



2014

# Minturn Council Meeting

Wednesday May 21, 2014

**Work Session:** **5:30pm**  
**(Town Center)**

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

**TOP COUNCIL PRIORITIES:**

- Street and Drainage Projects Eagle Street, Toledo, Norman, Nelson
- Submit Grants for Infrastructure and Prioritize/Create a Regular Schedule
- 100 Block Streetscape
- Sidewalks/ Engineering South Minturn
- Submit DOLA Grant for Microfiltration Plant
- Electronic Packets (I-Pads or Comparable)
- Loop Water Lines



## **Agenda**

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

**Wednesday May 21, 2014**

**Work Session – 5:30 pm**  
**Regular Session – 6:30 pm**

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

**COUNCIL MEMBERS:**

Shelley Bellm  
Earle Bidez  
John Rosenfeld  
Matt Scherr  
Jason Osborne

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 – 5:30 pm**

- Discussion regarding Willy Powell
- Discussion regarding 2015 World Cup – Metteer
- Eagle Park restroom design – Hawkinson

### **Regular Session – 6:30pm**

**1. Call to Order**

- Roll Call
- Pledge of Allegiance

**2. Approval of Agenda**

- Items to be Pulled or Added

**3. Liquor Authority**

- The Minturn Country Club Inc., Hotel/Restaurant Liquor License annual renewal;  
131 Main St, Tom Ricci, Secretary/Manager

**4. Approval of Minutes and Action Report**

- May 7, 2014
- Action Item Report

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

**6. Special Presentations**

**PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS**

**7. Discussion/Action Item: Presentation on DOLA Grant regarding Water Study by TST – Hawkinson**

**8. Discussion/Action Item: Resolution 11 - Series 2014 to appoint Karp, Neu, Hanlon P.C. as the Town of Minturn's legal counsel – Brunvand**

**9. Discussion/Action Item: Resolution 12 - Series 2014 to appoint William Powel as the Town of Minturn's Interim Town Manager – Brunvand**

**10. Discussion/Action Item: Resolution 13 - Series 2014 to appoint check signers – Brunvand**

**COUNCIL AND STAFF REPORTS**

**11. Town Planner**

- Design Review – 2 homes
- Parks Committee
- Boneyard Conservation
- Tap Grant
- Discussion of Lions Head Rock and report from Staff – Hawkinson

**12. Co-Acting Town Managers**

- Code Compliance Officer
- Public Works
- Railroad street crossing and paving report
- County road grading
- DOLA Grant Management
- Discussion of Lions Head Rock and report from Staff

**13. Town Council Comments**

## FUTURE AGENDA ITEMS

### 14. Next Meeting – June 4, 2014

- Work Session: Town Council CIRSA training
- Town of Minturn 4<sup>th</sup> of July Request for Special Event Permit; 800 Cemetery Rd.; Michelle Metteer, Town Economic Dev Coordinator – Brunvand

### 15. Future Meetings:

- Discussion/Action Item: Marijuana legislation update
- Acceptance of the 2013 Annual Audit – 6/18/14
- County Commissioners

### 16. Set Future Meeting Dates

#### a) Council Meetings:

- June 4, 2014
- June 18, 2014
- July 2, 2014

#### b) Planning & Zoning Commission Meetings:

- May 28, 2014
- June 25, 2014
- July 23, 2014

### 17. Other Dates:

- May 26, 2014 – Memorial Day Office Closed
- May 31, 2014 – Town Clean-up

### 18. Adjournment

Michelle Metteer  
Economic Development Coordinator  
Deputy Clerk  
P.O. Box 309 ♦ 302 Pine St  
Minturn, CO 81645  
970-827-5645  
[mmetteer@minturn.org](mailto:mmetteer@minturn.org)  
[www.downtownminturn.com](http://www.downtownminturn.com)



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Councilman – Matt Scherr  
Councilman – Jason “Ozzy” Osborne

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## AGENDA ITEM COVER SHEET

**AGENDA TITLE:** 2015 World Cup Update

**MEETING DATE:** May 21, 2014

**PRESENTER:** Metteer

**BACKGROUND:**

The Economic Development Sub Committee (Eco Devo) is holding its first meeting Friday, May 16, 2014 to review consideration for World Cup event support and subsequent marketing/campaign plans which will follow.

Follow-up information from the Friday meeting will be emailed out by Monday afternoon for Council review before the work session on Wednesday.

**CORE ISSUES:**

- Recommended funding for 2015 World Cup
- Changes to strategies and tactics specific to the 2015 World Cup campaign
  - Goals (need to be measurable)
  - Timetable for campaign
- 2015 Event roadmap including: Definition of product, target audience, communication strategy and budget breakdown

**STAFF RECOMMENDATION/MOTION:** Review and determine event funding support.

Town Planner  
Janet Hawkinson  
P.O. Box 309 ♦ 302 Pine St  
Minturn, CO 81645  
970-827-5645  
planner@minturn.org



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## WORK SESSION COVER SHEET

**AGENDA TITLE:** Eagle Park Restroom Design

**MEETING DATE:** May 21, 2014

**PRESENTER:** Town Planner Hawkinson

**BACKGROUND:**

A discussion to approve the conceptual design of the new Eagle Park restrooms. The Planner has been working with LAN Architecture in the creation of the restroom designs. The Park Committee met Thursday, May 15 to review the various designs.

The design concept is mining.

Please see the design constraints before reviewing the design as these constraints have been followed in the design.

The Parks Committee is in favor of design iteration 1.

The next step is to take the chosen design and develop it completely, including the interior and construction documents.

## Eagle Park Public Restrooms

### “Historic Walk in the Park Grant”

#### Design Constraints:

Minturn Design Guidelines: **“eclectic”**: ‘deriving ideas, style, or taste from a broad and diverse range of sources’

#### Budget:

-design & build restrooms for under \$100,000.00

#### Materials:

-Steel & possible wood - easy to clean & maintain, fire proof, minimal vandalism

#### Concrete:

-no concrete- absorbs organic material and smells - unable to get clean because it is porous

#### Sink & Toilets: steel

#### Flooring:

-epoxy - used in hospitals, vet, dog shelters, waterproof, made out of recycled glass

#### Construction:

-keep design simple so that it can be constructed by local builders & keep construction costs down - Planner to be general contractor to save costs

- lgm architectural studios offer to assist with CMC miller and topography map of area for our sign

- local welders & patina workers

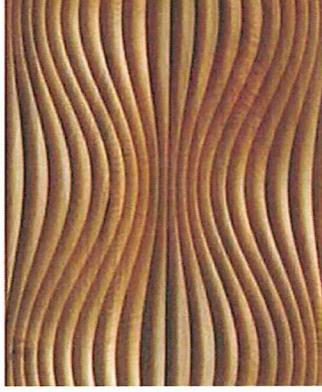
- some support from Minturn Public Works

- concrete from United Concrete at Public Works site - we have contract for concrete in trade for the foundation

-Engineer - to sign off on plans

Pre-fabricated restrooms: \$125,000 - 175,000 for 2 stalls

Design Concepts: digital fabrication - utilize planner, architects and lgm studios in Minturn to create eclectic restrooms



CMC milling



plasma cutter



Caixa Forum Herzog de Mueron, Spain



China- Guallart Architecture

# TOWN OF MINTURN EAGLE PARK RESTROOM

## CONCEPT DESIGN

00

LAN

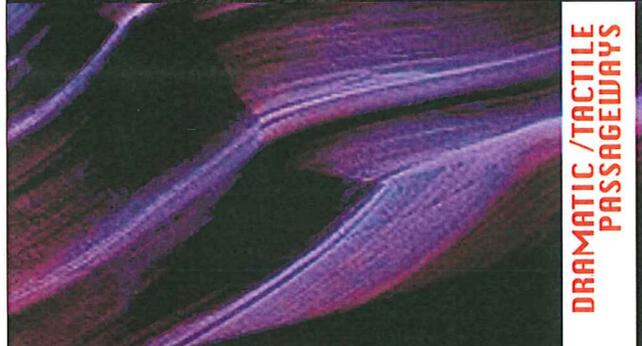
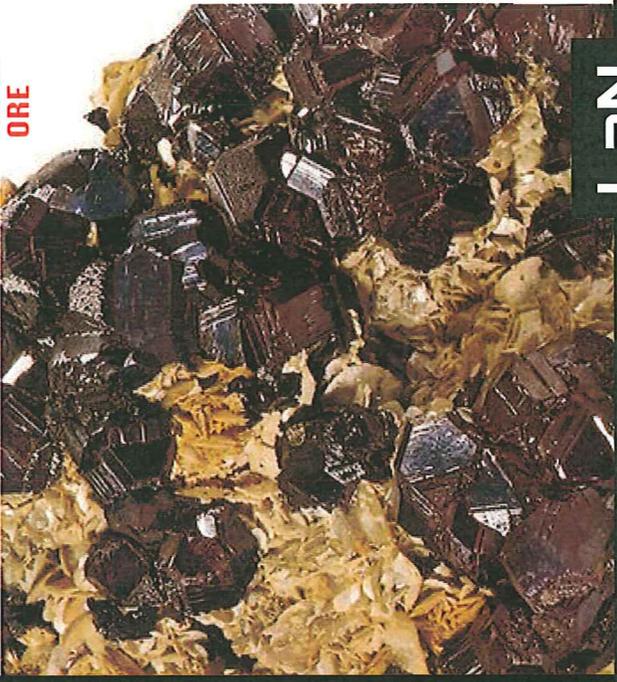
/live architecture .net

Statement of Confidentiality  
This proposal and supporting materials contain confidential and proprietary business information of LAN. These materials may be printed or photographed for use in evaluating the proposed project and are not to be shared with other parties.

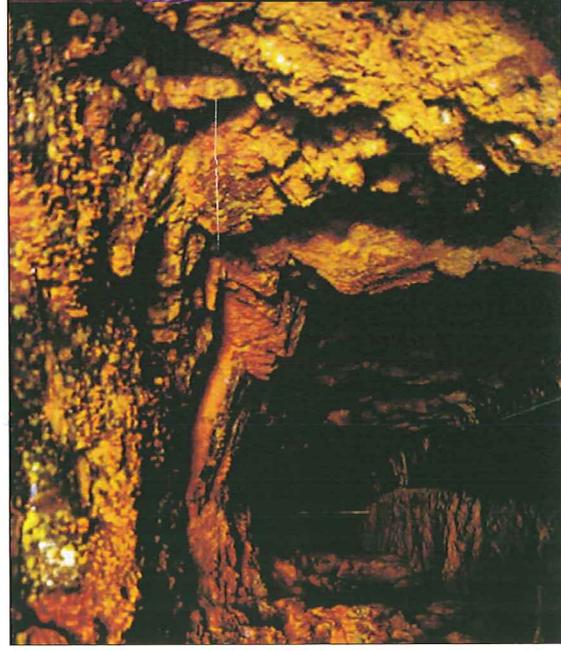
Wednesday, May 14, 14



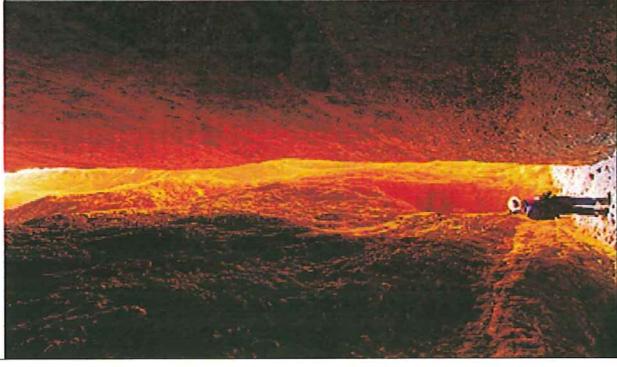
EGLE MINE GILMAN > **MOLTEN ZINC ORE**



**DRAMATIC / TACTILE PASSAGEWAYS**



**MINE < COLORADO**



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## ITERATION 1

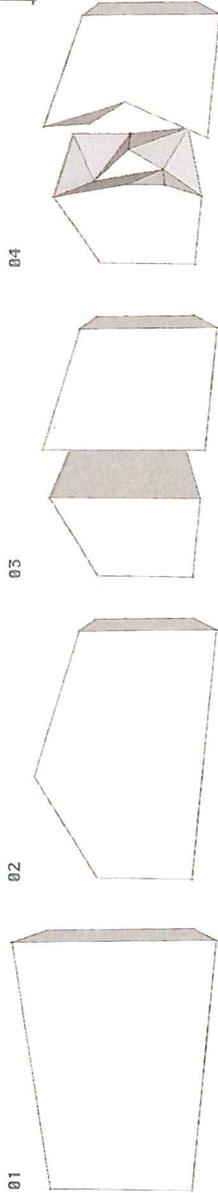
Iteration 1 explores the concept of excavation, mining, and exposure of what lies within. It begins with a simple cube, which is transformed through the process of subtraction, revealing a sloped roof for snow & water drainage, then an entry and separation between men's & women's baths, which becomes a path where the excavation can be experienced. The simplicity of the main forms both function as a simple structure to construct, and as a solid form that draws attention to the complexity of the subtraction.

