conditions at two foot contour intervals.
- h. Existing trees or groups of trees having trunks with diameters of four (4) inches or more.
- i. Rock outcroppings and other significant natural features.
- j. All utility meter locations, including any pedestals on site or in the right-of-way adjacent to the site and the exact location of existing utility sources.
- k. Environmental hazards where applicable. (i.e. rock fall, wetlands, floodplain)
- l. Watercourse setbacks, if applicable. Show centerline and edge of stream or creek in addition to the required stream setback from the ordinary high water mark.

3.

4. A scaled site plan showing the following information:

- a. Property line locations and dimensions
- b. Setback lines
- c. Existing and proposed easements
- d. Existing and proposed buildings including sheds and enclosures. Include decks, patios and balconies. Indicate the building face (exterior finish) with a dashed line and the roof

edge with a solid line. All cantilevered portions of the building must also be shown with a solid line.

- e. Height elevations of all roof ridgelines and mid-point of roof gables
 - f. Driveways and parking areas. Indicate finished surface, heated or unheated, grade, percent slope, dimensions, turning radii, and spot elevations at the property line
 - g. Identify all slopes between 30-40%
 - h. Identify slopes greater than 40%.
 - i. Existing and proposed retaining walls (including materials).
 - j. Existing and proposed fences (including height and materials)
 - k. Waterbodies and stream setbacks from the ordinary high water mark.
 - l. Snow storage areas
 - m. Landscaped areas
 - n. Sidewalks and walkways.
5. Elevations of all sides of the proposed structure(s), indicating type and color of all exterior materials, building heights, setback lines, locations of exterior lighting fixtures, roof and building drainage system (i.e. gutters and downspouts).
 6. Color chips and a materials board shall be required for all projects.
 7. A landscaping plan, including existing and proposed vegetation. The plan should indicate the quantity, type and size of the proposed vegetation. For projects less than 250 sf, a landscaping plan is required for the disturbed area of the property only.
 8. Floor plans of all levels shall be included that indicate the proposed uses. For additions to existing structures, floor plans must be provided for the existing building.
 9. Multi-family and commercial developments may require one or more of the following; a three-dimensional model of the proposed project and adjacent buildings to scale; a three-dimensional architectural

model including adjacent structures; a two dimensional photo illustration of the proposed building in relation to adjacent structures.

10. Property corners shall be staked and remain in place throughout the public hearing process.
11. Such additional information as the Planning Department or Design Review Board may require.

(d) Administrative Procedure.

1. Upon receipt of a completed and proper application, the application for Design Review will be scheduled for a public hearing. The hearing will be conducted in accordance with the procedures set forth in Chapter 16.
2. Criteria and Findings. Before acting on a Design Review application, the Planning Commission, acting as the Design Review Board, shall consider the following factors with respect to the proposal:
 - a. The proposals adherence to the Town's zoning regulations.
 - b. The proposals adherence to the applicable goals and objectives of the Community Plan.
 - c. The proposals adherence to the Town's Design Standards.
3. Necessary Findings. The Design Review Board (DRB) shall make the following findings before approving a Design Review application:
 - a. That the proposal is in conformance with the Town of Minturn zoning regulations.
 - b. That the proposal helps achieve the goals and objectives of the Town of Minturn Community Plan.
 - c. That the proposal complies with the Town of Minturn Design Standards.
4. Conditions of approval. The following conditions shall apply to all projects approved by the Design Review Board:
 - a. No changes to an approved plan or design may be made without the written consent of the Town staff. Staff reserves the right to forward any change to the DRB for final approval;
 - b. Design Review Board approval does not constitute a permit for building.

- c. DRB approval shall not become valid for 20 days following the date of approval, pursuant to the Minturn Municipal Code Chapter – Appeals
- d. Approval of this project shall lapse and become void one (1) year following the date of final approval, unless a building permit is issued and construction is commenced and is diligently pursued toward completion. A one (1) year extension may be granted by the Design Review Board if the applicant can demonstrate that circumstances beyond their control prevented the authorized work from proceeding.

(e) Construction Process

1. Once an application has been approved by the DRB, the applicant may apply for a building permit. Please consult the Building Department for the applicable submittal requirements.
2. A Foundation Location Certificate must be submitted after the building foundation has been poured. Construction may not proceed until the location of the approved foundation has been verified by the Building Official.
3. After the framing of the structure has been completed, an Improvement Location Certificate is required for verification of the roof height and to ensure that no setback encroachments exist on the property. The framing inspection will not be approved until this survey has been approved by the Building Official.

Section 2. Severability. If any part, section, sub-section, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and the Town Council for the Town of Minturn, Colorado hereby declares it would have passed this ordinance and each part, section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts, sections, sub-sections, sentences, clauses or phrases be declared invalid.

Section 3. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Minturn and the inhabitants thereof.

Section 4. The repeal and re-enactment of any provision of the Minturn Municipal Code as provided in this Ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the

provision or any Ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL THE 7th DAY OF March, 2012. A public hearing on this ordinance shall be held at the regular meeting of the Town Council of the Town of Minturn, Colorado on the **21st** day of **March 2012**, at **7:00 p.m.** at the Minturn Town Center, 302 Pine Street, Minturn, Colorado.

Attest:

Mayor

Town Clerk

INTRODUCED, READ BY TITLE, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS ____ DAY OF _____, 2012.

Attest:

Mayor

Town Clerk

Town Council Staff Report

FILE NUMBER: Resolution 9 – 2012

PROJECT TYPE: A Resolution appointing a citizen to the Town of Minturn Planning Commission.

AGENDA ITEM BRIEF:

Approval of this item will appoint the selected applicant to fill the vacancy on the Planning Commission created by the resignation of Michael Gallagher. The selected candidate will be appointed to serve a two-year term.

Staff initiated the process of soliciting applications for the vacant seat from interested parties at the beginning of February. This resulted in three applications for the vacant seat (see attached applications). The customary practice for appointing a member to the Planning Commission has been to interview the candidates at a Town Council meeting and vote by secret ballot to determine who will be appointed.