01

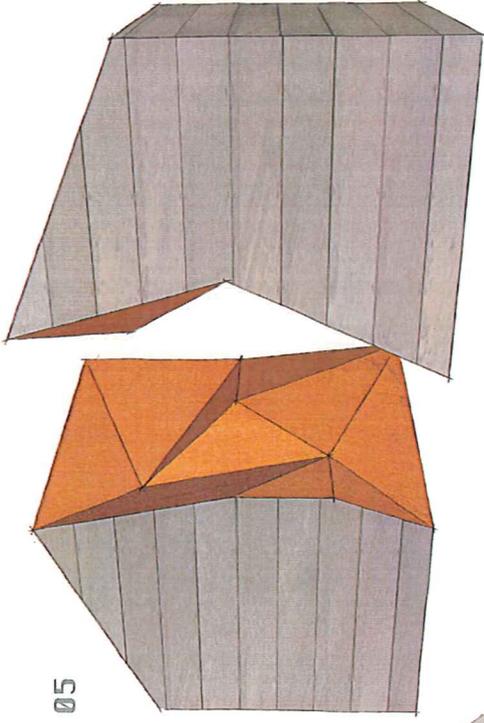
02

03

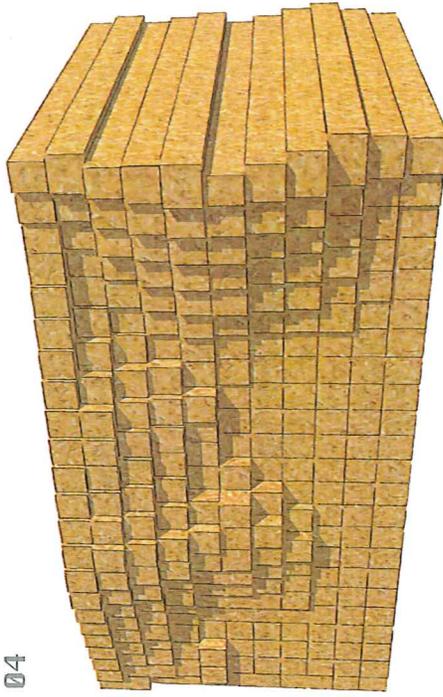
04



05



04



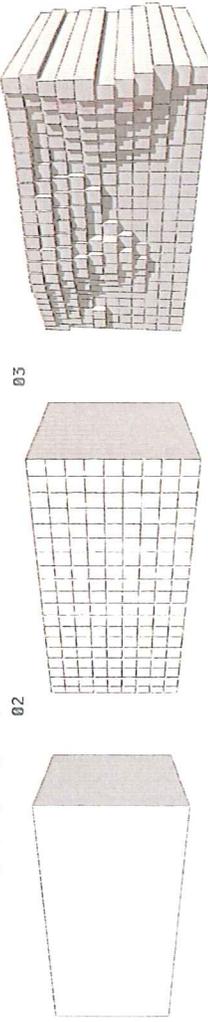
## ITERATION 2

Iteration 2 explores surface variation - art installation or bathroom? Pieces of beetle kill pine stacked on their side to expose end-grain create the surface. Though all pieces are equal in length, their variation in placement creates the interest. The wall only occurs on the street facing facade, but wood is pulled back as siding on either end, to simulate a solid stack of wood. Interior materials will be steel, & the front facade will form a parapet, disguising a sloped roof behind.

01

02

03



03

LAN

/live architecture .net

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Wednesday, May 14, 14



**MATERIALS**  
 GALVANIZED & ETCHED STEEL EXTERIOR,  
 W/ CORTEN STEEL OR WOOD CANYON.

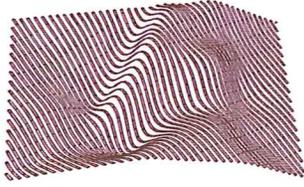
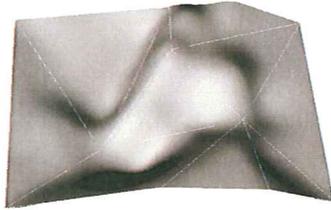


**LOOKING WEST**  
 DOORS AROUND BACK SIDE MAKE FOR  
 NECESSARY TRAVEL THROUGH CANYON.

**CANYON  
 DETAIL  
 OPTIONS**

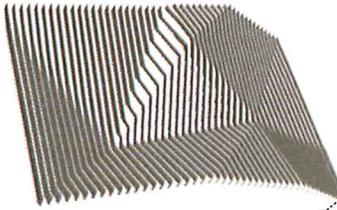
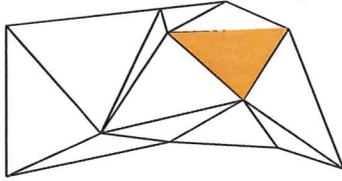
**OPTION 2: CURVING SURFACE**

- (A) MADE WITH CNC MILLED PANELS OR
- (B) CURVING 6" PROFILES ORIENTED ON AN ANGLE



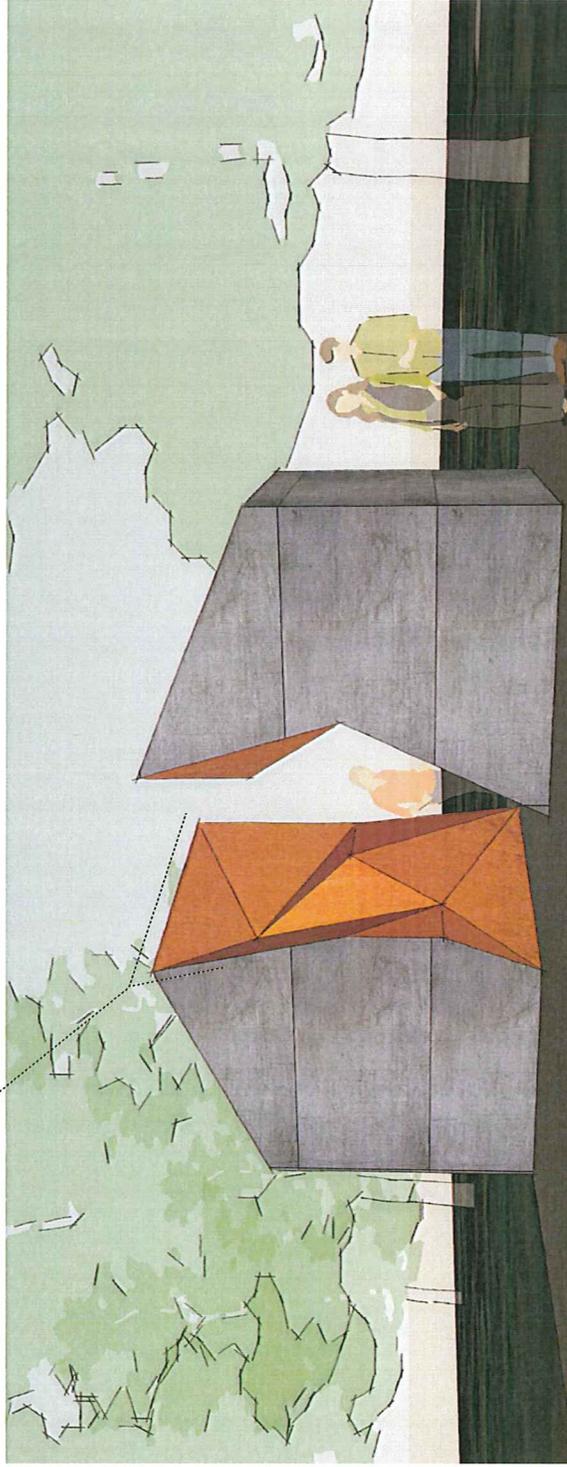
**OPTION 1: FACETED SURFACE**

- (A) MADE WITH TRIANGULAR PANELS OR
- (B) HORIZONTAL 6" PROFILES



**ITERATION 1**

THIS DESIGN IS INTENDED TO GATHER ATTRACT USERS FROM AFAR TO ITS WARM BRIGHT CONTRASTING CORE-- AS IF EXPOSING A GEM WITHIN MINED MATTER. CREATING A CANYON-LIKE PASSAGEWAY TO THE RESTROOM ENTRIES. THE CORE DESIGN FEATURE UP-CLOSE WILL BE A MARVEL OF CONSTRUCTION WITH NON-RECTILINEAR FORMS.



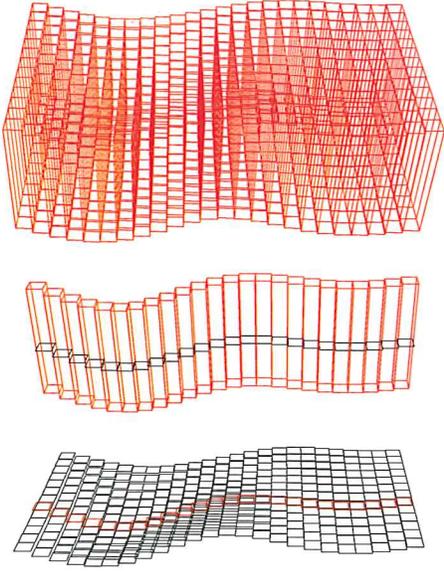
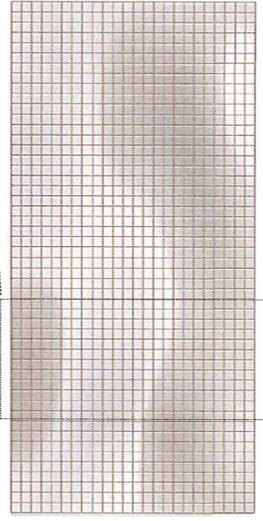
**LOOKING EAST (FROM STREET)**  
 FROM THE STREET, BATHROOMS  
 RESEMBLE A SCULPTURE.



**FEATURE DETAILS**

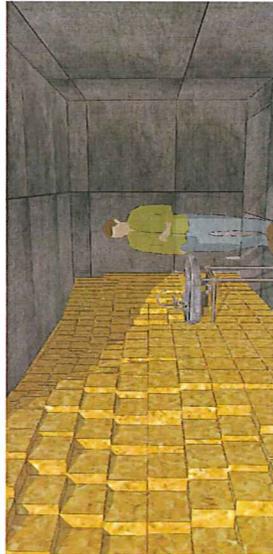
BEETLE KILL END GRAIN, STACKED, 30" INNER WOOD MEMBER LENGTHS WITH LONGER PIECES WRAPPING SIDE WALLS TO CREATE SOLID STACK EFFECT.

FRONT VIEW  
 VARYING SURFACE DEPTH SHOWN WITH 4" MEMBERS (LEFT) OR LARGER MEMBERS (BELOW) ..... PERSPECTIVE VIEW



**MATERIALS**

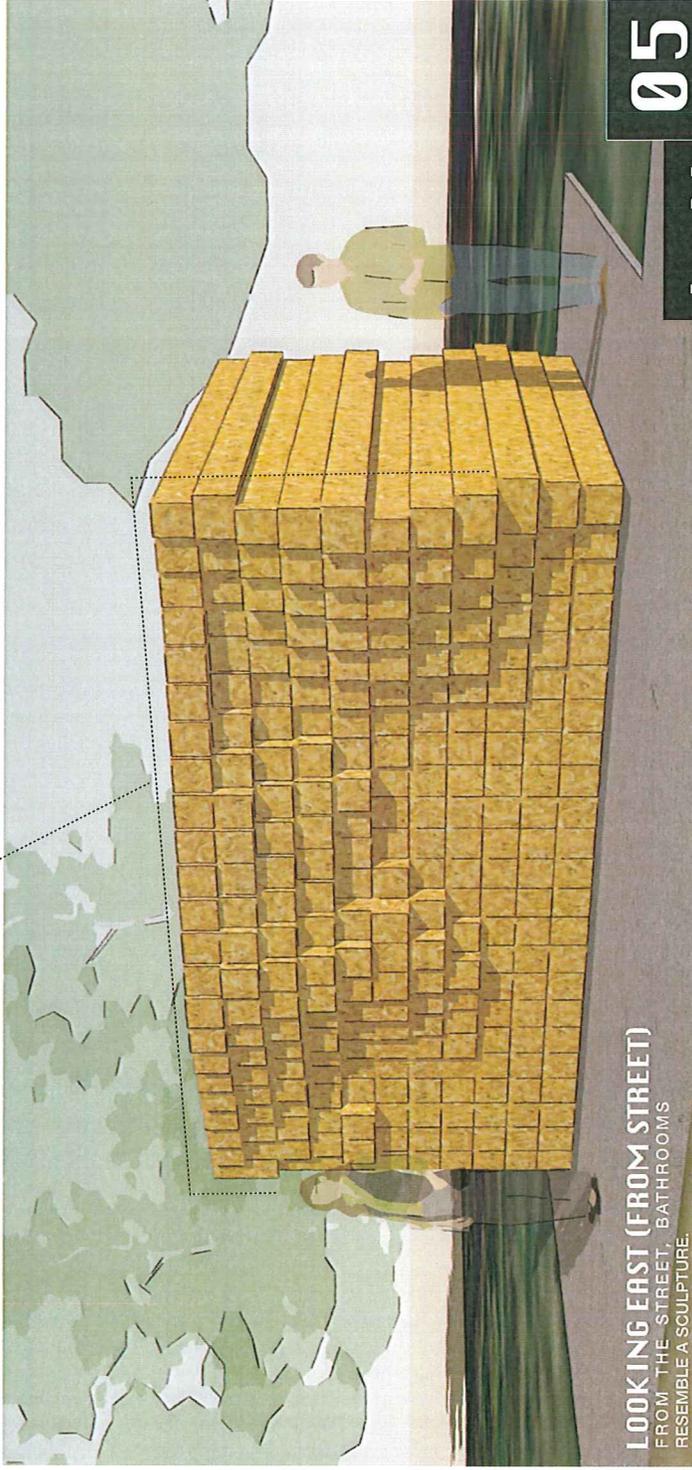
STACKED BEETLE KILL PINE WITH END GRAIN EXPOSED. STEEL INTERIOR AND STRUCTURE.



**INTERIOR**

**ITERATION 1**

STACKED WOOD MEMBERS WITH VARYING POSITIONING CREATING UNDULATING DEPTH EFFECT WHICH ONE EXPERIENCES BOTH ON THE EXTERIOR & THE INTERIOR. DESIGN APPROACH CREATES THE POTENTIAL TO CREATE OPEN AIR WINDOWS VIA THE REMOVAL OF SOME PIECES IN STRATEGIC LOCATIONS.



LOOKING EAST (FROM STREET)  
 FROM THE STREET, BATHROOMS RESEMBLE A SCULPTURE.

**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**



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### AGENDA ITEM COVER SHEET

<b>AGENDA TITLE:</b> The Minturn Country Club Inc., Hotel/Restaurant Liquor License annual renewal; 131 Main St, Tom Ricci, Secretary/Manager
<b>MEETING DATE:</b> May 21, 2014
<b>PRESENTER:</b> Brunvand
<b>BACKGROUND:</b> This is an application for annual renewal of a Hotel & Restaurant liquor license. The application has been reviewed by the Clerk and no issues have been found. An investigation and background check was conducted by Lisa Osborne, Code Enforcement Officer, and no issues that would preclude approval were found. An on-site review will be conducted once the business reopens from their spring closure.  Staff is recommending approval of this renewal by Council.
<b>CORE ISSUES:</b>
<b>BUDGET/FINANCE IMPLICATIONS:</b> An annual renewal fee of \$125.00 has been paid to the Town.
<b>STAFF RECOMMENDATION/MOTION:</b> “Motion to approve The Minturn Country Club Inc., Hotel/Restaurant Liquor License annual renewal; 131 Main St, Tom Ricci, Secretary/Manager as presented.”

## LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

MINTURN COUNTRY CLUB  
 PO BOX 517  
 MINTURN CO 81645-0517

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

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 may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name <b>MINTURN COUNTRY CLUB INC</b>		DBA <b>MINTURN COUNTRY CLUB</b>	
Liquor License # <b>04921470000</b>	License Type <b>Hotel &amp; Restaurant (city)</b>	Sales Tax License # <b>04921470000</b>	Expiration Date <b>6/6/2014</b>
Street Address <b>131 MAIN ST MINTURN CO 81645-0000</b>		Due Date <b>4/22/2014</b>	
Mailing Address <b>PO BOX 517 MINTURN CO 81645-0517</b>		Phone Number <b>(303) 827 4114</b>	
Operating Manager <sup>TJ Ricci</sup> <b>JJ HOWESDY II</b>	Date of Birth <b>8/29/1966</b> <b>9/8/1955</b>	Home Address <b>2576 DAVOSTR, VAIL, CO</b> <b>GYP SUM, CO</b>	Phone Number <b>970 376 4624</b> <b>970 390 3397</b>

1. Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease 5/31/18
2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
6. **SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**

*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.*

Type or Print Name of Applicant/Authorized Agent of Business <b>THOMAS J. RICCI</b>	Title <b>SECRETARY</b>
Signature <i>TJ Ricci</i>	Date <b>3/17/14</b>

**REPORT & 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

**Attachment to Liquor License Renewal**

**Question 50:**

**Thomas J. Ricci  
30% shareholder and Secretary-Treasurer  
Steamboat Country Club  
Steamboat, Co.**

**50% shareholder and President  
The Historic Mint  
Silverthorne, Co.**

**Joseph J. Honnessy  
30% shareholder and President  
Steamboat Country Club**

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 05/13/2014 that have been posted, and by documents delivered to this office electronically through 05/14/2014 @ 09:12:32.

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 05/14/2014 @ 09:12:32 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8849114.



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  
Post Office Box 309 ♦ 302 Pine  
Street  
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Phone: 970-827-5645  
Fax: 970-827-5545  
Email: [losborne@minturn.org](mailto:losborne@minturn.org)



TOWN COUNCIL  
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**TO:** Town Of Minturn Liquor Control Board

**FROM:** Lisa A. Osborne,  
Code Compliance

**SUBJECT:** Liquor License Renewal Application for the Minturn Country Club

**DATE:** May 14, 2014

Please be advised the Minturn Police Department has reviewed the referenced Liquor License Renewal Application.

During the preceding twelve month period, the Minturn Police Department did not respond to any calls/violations at the Minturn Country Club establishment located at 131 Main Street, Minturn, Colorado.

The Department has also conducted a background investigation and did not find any issues.

The owners/management of this Minturn establishment continues to be cooperative with the Minturn Police Department and does not hesitate to contact us with any questions or concerns.

In conclusion, there was not any information obtained by the Minturn Police Department that would prevent approval of this Liquor License Renewal.

cc: File

LIQUOR LICENSE RENEWAL FORM  
LOCAL LICENSING AUTHORITY – TOWN OF MINTURN

Name of Establishment: Minturn Country Club

Date of Submittal: 4/22/14 License Expires: 6/6/14

Application is a:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Renewal      | <input type="checkbox"/> Change in Corporate       |
| <input type="checkbox"/> Manager Registration    | <input type="checkbox"/> Partnership or Trade Name |
| <input type="checkbox"/> Modification of Premise | <input type="checkbox"/> Transfer of Ownership     |
| <input type="checkbox"/> Change on Corporate     | <input type="checkbox"/> Other _____               |
| <input type="checkbox"/> Change in Location      |  |

Scheduled for Council meeting on: 5/21/14

1.  Fees paid: Local \$ 125<sup>-</sup> and State \$ 500<sup>-</sup>
  2.  Status of Corporation verified with Secretary of State and found to be in good standing. (Town Clerk's Initials)
  3.  Operating Manager verified and registered.
  4.  Sales tax submittals current.
  5.  Water bill submittals current.
  6.  Business license current.
  7.  Police Department approval for renewal.
    - a.  Officer's report (see attached):
    - b.  List of violations within the last year: None
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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

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

*MEMORANDUM*

TO: Lisa Osborne, Code Enforcement Officer  
FROM: Jay Brunvand, Treasurer/Clerk  
CC:  
DATE: Wednesday, May 14, 2014  
RE: Minturn Mile Liquors

I am in receipt of an annual renewal for the Minturn Country Club. Could you please conduct the following and report back in writing your findings. I will be available to work with you in the event you have any questions.

- I have attached an Inspection Report form from the State of Colorado. You and I will schedule an on-site inspection of the premises.
- Please review the police department files for any issues that might have been reported or investigated on the Minturn Country Club during the past year and report if any concerns exist that would preclude the renewal action of this license.
- Please conduct a background check on the principals identified and report any items which might impede their moral character thereby potentially precluding either/or from renewing the license.

Please feel free to contact me in the event you have any questions.

Sincerely,

Jay Brunvand  
Town Clerk/Treasurer



## Official Minutes

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

**Wednesday May 7, 2014**

**Work Session – 5:30 pm**  
**Regular Session – 6:30 pm**

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

**COUNCIL MEMBERS:**

Shelley Bellm  
Earle Bidez  
Jason Osborne  
John Rosenfeld  
Matt Scherr

**INTERIM TOWN ATTORNEY – Matt Mire**  
**TOWN CLERK/TREASURER – Jay Brunvand**  
**TOWN PLANNER – Janet Hawkinson**

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 970/827-5645 302 Pine St. Minturn, CO 81645

### **Work Session – 5:30 pm**

- Discussion regarding Human Resource process and resources – Malarkey
- Discussion regarding list of resources for Interim Town Manager – Brunvand

Council direction: Jay B. is to contact Willey Powell, discuss conceptually costs and email those costs out, and request him to be at the next meeting work session. Janet H. is to talk to Keven Batchelder (previously of Silverthorne) to discuss his interest.

### **Regular Session – 6:30pm**

#### **1. Call to Order**

The meeting was called to order by Mayor Hawkeye Flaherty 6:32pm.

- Roll Call

Those present included: Mayor Hawkeye Flaherty, Town Council members, George Brodin, John Rosenfeld, Matt Scherr, Earle Bidez, and Ozzy Osborne. (Note: Shelley Bellm was excused absent.)

Staff present: Interim Town Attorney Ryan Malarkey, Town Planner Janet Hawkinson, Economic Dev Coordinator Michelle Metteer, Police Clerk Lisa Osborne, and Town Clerk/Treasurer Jay Brunvand.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Motion by John R., second by George B., to approve the agenda as amended. Motion passed 6-0 (Note: Shelley Bellm was excused absent.)

## **3. Approval of Minutes and Action Report**

- April 16, 2014

Pg 5 check if there are notes to self

Pg 8 remove the note that online payments

Motion by John R., second George B., to approve the minutes of April 16, 2014 Council Meeting as amended. Motion passed 6-0. (Note: Shelley Bellm was excused absent.)

- April 29, 2014 Special Meeting

Motion by Earle B., second John R., to approve the minutes of April 29, 2014 Special Council Meeting as presented. Motion passed 6-0. (Note: Shelley Bellm was excused absent.)

- Action Item Report

George asked if we have received a copy of the ECO SO; Ryan M. updated the Council on the process.

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

- Letter from Mr. Frank Sanders

Ryan M. read the letter into the record. This letter is included within these minutes as attachment "A".

## 5. Special Presentations

- Holiday Program recognition - Osborne

Lisa O. introduced many of those that assisted with the Holiday program and gave them Certificates of Appreciation. Lisa O. gave a brief background of the history of the program which was started in 1995. In 2013 the program gave Christmas presents to 50 children from 21 Minturn families of need.

At this point the meeting was recessed for the partaking of cake and ice cream.

## PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

### 6. Discussion/Action Item: 2015 World Cup Update

Michelle M. updated the Council on the 2015 World Cup Update. She introduced Michael Imhof, Vail Valley Foundation. Mr. Imhof updated the Council stating they are about 210 days out from the event (February 2, 2015). This second to the Olympics and it is anticipated that the World Cup will draw 830 million viewers. Mr. Imhof stated they are requesting \$38,000 in support from the Town of Minturn. The Towns of Gypsum, Eagle, and Minturn are being asked for \$38,000 each and any other additional in-kind work we could also lend. The cash contribution is required soon, mid-June by the latest.

It is estimated the event will produce over \$100million in economic value County wide.

Matt S. recommended the Economic Committee work with Michelle M. over the next two weeks on options the Town has for participation. This information could then be presented to the Council at the May 21 meeting.

Ozzy O. stated he would follow up on the county wide transit system and anything planned to increase the availability for the international tourism that will result from the event.

Hawkeye stated this is something we really need to support; we need to find the money.

Direction was to include this in the May 21<sup>st</sup> work session and place on the action item if necessary at that time.

## COUNCIL AND STAFF REPORTS

### 7. Town Planner

### 8. Co-Acting Town Managers

- Co-Acting Town Manger's Report
- Ipad Policy

Direction was given to the Clerk to review the tape from the 4/16/14 Council Meeting to figure out what the direction was and inform Council via email.

- Public Works

The isolation valve work will begin on May 15.

Ozzy O. asked of any update on the Lions Head rock and the parts that are falling down. The USFS has stated it is a natural occurrence and they are not planning on doing much with inspecting the outcrop.

Hawkeye stated the County has applied for a \$10million grant to complete the bike path and Minturn is on the list of areas for completion. He stated we need to move forward with getting the easement on the RR property and it should be a priority.

## 9. Town Council Comments

Hawkeye reminded the Town that the bears are out and the trash cans are being hit. Please be conscientious of this and the trash picked up.

Wished everyone a happy Cinco De Mayo and Mother's Day.

## EXECUTIVE SESSION

- 10. Executive Session: Executive Session pursuant to C.R.S. §24-6-402(4)(b)(e)(f) - to receive legal advice on specific legal questions, to determine positions relative to negotiations, to develop a negotiating strategy and to discuss personnel matters regarding the Town attorney interviews, Town Manager replacement, to discuss strategies regarding Battle Mountain Resorts, and to discuss negotiations regarding the agreement with Eagle County to provide police services.**

Motion by Ozzy, second by John to convene in Executive Session pursuant to C.R.S. §24-6-402(4)(b)(e)(f) - to receive legal advice on specific legal questions, to determine positions relative to negotiations, to develop a negotiating strategy and to discuss personnel matters regarding the Town attorney interviews, Town Manager replacement, to discuss strategies regarding Battle Mountain Resorts, and to discuss negotiations regarding the agreement with Eagle County to provide police services. Motion Passed 6-0. (Note: Shelley B. was excused absent.)