BACKGROUND

The Planning Commission is a board of five citizens appointed by the Town Council. The Planning Commission is charged with reviewing matters pertaining to zoning, land use and development, and making recommendations on such matters to the Town Council. The specific powers and duties of the Planning Commission are outlined in section 16-21-40 (f) of the MMC and listed below:

(f) Powers and duties. In addition to any authority granted the Planning Commission by general or special law, the Planning Commission shall have the following powers and duties under the provisions of this Chapter:

- (1) Prepare Community Plan. To prepare or cause to be prepared a Community Plan or any element or portion thereof, for adoption by the Town Council.
- (2) Recommend amendments to the Community Plan. To initiate, hear, review, consider and recommend amendments to the Community Plan, or any element or portion thereof.
- (3) Make recommendations on land use proposals. To initiate, hear, review, consider and make recommendations to the Town Council on land use proposals concerning conformance with the Community Plan.
- (4) Recommend amendments to the text of this Chapter. To initiate and make recommendations to the Town Council to amend the text of this Chapter.

- (5) Recommend amendments to the Official Zone District Map. To initiate, hear, consider and make recommendations to the Town Council to approve or disapprove applications to amend the Official Zone District Map.
- (6) Recommend Planned Unit Development (PUD) District. To hear, review, consider and make recommendations to the Town Council to approve or disapprove applications for concept plan and preliminary plan for a Planned Unit Development (PUD) District.
- (7) Conditional uses. To hear, review, consider and make recommendations to the Town Council to approve, approve with conditions or disapprove conditional use applications.
- (8) Make expertise available. To make its special knowledge and expertise available upon written request and authorization of the Town Council to any official, department, board, commission or agency of the County, a city within the County, or the State or federal government.
- (9) Recommend rules of procedure. To recommend to the Town Council additional or amended rules of procedure not inconsistent with this Section to govern the Planning Commission's proceedings.
- (10) Make additional studies. To make studies of resources, possibilities and needs of the Town upon the authorization of the Town Council, and to report its findings and recommendations, with reference thereto, to the Town Council.
- (11) Other matters. To consider any other matters pertaining to the Planning Commission as provided by law, resolution or ordinance, to act in an advisory capacity to the Town Council when so requested and to perform all other powers and duties authorized and required by ordinance or state law.

The Planning Commission also acts as the Town's Design Review Board (DRB). The duties of the DRB are outlined in section 16-21-50 of the MMC.

Sec. 16-21-50. Planning Commission as Design Review Board; powers and duties.

The Planning Commission is hereby established as the Design Review Board. The Design Review Board shall have the following powers and duties under the provisions of this Chapter:

- (1) Prepare Design Review Standards and Guidelines. To prepare, or cause to be prepared or amended, the Design Review Standards and Guidelines or any element or portion thereof, for adoption by the Town Council.

- (2) To hear, review, consider and approve, approve with conditions or disapprove applications for design review approval.
- (3) To hear and decide upon appeals on design review decisions made by the Planning Department. (Prior code 16-21-4; Ord. 6-2000 §1; Ord. 16-2007 §1)

RECOMMENDATION:

Staff recommends that the Town Council review the applications and interview the candidates during the March 7th Council meeting.

DRAFT MOTION:

I move to approve Resolution No. 9 - Series 2012 appointing (selected applicant) to the Town of Minturn Planning Commission.

RESPECTFULLY SUBMITTED

Chris Cerimele
Town Planner

ATTACHMENTS

- Planning Commission Application – Burke Harrington
- Planning Commission Application – Bobby Head
- Planning Commission Application – Frank Lorenti
- Resolution No. 9 - Series 2012

TOWN OF MINTURN

Application – Planning Commission

Thank you for expressing an interest to serve on the Town of Minturn's Planning Commission.

- The Commission meets once a month on the second Wednesday at 6:30 pm in the Minturn Town Center Council Chambers located at 302 Pine Street, Minturn, CO.

Applicants must be residents of Minturn for a minimum of one year and a registered Minturn voter. To be ensured of appropriate consideration, please complete the following information:

Name: Burke Harrington

Phone: (H) _____ (W) _____ (Cell) 970-376-2256

Email: bhcco@comcast.net

Mailing Address: POB 425 Minturn, CO. 81645

Physical Address: 532 A Taylor St.

1. How long have you lived in Minturn? 3+ years

2. What is your occupation and /or background? general contractor

3. Are you currently serving on other community groups, boards, or commissions? NO

4. If yes, please provide the name of the organization _____

5. How long have you served on the organization? _____

6. What are some of the reasons you wish to serve on the Minturn Planning Commission?

I would like to be an active participant
in the future planning of the town.

7. What is your "long range" vision for the Town of Minturn?

I would like to see what Minturn has for a 5 or 10 year plan at the moment and how much the Battle Mt. project moving forward will dictate what can be achieved. I would also encourage dialogue with Union Pacific to see what can be done with their property.

8. What are the most important issues facing the Town of Minturn? _____

the Battle Mtn. project

Improving infrastructure

Money

Donment railroad property

9. Please add any other additional comments that you may wish to state _____

Please mail/fax/email or deliver in person all applications by **February 28, 2012**

**Town of Minturn
P.O. Box 309
302 Pine Street
Minturn, CO 81645**

**Phone: 970.827.5645
Fax: 970.827.5545
Email: planner1@minturn.org**

For any additional questions, please contact Chris Cerimele, Minturn Town Planner as outlined in the contact information above.

TOWN OF MINTURN

Application – Planning Commission

Thank you for expressing an interest to serve on the Town of Minturn's Planning Commission.

- The Commission meets once a month on the second Wednesday at 6:30 pm in the Minturn Town Center Council Chambers located at 302 Pine Street, Minturn, CO.

Applicants must be residents of Minturn for a minimum of one year and a registered Minturn voter. To be ensured of appropriate consideration, please complete the following information:

Name: Bobby Head

Phone: (H) 748-0697 (W) 748-8461 (Cell) 904-1668

Email: Bobby_rmcl@msn.com

Mailing Address: P.O. BOX 4082 AVON, CO 81620

Physical Address: 1151 MAIN ST. 4-B, MINTURN CO

1. How long have you lived in Minturn? 8 YEARS
2. What is your occupation and /or background? LANDSCAPE ARCHITECTURE / LANDSCAPE CONE
3. Are you currently serving on other community groups, boards, or commissions? NO
4. If yes, please provide the name of the organization _____
5. How long have you served on the organization? _____
6. What are some of the reasons you wish to serve on the Minturn Planning Commission?
* BE PROACTIVE IN OUR COMMUNITY
* HELP BETTER OUR COMMUNITY
* TO BE MORE INFORMED

7. What is your "long range" vision for the Town of Minturn?

TO CONTINUE TO GROW ITS BUSINESSES, BUT STILL
KEEP THE SMALL TOWN CHARM.