Direction given as a result of the Executive Session:

- A committee was set up to discuss the position with the Interim Manager candidates and that committee will contact any candidates.
- Karp, Nue, Hanlon was selected as the new Town Attorney firm contingent upon finalizing a contract.

## FUTURE AGENDA ITEMS

Other direction given prior to the end of the meeting:

- Add to the May 21 Work Session discussion of the 2015 World Cup
- Report from the USFS regarding summer projects
- Discussion of Lions Head Rock – Staff to find a geologist, possibly contact CML for leads on a geologist
- Update on the Rail Road crossings

### 11. Next Meeting – May 21, 2014

### 12. Future Meetings:

- Discussion/Action Item: Marijuana legislation update – Mire
- County Commissioners
- Work Session: Town Council CIRSA training (6/4/14)

### 13. Set Future Meeting Dates

#### a) Council Meetings:

- May 21, 2014
- June 4, 2014
- June 18, 2014

#### b) Planning & Zoning Commission Meetings:

- May 28, 2014
- June 25, 2014
- July 23, 2014

### 14. Other Dates:

- May 31, 2014 – Town Clean-up

### 15. Adjournment

Motion by John R., second by Ozzy O., to adjourn at 9:25pm.

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Mayor Hawkeye Flaherty

ATTEST:

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Town Clerk, Jay Brunvand

Read to the people

Attachment "A"

## Public Record

July 5, 2012

I am the son of Frank G. Sanders Sr.

I am here tonight for putting up a "no trespassing" sign on my private land.

You are claiming that the land where I placed my sign belongs to the Town of Minturn. It seems to me that the burden of proof that you somehow own this land is on you. I maintain that it is not the towns land.

Approximately six years ago a large group of citizens came to the council. The parking in the 100 block was being made into a park. Several citizens, including myself, spoke saying the town does not own that property.

Since that time I have done extensive research.

The 100 block is considered the homestead block. The land on the river is owned by Frank Sanders, Lenard Liedy and Sig Nelson.

In the 1950's, the Town of Minturn asked residents of the 100 block to provide a place behind their houses to park. This request was due to problems with plowing and deliveries on Main Street. So, the 100 block residents brought in railroad ties and filler to build the alley and extend the river bank. This gave us room to park back there and made it easier for the town to plow snow.

When the sewer line was installed in the alley, the residents could have stopped the process. However, the residents agreed, as they needed the sewer line. While the sewer line was being dug up, they broke an anchor tie. My father said we could have them come back and fix it. Instead, they moved a large rock from the river and called it square.

In late the 1970's, the town hired the Eagle County surveyor, Jack Johnson, to survey because the previous survey was off. One of the survey posts was checked frequently as it was easy to access. The other survey post was hard to access and it had slid, so it had caused the survey to be off.

My father and Jack Johnson included me in a conversation about the alley. Jack said the town was given a ten to twelve foot egress exit the town was to keep the exit plowed.

Mr. Johnson replaced the wooden survey posts with rebar survey posts.

(keep in mind that the 100 and 200 blocks are considered homesteaded blocks)

The original survey had the roads and houses off. I found one rebar survey post pulled up and the rest were bent or in place. I know one post was pulled up because one day it was just missing and it had been pulled up leaving the pavement like a cone. It was not drug out by a plow blade.

There wasn't any problem until my dad died in February of 1979. There were many ploys tried to get the land. One ploy was to lease the land to residents. I asked my neighbor why he wanted to lease the land the town doesn't own.

The next problem was the restoration on the river. One day I saw a man on the 100 block, he was measuring land in the alley. I asked him what he was doing and he took off. Another day I saw a lawyer and another man talking at the end of the 100 block. When I approached the men, they too took off.

Flaherty and I attended restoration meetings. We got cards from the head of the restoration. Everything they said they wouldn't do, they did. We thought about getting a restraining order but the lawyer said it would cost us a lot of money.

The restoration started on our part of the river September 1, 2003. When they started on my part of the river, I was devastated.

Mr. Nelson and Mr. Sanders had a big tree on the river side, that's where they began. September 11<sup>th</sup>. Everyday was a living hell watching the destruction. I tried to save what I could. The engineer would say one thing one day and do the opposite the next. Truth for a day. They promised they wouldn't take our land and three years later they did. Truth for three years.

We watched what our fathers had built be taken. We grew up where a mans word was valid, the way it should be. Without the efforts of our fathers, the alley and land wouldn't even be there today.

I had the land surveyed on the river side in August and paid the Bocco heirs, so the town couldn't do it.

I didn't believe this to be the case here. I grew up with the Nelsons and Liedy's and my dad. The land was ours. Nelson had a storage shed next to the river behind Liedy's store. I think Nelson sold it to Liedy, because I know Liedy owned the storage shed on the other side of the main street where the hotel is now.

The Nelsons barn and corral was also on the other side of the main street. Helen Nelson told me that the Nelson homesteaders built the Minturn Mercantile building by pulling the rocks with a mule. It was finished in 1891.

The reason I told the town lawyer and countless people it was my land is because they are all gone. I am the only one left here to defend the land for Leonard Liedy's heirs, Sig Nelson's heirs and my heirs.

The Town of Minturn should have the surveyed map of Jack Johnsons from 1973. You can also find the Booco deeds I had made in 2003 before the river restoration at

Eagle County. You can also find where we own the land. You should have in your records when we give the town egress exit.

I feel that the river restoration was a land grabbing scheme.

This is a summary and just part of what I know. It would take me too many pages to continue. Now I have all kinds of options. I asked for an investigation at another restoration meeting the day the town took our land. The truth will not be suppressed any longer. This will be sent out to the people.

I would ask that the town remove your sign from behind my family home. The sign offends me and my neighborhood. The sign is on our land, also the sign behind Gordon's house.

I feel that you are taking from the heritage of the people.

Frank Sanders

*P.S., I feel my testimony tape was switched, because it happened before. I have alot more,*

## Town of Minturn - Action Item Memo

**TO:** Council Members/Staff Members  
**FROM:** Co-Acting Managers  
**DATE:** May 15, 2014  
**SUBJECT:** Status of Action Items and projects

Action Item	Responsible Party	Progress Report
Eagle River Park – Grant – ‘History Walk in the Park’ & Public Restrooms	Janet Hawkinson Michelle Metteer Earle Bidez Darell Wegert	Eagle River Park sub-committee met to review designs. Took a tour of the LGM facility for review of 3D topography map of the Minturn Valley and building design options. Architect hired to work with Planner in digital fabrication and design. Design choices to be presented to Planning Commission and Town Council
Rec property clean-up / Berm	Arnold Martinez Janet Hawkinson	Berm constructed. Continue grading, clean-up and beautification of site.
Code enforcement	Lisa Osborne	Policies and forms are now being created to coincide with the enforcement of town code. Has begun addressing code issues.
Boneyard Conservation Easement	Janet Hawkinson	Begin drafting of site plan with Eagle County Open Space Director, to be presented for review by Planning Commission and Town Council in May meetings. Council voted Boneyard for name.
Memorialization Guidelines	All Staff Cliff Thompson	Draft of procedures have been developed. Move forward with process with a memorialization of Allen Christianson
ECSO IGA	Michelle Metteer Lisa Osborne George Brodin	The proposed IGA is under review with Town and Eagle County attorneys. They are taking the evidence in evidence room.
Isolation Valve at Toledo and Main St	Arnold Martinez Janet Hawkinson	Final DOLA grant work for 12” main valves. Council approved 2” overlay on Harrison 4/29/14
TAP Grant – South Minturn Sidewalks *Longer term project. Expect updates to begin early summer.	Janet Hawkinson Michelle Metteer	Requesting letters of support from Town citizens Waiting for grant to Post
2014 Community Master Plan *Longer term project.	Janet Hawkinson	5-year update to the Community Plan per the State of Colorado. Community involvement required. Scheduling design meetings. 1 <sup>st</sup> meeting scheduled for 2 <sup>nd</sup> Wed in July

Town Planner  
Janet Hawkinson  
P.O. Box 309 ♦ 302 Pine St  
Minturn, CO 81645  
970-827-5645  
planner@minturn.org



Town Council  
Mayor – Gordon “Hawkeye” Flaherty  
Mayor Pro Tem – George Brodin  
Councilwoman – Shelley Bellm  
Councilman – Earl Bidez  
Councilman – John Rosenfeld  
Councilman – Matt Scherr  
Councilman – Jason “Ozzy” Osborne

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## WORK SESSION COVER SHEET

**AGENDA TITLE:** DOLA Grant – Water Study by TST Engineering

**MEETING DATE:** May 21, 2014

**PRESENTER:** Town Planner Hawkinson & TST Engineering

**BACKGROUND:**

As part of the DOLA Grant from 2013, the former Town Manager hired TST Engineering to perform a Water Study for Minturn. The proposal was for \$30,000.00. The Town paid \$22,500.00 in the fall of 2013. TST needed the remaining \$7,500.00 to complete the study which the Council approved this spring.

TST is giving a presentation of a draft of the Water Study so any changes can be made before the DOLA grant deadline. A 3 page draft report is attached. Any recommendations and changes to the report are welcomed. May 30, 2014 the Final Water Study report will be submitted.

The DOLA Grant expires in June.

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**TO: Minturn Town Council**

**FROM: Donald N. Taranto, P.E.  
David Takeda, P.E.**

**DATE: May 7, 2014**

**SUBJECT: Town of Minturn Water Treatment Plant Evaluation Status Update**

**PROJECT NO.: 1149.0000.03**

This memorandum summarizes the progress-to-date on the Town of Minturn's ("Town") Water Treatment Plant ("WTP") evaluation.

Original Scope and Purpose:

The initial scope for TST was to prepare an Engineering Report that evaluated the condition of the Town's existing WTP and investigated alternatives for a new WTP. The Engineering Report's format was to allow it to be used with financial assistance applications and, with minimal modifications, serve as the Preliminary Engineering Report for the application of a new WTP with the Colorado Department of Public Health and Environment ("CDPHE").

The Engineering Report was to include the following items:

- A summary of the existing treatment processes and capacities
- An estimate of the required future capacity based on anticipated demands
- An estimate of the future regulatory standards
- An investigation of alternative treatment processes
- Cost opinions of each viable alternative
- A recommendation of a treatment alternative

Summary of Work:

The Town's potable water service area is primarily along Highway 24, west of the Eagle River between Interstate 70 and Cross Creek Road. The service area includes homes and businesses with a population of approximately 1,027 people. Over recent years the size of the existing service area has remained fairly constant. However, it is possible that the service area may grow to include the proposed Battle Mountain development. Battle Mountain would be a ski resort that could include hotels, restaurants, business, and multi-family and single-family residential units. The development could increase the Town's population by approximately 5,000 people during the ski season, with some of those residents remaining during the summer months.

The Town's existing potable water supply system consists of a WTP and two alluvial wells. The existing WTP was originally constructed in the 1960s and was expanded in

the 1990s. Its processes include three slow sand filters and disinfection. The raw water supply to the WTP is a surface diversion from the nearby Cross Creek, which generally has good and stable water quality.

In addition, the Town's utilizes two alluvial wells (designated Well #3 and Well #4), which are upstream and downstream of the WTP along Cross Creek. Well #3 is upstream of the WTP and its raw water is combined with the filtrate at the WTP prior to disinfection. Well #3's water is then delivered to the distribution system along with the WTP's supply. Well #4 is downstream of the WTP and is not combined. Instead, its water is disinfected and feeds a portion of the Town's service area, specifically Maloit Park and the Middle School.

Since 2008, the highest monthly water demand for the potable system is 1,063,700 gallons. This equates to a daily demand of 343,000 gpd. The design capacity for the new WTP is 500,000 gpd with the ability to expand to a capacity of 2.0 million gallons per day or higher, if needed.

The following issues were identified with the WTP and wells:

1. Difficulty maintaining the slow sand filters.
2. Limited space to increase treatment capacity utilizing slow sand filters.
3. Inability to meet the CDPHE requirements for disinfection contact time.
4. Well #3 may be classified as "Groundwater Under the Direct Influence of Surface Water." This will require its raw water to be treated in the exact same manner as the surface water diverted from Cross Creek into the WTP.
5. The overall hydraulic capacity of the WTP cannot meet the anticipated demands from Battle Mountain.

To address the aforementioned issues, several alternatives were investigated. These include:

1. Option #1 - Connect to Another Water System: This option is not feasible as the Towns of Eagle and Vail are at least five miles from the Town, and it would be very costly to connect to either of those systems.
2. Option #2 - Expand the WTP with Slow Sand Filters: This alternative is possible, but the WTP property has little room for the slow sand filters which require a lot of area. Furthermore, the maintenance issues with the slow sand filters would not be resolved.
3. Option #3 - New WTP with Conventional Filters: This is a viable option. The conventional filters would be an upgrade over the existing slow sand filters. Generally, the footprint for conventional filters is larger, requiring more building square footage.
4. Option #4 - New WTP with Membrane Filters: This is also a viable option. Membranes are a more recent, yet proven, technology for water treatment filtration. Membranes are cost-effective and are easier to maintain and operate.

Option #4, a new membrane WTP, was selected. It offers excellent water quality with reasonable capital and O&M costs. The new facility can be constructed today, and the

modular configuration of the membrane skids allow for relatively easy expansion as the potable water demands increase. The preliminary engineer's opinion of probable cost for Option #4 is \$2.5 million for an initial capacity of 500,000 gpd.

Original Schedule and Current Status:

The Engineering Report's was going to accompany a Department of Local Affairs ("DOLA") application in early August 2013. However, in early July 2013 the Town decided to delay the application submittal until 2014. At that time, TST halted all work on the project and awaited instructions to re-commence. The Town contacted TST in April, 2014 with instructions to complete the Engineering Report.

At this time, the draft Engineering Report is approximately 85% complete. The following items remain:

1. Completion of the alternatives analysis
2. Finalize cost opinions
3. Finish report exhibits

Proposed Completion Schedule:

The next DOLA application deadline is August 1, 2014. In addition to a completed application form, the submittal package will include the final Engineering Report. Based on this, TST suggests the following completion schedule:

Draft report discussed with Council:	May 14, 2014
Final report issued:	May 30, 2014
DOLA application submitted:	August 1, 2014

**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**

**Mayor – Gordon “Hawkeye” Flaherty  
Mayor Pro Tem – George Brodin  
Councilmember – Shelley Bellm  
Councilmember – Earle Bidez  
Councilmember – John Rosenfeld  
Councilmember – Jason Osborne  
Councilmember – Matt Scherr**

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**AGENDA ITEM COVER SHEET**

<b>AGENDA TITLE:</b> Resolution 11 – Series 2014 A Resolution approving an Engagement Letter between Karp, Neu, and Hanlon the Town of Minturn as the Town’s Legal Counsel.
<b>MEETING DATE:</b> May 21, 2014
<b>PRESENTER:</b> Brunvand
<b>BACKGROUND:</b> This agreement finalizes the permanent appointment of a Town Attorney.
<b>CORE ISSUES:</b> N/A
<b>STAFF RECOMMENDATION/MOTION:</b> Motion to approve Resolution 11 – Series 2014 A Resolution approving an Engagement Letter between Karp, Neu, and Hanlon the Town of Minturn as the Town’s Legal Counsel as presented.

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 11 – SERIES 2014**

**A RESOLUTION APPROVING AN ENGAGEMENT  
AGREEMENT BETWEEN KARP NEU HANLON P.C. AND  
THE TOWN OF MINTURN, COLORADO AND  
APPOINTING KARP NEU HANLONG P.C. AS TOWN  
ATTORNEY**

**WHEREAS**, the Town Council of the Town of Minturn conducted a search for a permanent Town Attorney; and

**WHEREAS**, the Minturn Town Council has reviewed the Engagement Agreement with Karp Neu Hanlon P.C. and deems it acceptable.

**WHEREAS**, the Town Council desires to appoint Karp Neu Hanlon P.C. as the Town Attorney for the Town of Minturn.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:**

1. The Minturn Town Council hereby approves the Engagement Agreement between Karp Neu Hanlon P.C. and the Town of Minturn, Colorado and authorizes the Mayor to execute said Agreement.
2. The Minturn Town Council hereby appoints Karp Neu Hanlon P.C. as the Town Attorney.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 21<sup>st</sup> day of May, 2014.

TOWN OF MINTURN

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Michael J. Sawyer  
[mjs@mountainlawfirm.com](mailto:mjs@mountainlawfirm.com)

*Of Counsel*  
Richard I. Zuber\*\*  
Anna S. Itenberg  
Greg S. Russi  
Hollie L. Wieland

[www.mountainlawfirm.com](http://www.mountainlawfirm.com)

\* *Fellow of the College of Labor and  
Employment Lawyers*  
\*\* *Fellow of the American Academy of  
Matrimonial Lawyers*

May 13, 2014

Town of Minturn  
302 Pine Street  
Minturn, Colorado 81645

Re: Engagement Agreement

Dear Mayor Flaherty and Town Council Members:

We are very pleased to be selected by the Council Members to represent the Town of Minturn for general legal services. In the event you request additional representation, and we agree to provide such services, the terms and conditions of this engagement agreement shall apply to those additional services at our then current hourly rates.

In accordance with our regular practice and as required by the Rules of Professional Conduct, before or shortly after commencing representation of a new client, we want to make certain that you know how we determine our fees and how we intend to handle your matter in our office.

**Services to be Provided.** Mike Sawyer shall be the attorney with primary responsibility for handling the Town's matters. However, other attorneys, law clerks, paralegals, and secretaries may work on the matter from time to time to provide you with the services required in a cost-effective manner. All work by non-lawyer personnel will be supervised by an attorney.

We will be rendering legal services only to you and to no other person or entity in connection with our work. As long as you keep our advice to you confidential, the attorney-client privilege and confidential relationship between us will not be inadvertently waived.

**Fees for Services Provided.** The amount of our fees for our services will be based on a number of factors but primarily the amount of time spent on the matter. Billing rates are assigned to each attorney and paralegal based upon skill and experience. A copy of the firm's current Hourly Rate and Expense Chart is enclosed. These rates are changed occasionally to reflect changes in experience of our personnel and inflation. When preparing any billing statement, we consider all the factors set forth in Rule 1.5 of the Colorado Rules of Professional Conduct adopted by the Colorado Supreme Court, a copy of which is also attached.

While we may, from time to time, furnish you with estimates of the amount of fees which

we anticipate will be charged for services to be performed under this agreement, such estimates are by their nature inexact and cannot be binding on either of us. Therefore, absent a specific written agreement, any estimates made by us are for planning purposes only and are in all respects subordinate to our regular billing procedures.

**Disbursements.** In addition to the fees described above, we shall be reimbursed for all out-of-pocket disbursements incurred in connection with any legal services performed. Included in this category are filing and recording fees, court and deposition reporter fees, travel expenses, Westlaw fees and similar charges. These standard costs are identified on the enclosed Hourly Rate and Expense Chart.

**Billing and Payment.** Our office bills clients on or about the last day of the month. We send monthly statements to you which will include charges for legal fees for the services performed, as well as for disbursements incurred during the statement period. Payment is due upon receipt of our invoice, but no later than thirty (30) days after a statement is sent understanding that the Council needs to approve payments at regular meetings. Payments not received within sixty (60) days will accrue interest at the rate of 1.5% per month (18% A.P.R.).

**Work Product.** In accordance with the Colorado Rules of Professional Responsibility, Karp Neu Hanlon, P.C. will retain our work product produced on your behalf for a reasonable period of time after the completion of representation. Karp Neu Hanlon, P.C. reserves the right, in our sole discretion, to store our work product either in a paper or electronic format. In the event that our work product is stored in an electronic format, paper documents may be destroyed.

**Termination of Services.** You have the right at any time to terminate our services upon written notice, and we shall immediately, after receiving such notice, cease to render additional services. If you elect to exercise such right, we shall cooperate with you in facilitating the orderly transfer of your files and records to you or your new attorneys, upon payment in full of any balance owing to us. Such termination will not, however, relieve you of the obligation to pay the fees due for services rendered and disbursements incurred prior to such termination and as a result of a transition. If this engagement agreement is terminated by the client or the firm, the firm shall seek an order from the court allowing withdrawal from any pending cases.

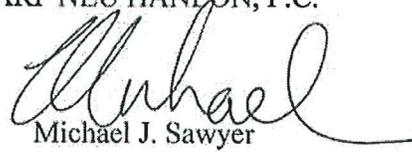
I believe that the foregoing covers the essential elements of our engagement. If you wish to discuss these or any other aspects of our representation, I would be pleased to do so. If you have questions about a particular fee statement or any other aspects of our services for you in the future, please bring these to my attention since it is our belief that communication can solve most problems.

We look forward to a successful and satisfying relationship with you!

Because this letter sets forth the basis on which we will represent you, please execute the enclosed copy of this letter and return it to me.

Very truly yours,

KARP NEU HANLON, P.C.



Michael J. Sawyer

Enclosures: Rule 1.5, C.R.P.C.  
Hourly Rate and Expense Chart

AGREED AND ACCEPTED:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

## C.R.P.C. RULE 1.5 FEES

- (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
  - (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
  - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
  - (3) the fee customarily charged in the locality for similar legal services;
  - (4) the amount involved and the results obtained;
  - (5) the time limitations imposed by the client or by the circumstances;
  - (6) the nature and length of the professional relationship with the client;
  - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
  - (8) whether the fee is fixed or contingent.
- (b) When the lawyer has not regularly represented the client, the basis or rate of the fee and expenses shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation. Except as provided in a written fee agreement, any material changes to the basis or rate of the fee or expenses are subject to the provisions of Rule 1.8(a).
- (c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is otherwise prohibited. A contingent fee agreement shall meet all of the requirements of Chapter 23.3 of the Colorado Rules of Civil Procedure, "Rules Governing Contingent Fees."
- (d) Other than in connection with the sale of a law practice pursuant to Rule 1.17, a division of a fee between lawyers who are not in the same firm may be made only if:
  - (1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;
  - (2) the client agrees to the arrangement, including the basis upon which the division of fees shall be made, and the client's agreement is confirmed in writing; and
  - (3) the total fee is reasonable.
- (e) Referral fees are prohibited.
- (f) Fees are not earned until the lawyer confers a benefit on the client or performs a legal service for the client. Advances of unearned fees are the property of the client and shall be deposited in the lawyer's trust account pursuant to Rule 1.15(f)(1) until earned. If advances of unearned fees are in the form of property other than funds, then the lawyer shall hold such property separate from the lawyer's own property pursuant to Rule 1.15(a).
- (g) Nonrefundable fees and nonrefundable retainers are prohibited. Any agreement that purports to restrict a client's right to terminate the representation, or that unreasonably restricts a client's right to obtain a refund of unearned or unreasonable fees, is prohibited.

**KARP NEU HANLON, P.C.****2014 HOURLY RATE CHART**

<b>POSITION</b>	<b>NAME</b>	<b>INITIALS</b>	<b>HOURLY RATE</b>
Partner	Sander N. Karp	SNK	N/A
Partner	James S. Neu	JSN	\$190.00
Partner	Karl J. Hanlon	KJH	\$190.00
Partner	Michael J. Sawyer	MJS	\$185.00
Partner	James F. Fosnaught	JFF	\$185.00
Of Counsel	Greg S. Russi	GSR	N/A
Of Counsel	Anna S. Itenberg	ASI	\$185.00
Associate	Hollie L. Wieland	HLW	N/A
Associate	Jeffrey J. Conklin	JJC	\$175.00
Associate	Matthew L. Trinidad	MLT	\$175.00
Paralegal	Erika L. Watkins	ELW	\$95.00
Paralegal	Virginia M. Lemon	VML	\$95.00
<b>Expenses</b>			<b>Rate</b>
Mileage current IRS rate as it may be amended throughout the year			\$0.565 per mile (current IRS rate)
Photo Copies			\$0.25 per copy
Facsimile Transmissions			\$1.00 per page
Color Photo Copies			\$1.25 per copy
Computer Research outside of the Firm's West Law libraries			Actual cost of access time accumulated
<b>OTHER EXPENSES ARE BILLED AT ACTUAL COSTS</b>			

The above rates are subject to change annually.

*All Accounts Due in 30 days.*

*Overdue Accounts will be Assessed 1.5% per month (18% A.P.R.)*

*In the event an action is required to collect payment, client agrees to pay reasonable attorneys' fees and costs of collection.*

**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**

**Mayor – Gordon “Hawkeye” Flaherty  
Mayor Pro Tem – George Brodin  
Councilmember – Shelley Bellm  
Councilmember – Earle Bidez  
Councilmember – John Rosenfeld  
Councilmember – Jason Osborne  
Councilmember – Matt Scherr**

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**AGENDA ITEM COVER SHEET**

<b>AGENDA TITLE:</b> Resolution 12 – Series 2014 A Resolution appointing an Interim Town Administrator.
<b>MEETING DATE:</b> May 21, 2014
<b>PRESENTER:</b> Brunvand
<b>BACKGROUND:</b> This agreement finalizes the appointment of an Interim Town Manager.
<b>CORE ISSUES:</b> N/A
<b>STAFF RECOMMENDATION/MOTION:</b> Motion to approve Resolution 12 – Series 2014 A Resolution appointing an Interim Town Administrator as presented.

**TOWN OF MINTURN**

**RESOLUTION NO. 12 – SERIES 2014**

**A RESOLUTION APPOINTING AN INTERIM TOWN ADMINISTRATOR**

WHEREAS, Pursuant to Minturn Municipal Code Section 2-3-10, The Town Council shall appoint a Town Administrator who shall be the chief administrative officer of the Town; and

WHEREAS, the Town Administrator tendered his resignation effective April 16, 2014; and

WHEREAS, The Town Council has entered into negotiations with William Powel to appoint as interim Town Administrator.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT:**

William Powel is hereby appointed Interim Town Administrator; and

The Mayor is authorized to sign an agreement and such other documents as are reasonably necessary with William Powel concerning the scope of work and expenses related thereto.