8. What are the most important issues facing the Town of Minturn? _____

OUR INFRASTRUCTURE.

9. Please add any other additional comments that you may wish to state _____

Please mail/fax/email or deliver in person all applications by **February 28, 2012**

**Town of Minturn
P.O. Box 309
302 Pine Street
Minturn, CO 81645**

**Phone: 970.827.5645
Fax: 970.827.5545
Email: planner1@minturn.org**

For any additional questions, please contact Chris Cerimele, Minturn Town Planner as outlined in the contact information above.

TOWN OF MINTURN

Application – Planning Commission

Thank you for expressing an interest to serve on the Town of Minturn’s Planning Commission.

- The Commission meets once a month on the second Wednesday at 6:30 pm in the Minturn Town Center Council Chambers located at 302 Pine Street, Minturn, CO.

Applicants must be residents of Minturn for a minimum of one year and a registered Minturn voter. To be ensured of appropriate consideration, please complete the following information:

Name: Frank Lorenti

Phone: (H) 970 827-5988 (W) _____ (Cell) _____

Email: frank@minturntimes.com

Mailing Address: Box 1114 Minturn Co 81645

Physical Address: 1081 Main St Minturn Co 81645

1. How long have you lived in Minturn? 17 yrs

2. What is your occupation and /or background? Self-employed

3. Are you currently serving on other community groups, boards, or commissions? NO

4. If yes, please provide the name of the organization _____

5. How long have you served on the organization? _____

6. What are some of the reasons you wish to serve on the Minturn Planning Commission?

To enforce building codes fairly.

- 7. What is your "long range" vision for the Town of Minturn?
Ski lifts, Historical museum, responsible
development, Recreation center, sidewalks,
bikepaths

- 8. What are the most important issues facing the Town of Minturn? enforcement
of building codes fairly.

- 9. Please add any other additional comments that you may wish to state _____
Planning Department in Minturn doesn't
currently understand lot coverage, building
height, tap fee and other issues.

Please mail/fax/email or deliver in person all applications by **February 28, 2012**

Town of Minturn
P.O. Box 309
302 Pine Street
Minturn, CO 81645

Phone: 970.827.5645
Fax: 970.827.5545
Email: planner1@minturn.org

For any additional questions, please contact Chris Cerimele, Minturn Town Planner as outlined in the contact information above.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 09 – SERIES 2012**

**A RESOLUTION APPOINTING A TOWN PLANNING
COMMISSIONER**

WHEREAS, a vacancy exists on the Minturn Planning Commission due to the resignation of Commissioner Michael Gallagher and the Town Council desires to fill this vacancy; and

WHEREAS, pursuant to Minturn Municipal Code Section 16.21.40 §D, Planning Commission vacancies shall be filled by a majority vote of the Town Council; and

WHEREAS, the powers and duties of the Minturn Planning Commission are outlined in Minturn Municipal Code section 16.21.40. §F; and

WHEREAS, the Town Council recognizes and appreciates the service and commitment of the Planning Commission members.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING INDIVIDUAL IS HEREBY APPOINTED FOR THE INDICATED TERM:

NAME

TERM

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 7th day of March, 2012.

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Town Clerk

Michelle Metteer
Deputy Clerk
P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
mmetteer@minturn.org



Town Council
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
Councilwoman – Shelley Bellm
Councilwoman – Earle Bidez
Councilman – Jerry Bumgarner
Councilman – Aggie Martinez
Councilman – John Rosenfeld

AGENDA ITEM COVER SHEET

AGENDA TITLE: Medical Marijuana Center, Ordinance 3 – Series 2012
MEETING DATE: March 7, 2012
PRESENTER: Brunvand/Metteer
BACKGROUND: <p>During the scheduled work session Council will review the proposed medical marijuana ordinance. The most recent updates to the ordinance reflect suggestions by the Medical Marijuana Enforcement Division as well as the determination of permit fees.</p>
CORE ISSUES: The following still requires addressing at both the Staff and Council level: <ul style="list-style-type: none">• Currently, this ordinance is outlined with the Town Administrator as the licensing authority and for applications to be handled at the Staff level. Any applicant appeals would come before Council.• Appropriate fees for permit application and permit renewal. An updated spreadsheet of other Town’s fee schedule for medical marijuana center licensing/permitting has been included. At first glance the fee schedule dollar amounts look high, but in light of the amount of staff labor Minturn has already dedicated to this, as well as the ongoing labor for inspections and renewals, the dollar amounts are reasonable. The average costs for other Colorado municipalities’ average to roughly \$1700.00/license. Renewal fees would be the same, pending the Center has remained in compliance and is up to date on all inspections.
STAFF RECOMMENDATION/MOTION: <p>Staff recommends approval with a motion to set a moratorium of a minimum of one year. The following findings were used in obtaining this recommendation:</p> <ul style="list-style-type: none">• Approved by Minturn voters, November 2, 2010.• Direction from Council for the creation of the ordinance.• State mandates go into effect July 1st which will require Minturn to follow the State guidelines if Minturn has not established its own licensing authority. <p>Motion to read: Motion to approve Ordinance 3 Series 2012, an ordinance amending chapter 6 of the Minturn Municipal Code by adopting provisions for the regulation of medical marijuana centers following an 18 (eighteen) month moratorium as presented.</p>

ORDINANCE NO. 93

Series 2011+2012

AN ORDINANCE AMENDING CHAPTER 6 OF THE MINTURN MUNICIPAL CODE
BY ADOPTING PROVISIONS FOR THE REGULATION OF MEDICAL MARIJUANA CENTERS

THE TOWN OF MINTURN, COLORADO ORDAINS:

Section 1. Regulations Adopted. Chapter 6 of the Minturn Municipal Code is amended by the addition of a new article 3, to be entitled "Medical Marijuana Centers", which shall read in its entirety as follows:

ARTICLE 3

MEDICAL MARIJUANA CENTERS

SECTION:

- 6-3-1: SHORT TITLE
- 6-3-2: FINDINGS
- 6-3-3: PURPOSE
- 6-3-4: AUTHORITY
- 6-3-5: DEFINITIONS
- 6-3-6: PERMIT REQUIRED
- 6-3-7: APPLICATION FOR PERMIT
- 6-3-8: APPLICATION FEE
- 6-3-9: INVESTIGATION OF APPLICATION
- 6-3-10: STANDARDS FOR ISSUANCE OF PERMIT
- 6-3-11: DENIAL OF PERMIT
- 6-3-12: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT
- 6-3-13: DECISION BY TOWN ADMINISTRATOR
- 6-3-14: NOTICE OF DECISION
- 6-3-15: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT
- 6-3-16: CONTENTS OF PERMIT
- 6-3-17: INSPECTION OF PREMISES
- 6-3-18: PERMIT NOT TRANSFERABLE
- 6-3-19: NOTICE OF ISSUANCE OF PERMIT
- 6-3-20: DURATION OF PERMIT; RENEWAL
- 6-3-21: DUTIES OF PERMITTEE
- 6-3-22: POSTING OF PERMIT
- 6-3-23: SUSPENSION OR REVOCATION OF PERMIT
- 6-3-24: LIMITATION ON SALE OF MARIJUANA
- 6-3-25: CENTER LOCATION
- 6-3-26: HOURS OF OPERATION
- 6-3-27: SIGNAGE
- 6-3-28: REQUIRED WARNINGS TO BE POSTED
- 6-3-29: ON-SITE CONSUMPTION
- 6-3-30: PARAPHERNALIA
- 6-3-31: ON-SITE CULTIVATION, GROWING AND PROCESSING
- 6-3-32: ALCOHOL
- 6-3-33: DISPLAY OF MEDICAL MARIJUANA

- 6-3-34: SECURITY REQUIREMENTS
- 6-3-35: BUSINESS LICENSE REQUIRED
- 6-3-36: TAXES
- 6-3-37: REQUIRED RECORD
- 6-3-38: PENALTIES; INJUNCTIVE RELIEF
- 6-3-39: NO WAIVER OF GOVERNMENTAL IMMUNITY
- 6-3-40: NO TOWN LIABILITY
- 6-3-41: INDEMNIFICATION OF TOWN
- 6-3-42: OTHER LAWS REMAIN APPLICABLE
- 6-3-43: RULES AND REGULATIONS

6-3-1: SHORT TITLE: This chapter shall be known and may be cited as the “Town of Minturn Medical Marijuana Center Ordinance.”

6-3-2: FINDINGS: The Town Council adopts this article based upon the following findings of fact:

- A. Because federal and state law prohibits the possession and sale of marijuana generally, marijuana sales have never been specifically addressed by Town ordinance.
- B. On November 7, 2000 the voters of the State of Colorado approved Amendment 20. Amendment 20 added §14 of article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.
- C. The intent of Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use, and distribute marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law.
- D. Despite the adoption of Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use, transport and distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible.
- E. If not closely monitored and regulated the presence of marijuana, even for the purposes legally permitted by Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), may cause an increase in illegal activities within the Town affecting the health, safety, order, comfort, convenience and general welfare of the residents of the Town, as well as the health, safety and welfare of the operators of medical marijuana Centers and their customers.

- F. If medical marijuana centers operating pursuant Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana Centers might be established in areas that would conflict with the Town's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.
- G. Nothing in this article allows a person to:
 1. engage in conduct that endangers others or causes a public nuisance;
 2. possess, cultivate, grow, use, or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), and the implementing state statutes and administrative regulations;
 3. possess, cultivate, grow, use, or distribute marijuana that is otherwise illegal under applicable law; or
 4. engage in any activity related to the possession, cultivation, growing, use, or distribution of marijuana that is otherwise not permitted under the laws of the Town or the State of Colorado.
- H. This article is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the Town and the inhabitants thereof.
- I. No person, business, activity or use that distributed or involved the distribution of marijuana within the Town prior to the enactment of this chapter shall be deemed to have been legally established under this code, and no such person, business, activity, or use shall be entitled to claim legal nonconforming status under any provision of this code or applicable law.

6-3-3: PURPOSE: Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana centers, it is the purpose of this chapter to:

- A. Impose specific requirements and limitations for those individuals registering with the State of Colorado as a "patient" or "primary care-giver" as those terms are defined in Amendment 20, and the statutes and administrative regulations implementing Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#).
- B. Require that a medical marijuana Center (as defined in this chapter) be operated in a safe manner that does not endanger the public welfare.
- C. Mitigate potential negative impacts that a medical marijuana center might cause on surrounding properties and persons.

- D. Regulate the conduct of persons owning, operating, and using a medical marijuana center in order to protect the public health, safety and welfare.
- E. Establish a non-discriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana centers within the Town.

6-3-4: AUTHORITY: The Town Council hereby finds, determines, and declares that it has the power to adopt this chapter pursuant to:

- A. The Local Government Land Use Control Enabling Act, article 20 of title 29,C.R.S.;
- B. Part 3 of article 23 of title 31, C.R.S. (concerning municipal zoning powers);
- C. Section 31-15-103, C.R.S. (concerning municipal police powers);
- D. Section 31-15-401, C.R.S. (concerning municipal police powers);
- E. Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
- F. The authority granted to home rule municipalities by article XX of the Colorado Constitution; and
- G. The powers contained in the Minturn Town Charter.

6-3-5: DEFINITIONS:

- A. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:

ADJACENT:	Adjacent to or contiguous with the proposed location of a medical marijuana center. Adjacency shall be determined without regard to the existence of a platted or dedicated public street or alley, and real property that would otherwise be determined to be adjacent to a proposed medical marijuana center does not lose its adjacency by virtue of the existence of a platted or dedicated public street or alley.
ALCOHOLIC BEVERAGE:	Has the meaning provided in Section 10-10-10 of this code.
AMENDMENT 20:	A voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added §14 of Article 18 to the Colorado Constitution.

APPLICANT: A person twenty one years of age or older who has submitted an application for permit pursuant to this chapter.

APPLICATION: An application for permit submitted pursuant to this chapter.

BUILDING OFFICIAL: The Building Official of the Town.

BUSINESS LICENSE: A Business License to operate a medical marijuana center issued by the Town pursuant to this chapter.