INTRODUCED, READ, APPROVED AND ADOPTED this 21st day of May, 2014.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JAY BRUNVAND, TOWN CLERK**

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

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Councilmember – John Rosenfeld  
Councilmember – Jason Osborne  
Councilmember – Matt Scherr

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**AGENDA ITEM COVER SHEET**

<b>AGENDA TITLE:</b> Resolution 13 – Series 2014 A Resolution appointing check signers for the Town.
<b>MEETING DATE:</b> May 21, 2014
<b>PRESENTER:</b> Brunvand
<b>BACKGROUND:</b> Under normal operations, the Town Manager, Police Chief, Mayor, and Mayor Pro Tem are check signers. This keeps those that are working with deposits and accounting an arm’s length away from the accounts payable operations as is recommended by audit standards. In that we are somewhat understaffed, I am recommending that Shelley B. and Earle B. be added to the list of the Mayor and Mayor Pro Tem. Both have a history with the Council so I feel would have a solid grasp of the Town’s financial operations and have a long tenure as Council Members. In addition, they are readily accessible for signatures. I have contacted both Shelley and Earle and both have indicated there ability and understanding of the need.  I do not recommend having the Interim Manager on the list as this is a temporary part-time contracted service and I feel it prudent to have this more in-house.
<b>CORE ISSUES:</b> N/A
<b>STAFF RECOMMENDATION/MOTION:</b> Motion to approve Resolution 13 – Series 2014 A Resolution appointing check signers for the Town.

**TOWN OF MINTURN**

**RESOLUTION NO. 13 – SERIES 2014**

**A RESOLUTION CONCERNING BANKING PRACTICES FOR THE  
TOWN OF MINTURN**

**WHEREAS**, Pursuant to the Town of Minturn’s banking institutions policies and practices it is requested and required that Town Council make certain authorizations during the first regularly scheduled meeting after a municipal election or when a change of positions on the Council or in Staff warrant.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING FOUR INDIVIDUALS ARE HEREBY AUTHORIZED TO SIGN CHECKS WITHDRAWN ON FUNDS FROM THE TOWN’S CHECKING ACCOUNT(S) AND SAVING ACCOUNT(S) AND INVESTMENT ACCOUNT(S):**

Gordon “Hawkeye” Flaherty  
George Brodin  
Shelley Bellm  
Earle Bidez

Mayor  
Mayor Pro Tem  
Council Member  
Council Member

**INTRODUCED, READ, APPROVED AND ADOPTED this 21<sup>st</sup> day of May 2014.**

\_\_\_\_\_  
**MAYOR**

**ATTESTS:**

\_\_\_\_\_  
**JAY BRUNVAND, TOWN CLERK**

## **Town Planner Report:**

- The Planning Commission – Design Review Board approved 2 homes for additions:
  1. 515 Pine Street – The Underhill Residence: tear down the back half of the home and reconstruct – new siding on the entire home (see attachment)
  2. Eagle & Meek Street – MPP Architecture – this project is adding a garage and second story addition – the project also includes moving the front door to Meek Street, giving the home a new address (see attachment)
- The Parks Committee is moving forward with the public restroom design and the historic sign for Eagle Park.
- The Boneyard Conservation Easement: the rough draft of the site plan is complete and has been shown to Eagle County. A formal design is now being drafted to be presented to Planning Commission and Town Council for approval. The 30-50 page document is being drafted by the Minturn Planner Hawkinson and Toby Sprunk, Eagle County Open Space Director.
- The Boneyard Management Plan: this is a 3-5 page document that is being drafted – we have the following documents complete that are need for the conservation easement: The Baseline Report, The Mineral Report and the Land Title.
- TAP Grant: the TAP Grant is officially posted. Projects are due August 1<sup>st</sup>. Planner will be working with CDOT Region 3 to determine project scope and design for submittal.

Town Planner  
Janet Hawkinson  
P.O. Box 309 ♦ 302 Pine St  
Minturn, CO 81645  
970-827-5645  
planner@minturn.org



Town Council  
Mayor – Gordon "Hawkeye" Flaherty  
Mayor Pro Tem – George Brodin  
Councilwoman – Shelley Bellm  
Councilman – Earl Bidez  
Councilman – John Rosenfeld  
Councilman – Matt Scherr  
Councilman – Jason Osborne

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## PROJECT COVER SHEET

**AGENDA TITLE:** Calabrese Residence – MPP Architecture – Eagle & Meek Street

**MEETING DATE:** May 21, 2014

**PRESENTER:** Town Planner Hawkinson

**BACKGROUND:**

Please find attached 2 legal documents regarding this residence. These documents were referred to during the design review of the Calabrese Residence approved addition. The residence is changing the front door from Eagle Street to Meek Street and will obtain a new address.

Please call with any questions or concerns.

Thank you.

# Project Review Report

## Planning Commission

May 17, 2014



**Projects:** MPP Architecture Meek & Eagle Street

**Description:** Add an addition on to the existing home. This addition includes a 2 car garage, a play room above the garage, a new entrance to the home and a new 2nd story bedroom.

The design will limit access onto lot with 1 entrance instead of the existing 2.

The lot is a corner lot and as defined by the American Planning Association and the Minturn Planner has 2 front yards, 1 side yard and 1 backyard. The design meets the Minturn Corner lot code of Sec 16-16-90.

With the new driveway plan, the home will be given a new address by the Minturn Planner. The street address will change from Eagle Street to Meek Street. The front yard setback is being set on both front yards of the lot - Eagle and Meek.

As per the legal document between the Town of Minturn and a previous owner, there is an encroachment agreement that does respect the front yard setbacks. Because the homeowner is not changing or adding onto this portion of the house and as it is determined in the legal document, a variance is not needed for this non-conforming structure because it has already been to court and has an encroachment agreement with the Town. The owners pay \$40.00 a year for this encroachment. Please see attached document and site plans of the various additions to this home under this encroachment agreement.

### **The project meets the required codes:**

#### Codes:

Sec 16-17-90 Setbacks for Residential in Old Town Character:

Maximum lot coverage is 40%

Front setback 10' Rear setback 10' Side setback 5' River setback 30'

Sec 16-16-90 Clear Vision Area Requirements: 'a clear vision area shall be maintained on the corners of all property at the intersection of 2 streets' - 'in residential zone the minimum distance of the 'triangle' shall be 15' long - access to driveways is 20' of clear vision'

Sec 16-17-190 Garage door setbacks: facing Main Street is 18' - facing other streets is 15'

### **The Legal Document regarding the Encroachment Agreement meets the below codes:**

Article 22 Legal Non-Conforming Uses, Structures and Lots -

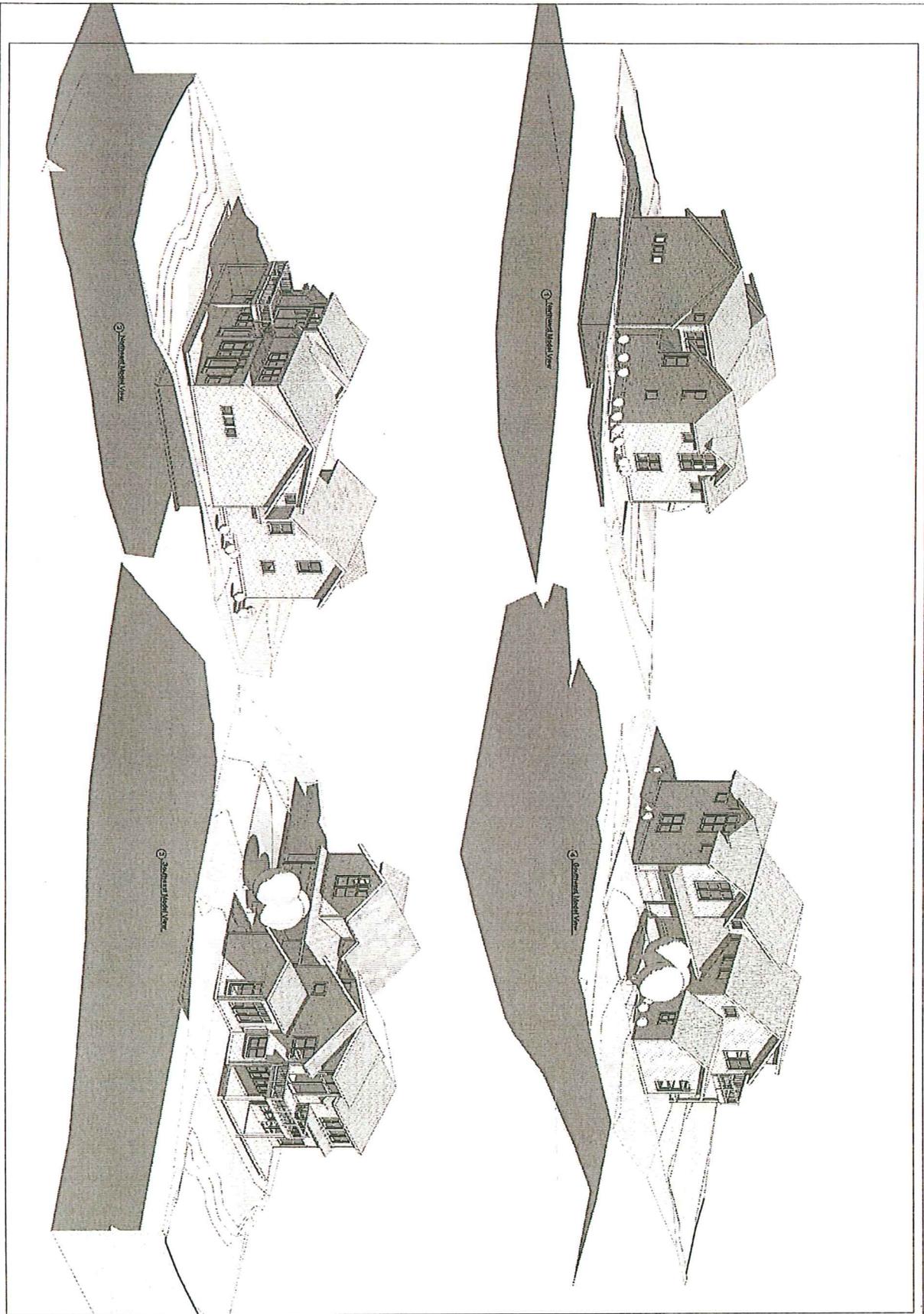
Section 16-22-30 Non-conforming uses and structures - (1) an increase in the total amount of space devoted to a nonconforming use or (2) Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitation or density requirements, or other requirements such as parking requirements.

(b) A legal nonconforming use shall not be changed to any other use except a conforming use.

**Planner Recommendation:** to approve the plans and approve the change of address

Existing home with 2 entrances:





**A3.3**

Model Views

View Name	View Type	View Date
North	Exterior	10/20/11
South	Exterior	10/20/11
East	Exterior	10/20/11
West	Exterior	10/20/11

**Calabrese Residence Addition**  
 Parcel Number: 2103-263-02-027  
 Booco's 2nd Addition to Mintum  
 Lot 12, Block 2  
 494 Eagle Street  
 Mintum, CO 81645

**mpp design shop, inc.**  
 PO Box 288  
 95 Willowstone Place  
 Gypsum, CO 81637  
 (970) 390-4931  
 michael@mppdesignshop.com

THOMAS BOYLE  
HAROLD M. GOLZ  
DOUGLAS J. REICH  
STANLEY F. FREEDMAN, P.C.  
RUSSELL K. BEAN

JEFFREY J. SCOTT  
SPECIAL COUNSEL

JOSEPH F. KRYS  
(RETIRED)

KRYS, BOYLE, GOLZ, REICH & FREEDMAN

ATTORNEYS AT LAW  
DOMINION PLAZA, SUITE 2700 SOUTH TOWER  
600 SEVENTEENTH STREET  
DENVER, COLORADO 80202-5427

TELEPHONE  
(303) 893-2300

FACSIMILE  
(303) 893-2882

January 19, 1993

Kent Mueller  
Town of Minturn  
Box 309  
Minturn, Colorado 81645

Re: Lynn Feiger/Encroachment Agreement

Dear Kent:

Enclosed are two Encroachment Agreements originally executed by Ms. Feiger. Please date the Agreements when the Town executes them, and return one to me. I will record the Agreement with the Clerk and Recorder's Office.

I would also appreciate it if you would call me when the Agreements are signed. As you know, Ms. Feiger is prepared to begin construction and is awaiting signing of this Agreement.

Thank you for your time.

Sincerely,

KRYS BOYLE GOLZ  
REICH FREEDMAN BEAN & SCOTT, P.C.  
By

  
Russell K Bean

Enclosures

cc: Lynn Feiger

## ENCROACHMENT AGREEMENT

This Agreement entered into this 28 day of January, 1993, by and between the Town of Minturn, A Colorado Home Rule Municipality, (hereafter "Minturn") and Lynn D. Feiger, (hereafter "Feiger").

### RECITALS

WHEREAS, Minturn owns a parcel of property within the Town of Minturn, Eagle County, Colorado, known and surveyed as Meek Avenue, upon a portion of which is located a part of a house structure primarily located on Lot 12, Block 2 of Boocos 2d Addition to the Town of Minturn also known as 494 Eagle Street (the "House") Minturn, Colorado 81645; and

WHEREAS, the House has encroached upon Meek Street for many years and Feiger now seeks to enter into an agreement with Minturn due to the extreme financial hardship to remove the encroachment. Feiger proposes to use the area of the aforementioned portion of Meek Avenue upon which the portion of the House is located for the maintenance of the House and Feiger is agreeable to the use of such property under the terms and conditions as set forth below. The encroachment does not interfere with public use of the remaining portions of the right of way.