DAY: A calendar day, unless otherwise indicated.

GOOD CAUSE (for the purpose of refusing or denying a permit renewal under this chapter):

Means:

- A. the permittee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter and any rule and regulation promulgated pursuant to this chapter;
- B. the permittee has failed to comply with any special terms or conditions that were placed on its permit at the time the permit was issued, or that were placed on its permit in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or
- C. the permittee's medical marijuana center have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the medical marijuana center is located. Evidence to support such a finding can include: (i) a continuing pattern of disorderly conduct as defined in section 10-8-90 of this code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center, or in the immediate area surrounding the medical marijuana center; or (iii) a continuing pattern of criminal conduct directly related to or arising from the

	operation of the medical marijuana center.
GROUND FLOOR:	The floor of a structure at approximately the same elevation as the natural grade of the surrounding area.
HALFWAY HOUSE:	A group care facility for adults or juveniles who have been placed on probation or parole under applicable law.
LAND USE GUIDELINES:	Chapter 16 of the Minturn Municipal Code.
LOCAL LICENSING AUTHORITY	For the purposes of this article, means the Town Administrator of the Town of Minturn or Administrator's designee.
MEDICAL MARIJUANA CENTER OR CENTER:	The use of any property or structure within the Town to distribute, transmit, provide, dispense, or otherwise provide marijuana in any manner to patients or primary care-givers in accordance with Section 14, Article XVIII of the Colorado Constitution, and the implementing state statutes and administrative regulations. A medical marijuana center may not be used as a physician's office to examine or consult with patients.
PATIENT:	Has the meaning provided in Amendment 20.
PERMIT:	A permit to operate a medical marijuana center issued by the Town pursuant to this chapter.
PERMITTEE:	The person to whom a permit has been issued pursuant to this chapter.
PERSON:	Has the meaning provided in section 1-2-10 of this code.
PRIMARY CARE-GIVER:	Has the meaning provided in Amendment 20.
RESIDENTIAL USE:	A single family, duplex or multi-family structure or hotel, long or short term occupancy.
SPLIT LEVEL STRUCTURE:	A structure or portion of a structure that includes multiple floors with the lowest floor visible from the street front having a finished grade below the finished grade level of the street front sidewalk.

STATE: Shall mean the state of Colorado.

TOWN: Has the meaning provided in section _1-2-10 of this code.

TOWN ADMINISTRATOR : The Town Administrator of the Town, or the Town Administrator's designee authorized to act pursuant to section 2-3-10 – 2-3-40 of this code.

- B. In addition to the definitions provided in subsection A of this section, the other defined terms in Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), are incorporated into this chapter by reference.

6-3-6: PERMIT [REQUIRED FEE](#): No person shall operate a medical marijuana center within the Town without a valid permit issued in accordance with this chapter. [For permits filed in 2012 the permit fees shall be set as follows: medical marijuana center: is \\$1500.00, optional premise cultivation operation: \\$1500, and marijuana infused products manufacturer: \\$1500. Thereafter, the amount of the permit fees shall be fixed by the Town Council as part of its annual budget process.](#)

6-3-7: APPLICATION FOR PERMIT:

- A. A person seeking to obtain a permit pursuant to this chapter shall file an application with the Town Administrator. The form of the application shall be provided by the Town Administrator.
- B. A permit issued pursuant to this chapter does not eliminate the need for the permittee to obtain other required State and Town licenses and permits related to the operation of the approved medical marijuana center, including, without limitation:
1. a State sales tax license;
 2. [any and all State licensing requirements](#)
 3. a Town business license; and
 4. a Medical Marijuana center permit has been obtained from the Town of Minturn and all applicable fees shall be paid in full.
 5. a building permit, mechanical permit, plumbing permit, or electrical permit as necessary
- C. An application for a permit under this chapter shall contain the following information:

1. the applicant's name, address, telephone number, birthdate and social security number;
2. the street address of the proposed medical marijuana center;
3. if the applicant is not the owner of the proposed location of the medical marijuana center, a notarized statement from the owner of such property authorizing the submission of the application;
4. a copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess the proposed licensed premises;
5. a statement of the applicant's personal history;
6. a completed set of the applicant's fingerprints on a form approved by the Town Administrator;
7. an operation plan for the center to ensure compliance with law. The operation plan must contain the following items:
 - i. description of security provisions and systems as required by the Colorado Medical Marijuana Enforcement Division Rules
 - ii. Plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. C.R.S 12-43.3-301(4)
 - iii. If cultivating on site, a description of any cultivation within the center, including
 - a. Where plants are grown
 - b. The number of plants that will be grown
 - c. The number of plants within a given stage of growth at any given time
 - d. A description of the ventilation system for the premises
 - e. A description of the lighting system for the grow area
8. a statement to be initialed by the applicant that the applicant and the employees of the medical marijuana center may be subject to prosecution under federal marijuana laws;
9. a statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana center; and
10. any additional information that the Town Administrator reasonably determines to be necessary in connection with the investigation and review of the application.

Applications shall be processed by the Town Administrator in order of receipt.

6-3-8: APPLICATION FEE: An applicant shall pay to the Town a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. For applications filed in 2012 the application fee is \$800.00. Thereafter, the amount of the application fee shall be fixed by the Town Council as part of its annual budget process.

6-3-9: INVESTIGATION OF APPLICATION:

- A. Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee as required by section 6-3-8, the Town Administrator shall transmit copies of the application to:
 - 1. the Police Department;
 - 2. the Town Attorney
 - 3. the Planning Department; and
 - 4. any other person or agency which the Town Administrator determines should properly investigate and comment upon the application.
- B. Upon receipt of a completed application the Police Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.
- C. Within twenty days of receipt of a completed application those Town departments and other referral agencies described in subsection A of this section shall provide the Town Administrator with comments concerning the application.

6-3-10: STANDARDS FOR ISSUANCE OF PERMIT: The Town Administrator shall issue a permit under this chapter when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Administrator determines that:

- A. The application (including any required attachments and submissions) is complete and signed by the applicant;
- B. The applicant has paid the application fee and any other fees required by section 6-3-8;
- C. The application does not contain a material falsehood or misrepresentation;
- D. The application complies with all of the requirements of this chapter;
- E. The applicant has good moral character. In making this determination or when considering a criminal conviction, the Town Administrator shall be governed by the provisions of section 24-5-101, C.R.S. If the Town Administrator takes into consideration information concerning the applicant's criminal history record, the

Town Administrator shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a permit; and

- F. The proposed location of the medical marijuana center is permitted under section 6-3-25.

6-3-11: DENIAL OF PERMIT: The Town Administrator shall deny an application for a permit under this chapter if the Town Administrator determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect; or
- B. The application fails to meet any of the standards sets forth in section 6-3-10. A standard cure time of seven(7) business days will be extended.

If an application is denied the application fee shall not be refunded.

6-3-12: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT: The Town Administrator shall have the authority to impose such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this chapter and applicable law.

6-3-13: DECISION BY TOWN ADMINISTRATOR:

- A. The Town Administrator shall approve, deny, or conditionally approve a permit within thirty days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional ten days if necessary for the Town Administrator to complete the review of the application.
- B. If an application is denied, the Town Administrator shall clearly set forth in writing the grounds for denial.
- C. In the event an application is conditionally approved, the Town Administrator shall clearly set forth in writing the conditions of approval.

6-3-14: NOTICE OF DECISION: The Town Administrator shall notify the applicant of the decision on the application within three business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator's decision to the applicant by certified mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

6-3-15: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT:

- A. An applicant has the right to appeal the Town Administrator's denial or conditional approval of an application to the Town Council.

- B. The applicant's written notice of appeal shall be filed with the Town Administrator within ten days after the date of mailing of the Town Administrator's decision on the application.
- C. The applicant shall be provided with not less than ten days' prior written notice of the appeal hearing to be held by the Town Council.
- D. The burden of proof in an appeal filed under this section shall be on the applicant.
- E. Any decision made by the Town Council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.
- F. If there is any conflict between the provisions and requirements of this section and the provisions and requirements of chapter ___ of title ___ of this code, the provisions and requirements of this section shall control.

6-3-16: CONTENTS OF PERMIT: A permit shall contain the following information:

- A. The name of the permittee;
- B. The date of the issuance of the permit;
- C. The address at which the permittee is authorized to operate the medical marijuana center;
- D. Any special conditions of approval imposed upon the permit by the Town Administrator pursuant to section 6-3-12; and
- E. The date of the expiration of the permit.
- F. a statement to be initialed by the applicant that the applicant and the employees of the medical marijuana center may be subject to prosecution under federal marijuana laws;
- G. a statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana center;

A permit must be signed by both the applicant and the Town Administrator to be valid.

6-3-17: INSPECTION OF PREMISES:

- A. Prior to the issuance of a permit, the premises at which the medical marijuana center will be operated shall be inspected by the Town's Building Official to determine compliance with the Town's building and technical codes. No permit

shall be issued if the premises at which the medical marijuana dispensary will be operated do not comply with the Town's building and technical codes. Throughout the term of the permit the Building Official may inspect the premises at which the medical marijuana dispensary is operated to determine continuing compliance with the Town's building and technical codes. Access to such premises may be obtained by the Building Official in accordance with the applicable provisions of such codes or other applicable law.

- B. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by Police Services, Fire Services, and all other Town departments designated by the Town Administrator for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records, inventory and security. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection without delay, upon request.
- C. Reoccurring inspections shall be conducted not less than once per year and proof of a completed, passing inspection by either the State Licensing Authority or a pre-approved third party, as determined by the Town Administrator, must be submitted at time of permit renewal. Any and all possible costs for inspections, and required maintenance requested as a condition of a passing inspection shall be the sole responsibility of the applicant.

6-3-18: PERMIT NOT TRANSFERABLE: A permit is non-transferable and non-assignable. Any attempt to transfer or assign a permit voids the permit.

6-3-19: NOTICE OF ISSUANCE OF PERMIT: Immediately upon the issuance of a permit, the Town Administrator shall send a copy of the permit to:

- A. The Town Clerk;
- B. The Town Attorney;
- C. The Police Department;
- D. The Planning Department;
- E. The Town Treasurer; and
- F. Any other person as determined by the Town Administrator.

Do we need to have a caveat to review this prior to the state's passage on July 2012
Start here on second meeting in July Worksession

6-3-20: DURATION OF PERMIT; RENEWAL

- A. The term of the permit shall be from April 1 to March 31 of the following year.

Formatted: Indent: Hanging: 0.56", Tab stops: 1", List tab + Not at 1.06"

- B. An application for the renewal of an existing permit shall be made to the Town Administrator not less than forty-five days prior to the date of expiration. No application for renewal shall be accepted by the Town Administrator after the date of expiration. The Town Administrator may waive the forty-five day time requirement set forth in this subsection if the applicant demonstrates an adequate reason.
- C. The provisions of sections 6-3-9 through 6-3-15, inclusive, and section 6-3-17(C), shall apply to the processing of an application to renew a permit. The timely filing of a renewal application shall extend the current permit until a final decision is made on the renewal application, including any appeal of the Town Administrator's decision to the Town Council.
- D. At the time of the filing of an application for the renewal of an existing permit the applicant shall pay a renewal fee in an amount fixed by the Town Council as part of its annual budget process.
- E. The Town Administrator may refuse to renew a permit for good cause.

6-3-21: DUTIES OF PERMITTEE: It is the duty and obligation of each permittee to do the following:

- A. Comply with all of the terms and conditions of the permit, and any special conditions on the permit imposed by the Town Administrator pursuant to section 6-3-12;
- B. Comply with all of the requirements of this article;
- C. Comply with all other applicable Town ordinances;
- D. Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, the Colorado Medical Marijuana Enforcement Division Rules, Amendment 20; section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment found at 5 CCR 1006-2, all as amended from time to time.
- E. Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20; and
- F. If the Town Administrator has a reasonable suspicion that the permittee is or has violated the terms and conditions of the permit: allow inspection of its records, building or structure, and operation by the Town Administrator for the purpose of determining the permittee's compliance with the terms and conditions of the permit. However, nothing in this section shall abrogate or affect: (i) any applicable confidentiality provision of state or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this section and any applicable state or federal law, the applicable provision of state or federal law shall control.

6-3-22: POSTING OF PERMIT: A permit shall be continuously posted in a conspicuous location at the medical marijuana center.