NOW, THEREFORE, for and in consideration of the performing of the covenants and agreements by the parties to this Agreement. Minturn by these presents does hereby permit Feiger to use the following described property (the "Site") for the maintenance of the aforementioned House as set forth in this Agreement:

A tract of land being a portion of Meek Avenue as it lies between its intersection with Eagle Street and its abutment to the Eagle River within Boocos 2nd Addition to the Town of Minturn, said tract being more particularly described as a triangle area extending at the widest point 1.3 feet into Meek Avenue from Lot 12, and angling back to Lot 12, a distance of 15.4 feet, shown on the attached survey map as highlighted.

### PARTICULARS

1. USE OF THE SITE. The Site is to be used for the maintenance of the aforementioned House and for no other purpose whatsoever.

2. TERM. This Agreement shall extend from the date of the execution of this Agreement until the aforementioned House is removed, destroyed or damaged to the extent of 50% of its present size and/or value or until the encroachment is removed.

3. USE OF SITE. The Site shall only be used for domicile purposes and generally accepted ancillary uses connected with normal household operations. The Site

shall not be used in violation of any law, statute, ordinance or regulation. Feiger may maintain the House but shall not be permitted to expand or increase the encroachment upon Meek Street other than construction previously approved by the Planning and Zoning Commission and the Minturn Town Council.

4. **CONDITION OF SITE.** During the term of this Agreement, Feiger agrees to keep the Site in good and safe condition.

5. **RELEASE FROM LIABILITY.** Feiger hereby releases and discharges Minturn from any and all liability arising from the execution and performance of this Agreement and all other matters to which the indemnification of paragraph 6 relates.

6. **INDEMNIFICATION.** Feiger hereby agrees that she shall indemnify, defend and hold harmless Minturn and its officers, employees and agents from, against from and with respect to any claim, liability, obligation, loss, damage, assessments, judgment, cost or expense (including, without limitation, reasonable attorneys fees and expenses and costs and expenses reasonably incurred in the investigating, preparing, or defending against any litigation or claim, action, suit, proceeding or demand, of any kind or character) of or in any manner relating or attributable to any claims or damages arising from the execution or performance of this Agreement or Feiger's activities upon the Site.

7. **DISCLAIMER.** Feiger hereby disclaims any and all rights, now and in the future, against any and all parts of the property owned by Minturn, by virtue of adverse possession or easement by prescription.

8. **RUNS WITH LAND.** The parties acknowledge this encroachment agreement is for the benefit of the property described as:

Lot 12, Block 2  
Boocos 2nd Addition  
Town of Minturn  
Eagle County, Colorado  
(also known as 494 Eagle Street)

and subject to the terms of this Agreement, the Agreement shall run with the land and shall be transferred automatically on conveyance of the House whether or not specific reference is made to this Agreement.

9. **RECORDING.** The town of Minturn and Feiger shall be permitted to record this Agreement with the Eagle County Clerk and Recorder in the real property records.

10. RENT. Feiger, her heirs, successors and/or assigns agree to pay the Town of Minturn the annual rental fee of \$40.00 per year on or before January 15, 1993 and on or before January 15, of each year thereafter.

11. If Feiger, her heirs, successor and/or assigns default in this Agreement or the Town of Minturn must hire an attorney to enforce this Agreement, Feiger, her heirs, successors and/or assigns will pay all costs and reasonable attorneys fees associated therewith.

12. NOTICES. All notices and communications required herein shall be in writing and shall be sent by certified mail to the following addresses:

Minturn:	Town of Minturn Post Office Box 309 Minturn, Colorado 81645-0309
Feiger:	Lynn D. Feiger 511 - 16th Street, Suite 300 Denver, Colorado 80202

Notices shall be deemed as properly given when mailed, by certified mail, in a sealed envelope, postage prepaid, addressed to the above addresses. Any such notice or demand shall be deemed to have been given or made at the time it is deposited in the U.S. Post Office. Any party may change its address of record by giving written notice of the change to the other party.

13. WAIVER. Failure or delay on the part of Minturn or Feiger to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

14. PRIOR NEGOTIATIONS. This Agreement constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

15. AMENDMENTS. No amendments of this Agreement shall be valid unless made in writing and signed by Minturn and Feiger.

16. APPLICABLE LAW. This Agreement is entered into in Minturn, Eagle County, Colorado, and it is agreed that proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Agreement shall be in the County or District Court of Eagle County, Colorado.

17. BINDING AGREEMENT. It is understood and agreed that this Agreement shall be binding upon the assigns and successors in interest of the parties hereto.

TOWN OF MINTURN

By: Erin G. Chang  
Mayor

ATTEST:

Kelly Peters  
Town Clerk

FEIGER

Lynn D. Feiger  
Lynn D. Feiger

DT 11

LOT 13

ALLEY

EDGE OF GRAVEL DRIVE

UTILITY POLE

IN REBAR

95' MEAS. 10'

N 45° 20' W

FND. PIN B CAP STAMPED SOUTH 2-12

LOT 12

SHED

.E

N 44° 40' E

(BASIS OF BEARINGS)

ONE STORY LOG HOME

IN THIS SURVEY ARE AT THE SOUTH AND

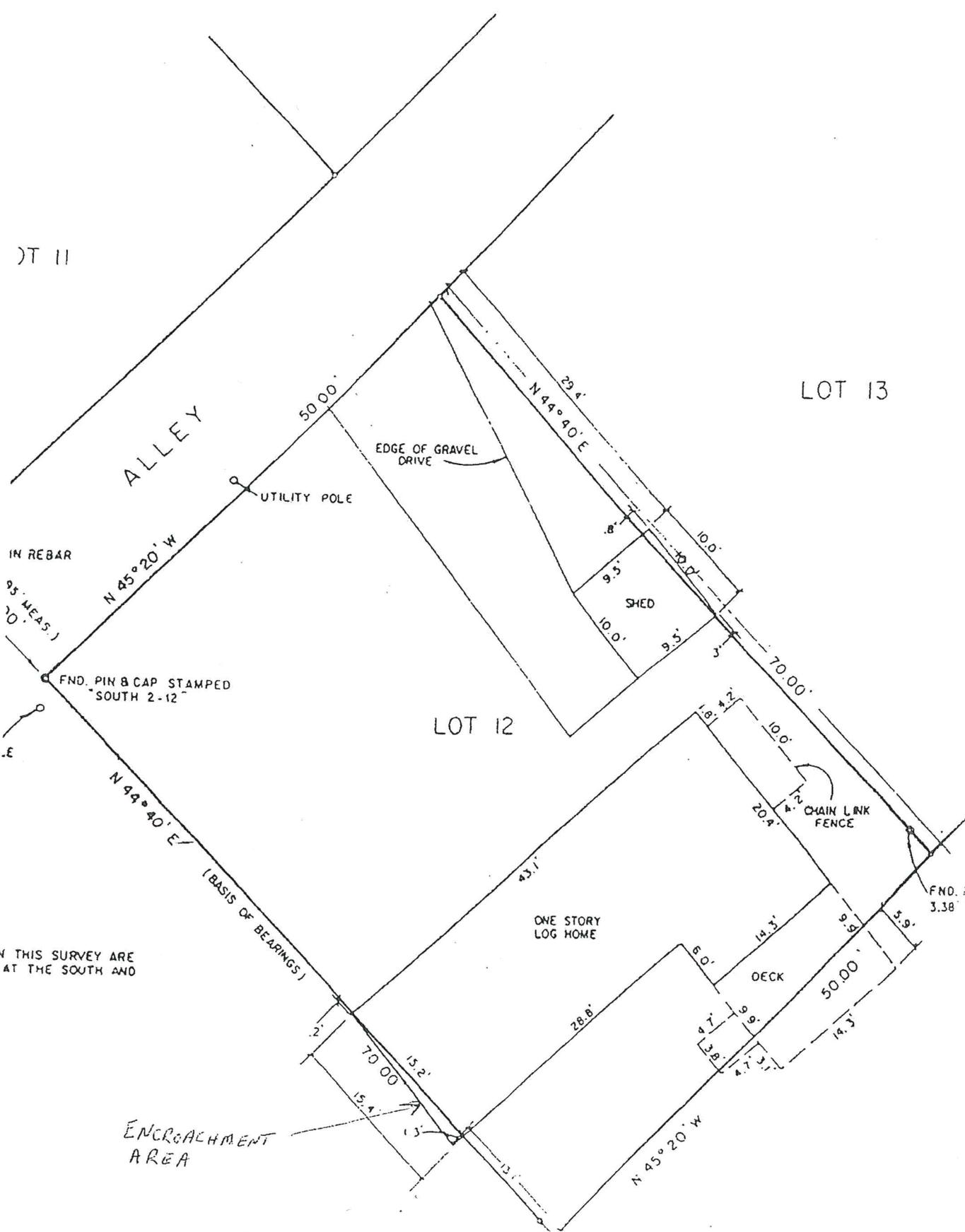
CHAIN LINK FENCE

FND. P 3.38

DECK

ENCROACHMENT AREA

N 45° 20' W





**HAYES, PHILLIPS, HOFFMANN & CARBERRY, P.C.**

1530 Sixteenth Street, Suite 200  
Denver, Colorado 80202-1468  
Telephone: (303) 825-6444  
Facsimile: (303) 825-1269

Corey Y. Hoffmann  
Kendra L. Carberry  
Jefferson H. Parker

Of Counsel  
Herbert C. Phillips  
J. Matthew Mire

**Fairplay Office**  
675 Main Street  
P.O. Box 1046  
Fairplay, CO 80440  
Telephone: (719) 836-9005  
Facsimile: (719) 836-9010

Ryan S. Malarky  
Kelly L. Donlon  
Elizabeth R. Cross  
Charissa A. Johnston  
B. Brittany Scantland Lall

John E. Hayes (Retired)

**TOWN OF MINTURN**  
**MEMORANDUM**

**TO: PLANNING COMMISSION  
JANET HAWKINSON, TOWN PLANNER**

**FROM: KENDRA L. CARBERRY, ESQ. *JK*  
RYAN S. MALARKY, ESQ.**

**DATE: MAY 9, 2014**

**RE: 494 EAGLE STREET – CORRECTED**

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This memorandum addresses a question raised by the Planning Commission regarding design plans submitted to the Town Planner. This memorandum corrects an error in our earlier memorandum of today's date. The plans propose an addition to 494 Eagle Street (the "Property"), which sits on the corner of Eagle Street and Meek Street. As explained to us by the Town Planner, the primary change to the Property that is at issue is the relocation of the residence's primary entrance from its current location facing Eagle Street to an orientation facing Meek Street. We understand that the current residence does not meet setback requirements on its Meek Street side where it passes the lot line and encroaches onto Meek Street. Because the relocation of the primary entrance from Eagle Street to Meek Street may result in a violation of setback requirements, the question is whether the residence may continue as a legal nonconforming structure. Another issue is whether the addition is an impermissible enlargement of the nonconforming structure.

**The Encroachment Agreement**

The encroachment onto Meek Street was addressed in a 1993 Encroachment Agreement (the "Agreement") between the Town and the then-current owner. Under the Encroachment Agreement, the Town and the owner acknowledged the encroachment and agreed to allow the

5/9/14

property owner to maintain the residence as it existed, provided the owner pay an annual rental fee of \$40.00. The Agreement provides that it would run with the land and extend to future landowners. The Agreement continues until the residence is "removed, destroyed or damaged to the extent of 50% of its present size and/or value or until the encroachment is removed." The Agreement prohibits the owner from expanding or increasing the encroachment upon Meek Street, and prohibits the portion of the house that encroaches onto Meek Street from being used in violation of any law. While the Agreement allows the homeowner to "maintain" the residence, the Agreement makes no specific reference to setback requirements or enlargement of the residence other than the particular portion of the residence that encroaches on Meek Street.

It is our understanding that the property owner has continuously paid the annual rental fee, so that is not a basis to invalidate the Agreement. It is also our understanding that the residence has not been removed, destroyed, or damaged to the extent of 50% of its present size or value since the Agreement was executed. In the proposed design plans, there is no indication that the residence will be "removed, destroyed, or damaged," so the proposed changes would not result in an invalidation of the Agreement. Accordingly, under the Agreement, the residence may continue to encroach upon Meek Street.

A question then arises with regard to the Agreement's effect on the setbacks. Whether or not there were setback requirements in place at the time of the Agreement is unclear based on the information we have received. However, it may reasonably be implied from the Agreement that the Town has consented to the encroachment as long as the conditions of the Agreement are met. Accordingly, by approving the encroachment, the Town has impliedly consented to a modification of the setback for that portion of the Property. It would be illogical to allow the owner to maintain the residence as it encroaches on Meek Street, and to also suggest the residence is in violation of a setback requirement on that same street.

One issue is whether a change in the primary entrance location may result in an increased infringement onto setback requirements, because side and front yards have different setbacks. The minimum setbacks for residential uses in the Old Town Character Area are 10' for a front yard, 10' for a rear yard, and 5' for a side yard. Minturn Municipal Code (the "Code") § 16-17-90. For purposes of determining what qualifies as a front, rear or side yard, the Code provides the following:

1. Front yard: that portion of yard between the street line and the building and between the 2 side lot lines, the depth of which shall be the least distance between the front lot line and the building.
2. Rear yard: that portion of a yard between the rear of a building and a rear lot line, and between 2 side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

3. Side yard: all the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

Code § 16-2-20. The Code does not have provisions directly designating yard types for corner lots that are bordered on two sides by streets. However, based on the plain language of the Code, it is reasonable to conclude the yard bordering Eagle Street would qualify as a front yard, and the yard bordering Meek Street would also qualify as a front yard. This is because the yards are between the street lines and the building. Code § 16-6-20.<sup>1</sup> This would mean that the presumptive 10 feet setback requirement applies for both Eagle Street and Meek Street. The location of the primary entrance, facing Eagle Street, does not influence the determination of what constitutes a front yard as defined in the Code.

### **Legal Nonconforming Structure**

The residence is a legal nonconforming structure if the setback restrictions were created after the residence was already in place. It is our understanding that is the case with the Property. The Minturn Code allows legal nonconforming structures to exist under certain conditions. Code §§ 16-22-10 to 16-22-80. A legal nonconforming structure may continue so long as any physical alteration of the structure:

1. Does not result in an increase in the total amount of space devoted to a nonconforming use; and
2. Does not result in greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitation or density requirements, or other requirements such as parking requirements.

Code § 16-22-30(a).

Here, the proposed design plans show that the external structure of the residence will be changed resulting in increased square footage. While this is an increase in the total amount of space of the structure, we are not dealing with a nonconforming use in this instance. Therefore the increased square footage does not provide a basis for the invalidation of the legal nature of the nonconforming structure.

The next question is whether the change in the orientation of the primary entrance and the additional square footage will result in greater nonconformity with respect to dimensional restrictions. It is our understanding that the addition will respect the 10' setback requirement from both Eagle Street and Meek Street, and otherwise comply with dimensional requirements. Accordingly, the remaining concern is whether the relocation of the primary entrance will result in greater nonconformity. As stated above, the location of the primary entrance does not

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<sup>1</sup> The authority to interpret the Town's zoning regulations is vested in the Town Planner, and his or her interpretations may be appealed by the applicant to the Planning Commission. Code §§ 16-21-110; 16-21-280.

May 9, 2014

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influence the determination of what constitutes a front or side yard. Regardless of the change of location of the primary entrance, the setback requirements will remain the same as they do now – 10 feet from Eagle Street and 10 feet from Meek Street. The proposed plans show there is no proposed change to the footprint of that portion of the residence that currently extends into the setback requirements off Meek Street. Therefore, based on the plans, the residence will extend into the setback requirements off of Meek Street to the same degree it does today. Because the proposed changes to the residence do not result in a greater nonconformity with respect to dimensional requirements, including the setback requirements, the legal nonconforming structure may continue.

### **Conclusion**

In sum, the encroachment across the lot line and onto Meek Street makes the residence a legal nonconforming structure. Based upon the proposed design plans, the addition will result in an enlargement of the nonconforming structure and a change in the location of the primary entrance. Neither of these changes will result in an increase of the total amount of space devoted to a nonconforming use or a greater nonconformity with respect to dimensional restrictions. We make this conclusion regardless of the 1993 Encroachment Agreement. Accordingly, the residence may continue as a legal nonconforming structure based on the submitted design plans.

# Project Review Report

## Planning Commission

May 14, 2014



**Project:** 515 Pine Street - Underhill

**Description:** The front of the house has been previously rebuilt and remodeled. This project is the tearing down and replacing the second part of the home. The project is to enhance the appearance of the home and to build a safe structure (presently the 2nd half of the home is hazardous). A new foundation will be poured to replace the old foundation. The new structure will be the same size and footprint on the lot.

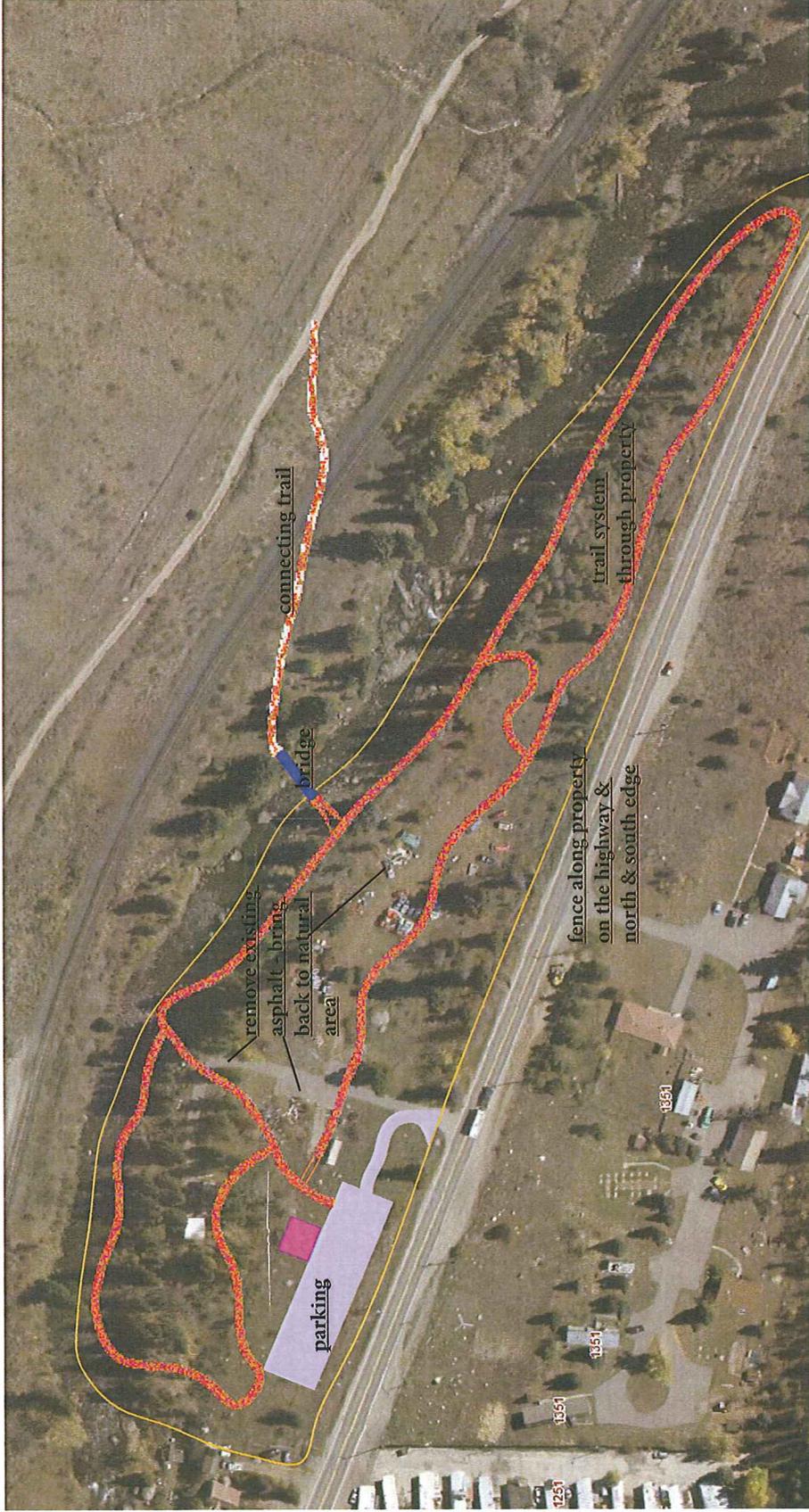
**Set backs and height limit:** Old Town Character Area Setbacks: 10' front 5' side 10' back 28' high midline  
This project meets the required building codes.

**Planner Recommendation:** to approve the plans

### Images of Existing Structure:



The Minturn Boneyard Land Trust - Draft of Proposed Site Plan - 5-12-2014



Site Concepts:

- remove existing asphalt & bring area to natural state - great access to river & greatest depth on site
- remove building in natural areas
- create parking lot next to road to keep the remaining area and river edge natural
- restrooms next to parking
- a trail system around and through site to keep from side trails being created
- a pedestrian bridge to connect to National Forest and future trail system

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Town Council  
Mayor – Gordon “Hawkeye” Flaherty  
Mayor Pro Tem – George Brodin  
Councilwoman – Shelley Bellm  
Councilman – Earl Bidez  
Councilman – John Rosenfeld  
Councilman – Matt Scherr  
Councilman – Jason “Ozzy” Osborne

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## Co-Acting Town Manager Update

### **Minturn Fitness Center**

The website platform has been selected, EZ Facility. This platform will allow for online access, class scheduling, membership information, and provides the convenience of a mobile app option. Meetings with the website designer begin next week. The MFC Board will be meeting on April 22 to review and confirm operation logistics of the fitness center. Any questions Council may have should be submitted to Johnie or Earle before the 22<sup>nd</sup>.

### **Comment Box**

Town Hall now has a comment box available to residents and visitors for leaving feedback or suggestions. The box is located on the first floor lobby and checked for comments regularly.

### **Trail Reclamation**

Volunteer work for local area mountain biking trails, including Game Creek Trail and Cougar Ridge Trail is needed. Any interested volunteers in helping to improve the usability of these trails should contact Jamie Malin with the Vail Valley Mountain Bike Association at [jamiemalin@yahoo.com](mailto:jamiemalin@yahoo.com).

### **Upcoming Events**

The Minturn **Town Clean-up** day is **Saturday, May 31st**. This year, the event will be held in the upper parking lot of Little Beach Park on Cemetery Road.

The annual Clean-Up event provides the citizens of Minturn with a free and convenient receptacle to deposit their appliances, debris and undesired items from their property and home. The Minturn Public Works Department staff will be at Little Beach Park parking lot to help unload vehicles.

As in years past, there will be volunteers from Battle Mountain Development Company, and the Town of Minturn with trucks to assist residents with transporting their large, unwanted items to the dumpsters. If residents, especially senior citizens, are interested in taking advantage of this opportunity, items for disposal should be prepared and ready for pick-up in an accessible area. To sign up for this free service, please contact Lisa Osborne at the Minturn Town Offices at (970) 827-5645, extension 105 by Friday, May 30, 2014. An e-mail may also be sent to Ms. Osborne at [losborne@minturn.org](mailto:losborne@minturn.org). Keep in mind, the Eagle Valley Community Fund will gladly take items in good condition for their annual fundraiser Rummage Sale at Maloit Park.

Volunteers are needed to team up with town staff to clean-up litter and debris in all areas of town. Volunteers will be meeting at the Little Beach Park upper parking lot at 9:00 a.m. All

volunteers are asked to sign-in and then will be provided garbage bags and safety vests. Please remember to bring gloves to protect your hands. Once signed-in and outfitted with the necessary gear, each volunteer will be assigned a specific area to work for litter pick-up.

**Minturn Market begins June 14<sup>th</sup>.**

**Independence Day Celebration is July 5, 2014.** An application has been submitted to the Colorado State Patrol and the Colorado Department of Transportation for a parade down Main Street starting at approximately 3:00 on July 5<sup>th</sup>. We are currently accepting free registration for participants to enter the parade. Registration forms can be found online at [www.downtownminturn.com](http://www.downtownminturn.com) or [www.minturn.org](http://www.minturn.org). Space in the parade is limited, so get signed up!

**Code Compliance Officer:** Lisa Osborne has ordered a uniform and will be utilizing one of the Town's police pick-up trucks for duty. We have already had great success with the Code Compliance from banners to clear vision setbacks to trash cans. The railroad property on 4<sup>th</sup> & Minturn Road has been cleaned up.

**Railroad Street Crossing Repair:** We have been in conversation with Jason Mashek, Manager of Road Projects and Shermin Spear, Road and Tracks Maintenance, to have the tracks repaired in Minturn. Shermin Spear is out of Denver office.

**DOLA Grant Management:** Public Works has started the Harrison Water Loop project. It is scheduled to be complete in 2 weeks. A-Peak asphalt won the paving contract and is scheduled to pave upon completion of water loop. The project is scheduled to be completed by June 20, 2014. The grant report and final invoicing is due June 30, 2014.

# PUBLIC WORKS

## LITTLE BEACH PARK PROJECT BRINGING A WATER LINE TO THE PARK

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Remove water line that hung across the river and went through a CDOT culvert

Hang the new water line under Cemetary Bridge, and trench to the park for cleaning the restrooms and park use



Bringing water to the bathroom for cleaning



Trenching for the water line



## **Public Works Report:**

- Little Beach Park water line complete except the installation of new hydrants
- Little Beach Park now has water for a yard hydrant for events and cleaning
- We have moved the Public Works gate back 20 feet to create a separate entrance for A-Peak & the Town
- With additional snow, CDOT used cinders that need to be cleaned
- Nelson Ave culvert has been cleaned by Eagle River Sanitation (at no charge, thank you Mayor & Darell)
- We have been collecting steel and appliances from residence for recycling with free pick-up
- 4th Ave & Minturn Rd is clean of all trash and debris that the RailRoad had torn down
- Toledo Ave & Main St valves have been straitened and cleaned and are now in good working condition
- The last isolation valve is scheduled to be installed May 27th with the delivery of needed hoses
- We have been maintaining the drainage throughout Town, everything is working well