6-3-23: SUSPENSION OR REVOCATION OF PERMIT:

- A. A permit issued pursuant to this chapter may be suspended or revoked by the Town Administrator after a hearing for the following reasons:
 - 1. fraud, misrepresentation, or a false statement of material fact contained in the permit application;
 - 2. a violation of any Town, state, or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;
 - 3. a violation of any of the terms and conditions of the permit, including any special conditions of approval imposed upon the permit by the Town Administrator pursuant to section 6-3-12;
 - 4. a violation of any of the provisions of this chapter;
 - 5. ownership of the medical marijuana center has been transferred without the new owner obtaining a permit pursuant to this chapter.
- B. In connection with the suspension of a permit, the Town Administrator may impose reasonable conditions.
- C. A hearing held pursuant to this section shall be processed in accordance with 6-3-15 of this code.
- D. In deciding whether a permit should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the Town Administrator shall consider:
 - 1. the nature and seriousness of the violation;
 - 2. corrective action, if any, taken by the permittee;
 - 3. prior violation(s), if any, by the permittee;
 - 4. the likelihood of recurrence;
 - 5. all circumstances surrounding the violation;
 - 6. whether the violation was willful;
 - 7. the number of previous violations by the permittee; and
 - 8. previous sanctions, if any, imposed against the permittee.
- E. If the Town Administrator suspends a permit, the permittee may appeal the suspension or revocation to the Town Council, in accordance with the process

outlined in section 6-3-15 of this article. The burden of proof in such an appeal is on the permittee. If the Town Council finds by a preponderance of the evidence that the Town Administrator acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Administrator's order of suspension or revocation. If the Town Council finds by a preponderance of the evidence that the Town Administrator acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the Town Administrator's order of suspension or revocation shall be set aside. Any decision made by the Town Council pursuant to this section shall be a final decision by the Town of Minturn. The permittee may appeal to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.

- F. No fee previously paid by a permittee in connection with the application shall be refunded if such permit is suspended or revoked.

6-3-24: LIMITATIONS:

- A. No marijuana may be sold, given away, or transferred at a medical marijuana center except to patients and to primary care-givers.
- B. All cultivation of medical marijuana shall be conducted entirely within a building or other fully enclosed, permanent structure.

6-3-25: CENTER LOCATION:

- A. Except as provided in subsection F of this section, no medical marijuana center shall be located at a location that does not conform to the requirements of this section.
- B. No medical marijuana center shall be located:
 - 1. within 1000 feet of a a school, an alcohol or drug treatment facility, the principal campus of a college, university, or seminary, or a residential child care facility;
 - 2. within 500 feet of any halfway house;
 - 3. within 500 feet of any property being used for a residential use;
 - 4. within any building or structure that contains a residential unit;
 - 5. within 500 feet of another medical marijuana center.
- C. The distances described in subsection B shall be computed by direct measurement from the nearest property line of the land used for the purposes stated in subsections (B)(1), (B)(2), (B)(3), (B)(4) and (B)(5) to the nearest

portion of the building, or unit proposed to house the medical marijuana center, using a straight line.

- D. Each medical marijuana center shall be operated from a permanent and fixed location. No medical marijuana center shall be permitted to operate from a moveable, mobile, or transitory location.
- E. Subsection D shall not prevent the physical delivery of medical marijuana to a patient or the patient's primary caregiver at a location off of the premises of the permittee's medical marijuana center if:
 - 1. the marijuana was lawfully purchased by the patient or the patient's primary caregiver from the permittee's medical marijuana center;
 - 2. the marijuana is delivered only to the patient or the patient's primary caregiver;
 - 3. the marijuana is delivered only by the permittee or an employee of the permittee;
 - 4. the marijuana is delivered to a location within the Town; and
 - 5. the marijuana is delivered only by the use of a motor vehicle, bicycle, or other lawful means of transportation.
- F. The suitability of a location for a medical marijuana center shall be determined at the time of the initial issuance of the permit for such center. The fact that changes in the neighborhood that occur after the initial issuance of the permit might render the site unsuitable for a medical marijuana center under this section shall not be grounds to suspend, revoke or refuse to renew the permit for such center so long as the permit for the center remains in effect.
- G. Meadow Mountain Business Park shall be deemed an approved site if allowed by section 6-3-25(B)(5).
- H. No medical marijuana center shall be operated as a "home occupation" or a "home business" as described in 16-2-20 of this code.

6-3-26: HOURS OF OPERATION: A medical marijuana center may open no earlier than 9 A.M. and shall close no later than 7 P.M. the same day. A medical marijuana center may be open seven days a week.

6-3-27: SIGNAGE: All signage for a medical marijuana center shall comply with the requirements of article 19 of chapter 16 of this code. No signage associated with medical marijuana Centers shall use the word "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical." In addition no signage shall contain a graphic/image of any portion of a marijuana plant.

6-3-28: REQUIRED WARNINGS TO BE POSTED: There shall be posted in a conspicuous location in each medical marijuana center a legible sign, approved by the Town Administrator, containing the following warnings:

- A. A warning that the diversion of marijuana for non-medical purposes is a violation of state law;
- B. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana; and
- C. A warning that loitering in or around the medical marijuana center is prohibited by state law.
- D. A warning that possession and distribution of marijuana is a violation of federal law.
- E. A warning that no person may be permitted on the licensed premises other than:
 - 1. The licensee, the licensee's manager, licensed employees and financial interest holders
 - 2. A patient in possession of a registry identification card under Article XVIII, Section 14(3)(d) of the Colorado Constitution
 - 3. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card
 - 4. A primary caregiver in possession of his or her patient's registry identification card under Article XVIII, Section 14(3)(d) of the Colorado Constitution and the patient's written designation of said person as the patient's primary caregiver
 - 5. A person whose physical presence and assistance are necessary to assist a patient, or
 - 6. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting, inspection, or other professional services directly related to the conduct of the licensee's marijuana business.

6-3-29: ON-SITE CONSUMPTION: The consumption or inhalation of marijuana on or within the premises of a medical marijuana center is prohibited.

6-3-30: PARAPHERNALIA: Devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical marijuana center. Such items may be sold or provided only to patients or primary care-givers.

6-3-31: ON-SITE CULTIVATION, GROWING AND PROCESSING: The growing, cultivation, or processing of marijuana on or within the premises of a medical marijuana center is prohibited unless:

- A. All activities of medical marijuana business, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted indoors
- B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times

6-3-32: ALCOHOL: The sale or consumption of an alcoholic beverage within a medical marijuana center is prohibited.

6-3-33: DISPLAY OF MEDICAL MARIJUANA: No marijuana shall be displayed so as to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of the medical marijuana center.

6-3-34: SECURITY REQUIREMENTS: A permittee shall provide adequate security on the premises including:

- A. Security requirements as outlined in the Medical Marijuana Enforcement Division Rules 10.200-10.400.
- B. A locking safe permanently affixed to the premises that is suitable for storage of all of the saleable inventory of marijuana if marijuana is to be stored overnight on the premises; and
- C. Exterior lighting that illuminates the exterior walls of the business and is compliant with section 16-17-180 of this code.

6-3-35: BUSINESS LICENSE REQUIRED: At all times while a permit is in effect the permittee shall possess a valid license issued under article 2 of chapter 6 of this code.

6-3-36: TAXES: Each permittee shall collect and remit sales tax on all medical marijuana, paraphernalia, and other tangible personal property sold by the permittee at the medical marijuana center.

6-3-37: REQUIRED RECORD:

- A. Each permittee shall maintain an accurate and complete record of all marijuana sold or dispensed at the medical marijuana center. The record shall contain the following information:
 - 1. The quantity of marijuana sold or dispensed; and
 - 2. The date and time the marijuana was sold or dispensed
- B. The permittee's records described in subsection A of this section shall be available for inspection by the Town's police department pursuant to Rule 41 of

the Colorado Rules of Criminal Procedure or Rule 241 of the Colorado Municipal Court Rules of Procedure.

- C. Nothing in this section shall abrogate or affect : (i) any applicable confidentiality provision of state or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this section and any applicable state or federal law, the applicable provision of state or federal law shall control.

6-3-38: PENALTIES; INJUNCTIVE RELIEF:

- A. It is a misdemeanor offense for any person to violate any provision of this chapter. Any person convicted of having violated any provision of this chapter shall be punished as set forth in article 4 of chapter 1 of this code.
- B. The operation of a medical marijuana center without a valid permit issued pursuant to this chapter may be enjoined by the Town in an action brought in a court of competent jurisdiction. In any case in which the Town prevails in a civil action initiated pursuant to this section, the Town may recover its reasonable attorney fees plus costs of the proceeding.
- C. The remedies provided in this section are in addition to any other remedy provided by applicable law.

6-3-39: NO WAIVER OF GOVERNMENTAL IMMUNITY: In adopting this chapter the Town Council is relying on, and does not waive or intend to waive by any provision of this chapter, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, section 24-10-101 et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers, or its employees.

6-3-40: NO TOWN LIABILITY: By accepting a permit issued pursuant to this chapter a permittee releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of center owners, operators, employees, clients, or customers for a violation of state or federal laws, rules or regulations. The Town Administrator may require a permittee to execute a written instrument confirming the provisions of this section.

6-3-41: INDEMNIFICATION OF TOWN: By accepting a permit issued pursuant to this chapter a permittee, jointly and severally if more than one, agrees to indemnify and defend the Town, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana center that is the subject of the permit. The permittee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Town Administrator may require a permittee to execute a written instrument confirming the provisions of this section.

6-3-42: OTHER LAWS REMAIN APPLICABLE: The provisions of this chapter do not protect permittees, operators, employees, customers and clients of a permitted medical marijuana center from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or possession of controlled substances. In addition, as of the date of the adoption of this chapter the cultivation, sale, possession, distribution, and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this chapter affords no protection against prosecution under such federal and state laws. Permittees, operators, employees, customers and clients of a permitted medical marijuana center assume any and all risk and any and all liability arising or resulting from the operation of the center under any state or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town of Minturn shall not become a personal liability of such person or of the Town.

6-3-43: RULES AND REGULATIONS: The Town Administrator shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this chapter. Such regulations shall be adopted in accordance with the procedures established by chapter 18, title 1 of this code.

Section 2. Municipal Code. Except as specifically amended hereby, the Minturn Municipal Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid or ineffective by the final, nonappealable order or judgment of any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. The Town Council hereby declares that it would have adopted each section, paragraph, sentence, clause and phrase of this ordinance irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases may be declared unconstitutional, invalid or ineffective.

Section 4. Effective Date. This ordinance shall be published and become effective ~~as provided by section 11.5 of the Minturn Town Charter eighteen months after approved by motion of the Minturn Town Council.~~

Section 5. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Minturn and the inhabitants thereof.

Section 6. The repeal or the repeal and re-enactment of any provision of the Minturn Municipal Code as provided in this ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed or repealed and re-enacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

**INTRODUCED, READ BY TITLE IN FULL, APPROVED ON THE FIRST READING,
APPROVED AND ORDERED PUBLISHED IN FULL THE _____ DAY OF _____,**

~~2011~~2012. A public hearing on this ordinance shall be held at the regular meeting of the Town Council of the Town of Minturn, Colorado on the ____ day of _____, 2012, at 7:00 p.m. at the Minturn Town Center, 302 Pine Street, Minturn, Colorado.

MAYOR

ATTEST:

TOWN CLERK

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE, READ BY TITLE, ENACTED AND ORDERED PUBLISHED BY TITLE ONLY ON SECOND READING THIS ____ DAY OF _____, 2012.

MAYOR

ATTEST:

TOWN CLERK



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-5545
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

TO: Minturn Town Council
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Friday, March 02, 2012
RE: Executive Session

At the Council meeting, Council will need to convene in Executive Session with the Attorney to discuss and direct Staff regarding the possible acquisition of a parcel of USFS land and to further give direction for the purposes of ongoing negotiations. The following motion is recommended:

“Recommended motion: “I move to convene in Executive Session Pursuant to CRS 24-6-402(4)(a) Pursuant to CRS 24-6-402(4)(a) for the purposes of discussing the purchase of certain USFS land and pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding negotiations.”

The Mayor will announce for the record if any decision is to be made as a result of the Executive Session once the Regular Session meeting reconvenes.

Please contact me in the event you have any questions.

Thank You, Jay