



## Agenda

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

**Wednesday October 19, 2016**

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

**MAYOR – Matt Scherr**  
**MAYOR PRO TEM – Earle Bidez**

**COUNCIL MEMBERS:**

Terry Armistead  
Harvey Craig  
Sidney Harrington  
Sage Pierson  
John Widerman

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 – 6:30 pm**  
**Please remember to bring your FY2017 Budget Book**

- Budget Review – FY 2017 Fund Review and Decision Points – Powell/Brunvand (45 min) pg 4

**Regular Session – 6:30 pm**

**1. Call to Order**

- Roll Call
- Pledge of Allegiance

**2. Approval of Agenda**

- Items to be Pulled or Added

**3. Approval of Minutes**

- September 21, 2016 pg 8

4. **Public comments on items, which are NOT on the agenda (5-minute time limit per person)**
  - Jill Ryan, Eagle County Commissioner candidate (5 min)
  - Kathy Chandler-Henry, Eagle County Commissioner candidate (5 min)
5. **Special Presentations**
  - Public Access Channel 5 (10 min)
  - Committee Reports
  - Council Comments

## PUBLIC HEARINGS, DISCUSSION, AND ACTION ITEMS

6. **Public Hearing/Discussion Item: Resolution 26 – Series 2016 authorizing the Mayor or his designee to sign a Deferred Payment agreement with RAILROAD ROCKS, LLC d/b/a Turntable Hotel and Restaurant – Powell (10 min) pg 17**
7. **Discussion/Action Item: Resolution 24 – Series 2016 a resolution appointing Burk Harrington as a Planning Commissioner – Hawkinson (5 min) pg 21**
8. **Discussion/Action Item: Resolution 27 – Series 2016 a Resolution authorizing the Mayor to sign a Memo of Understanding relating to Battle Mountain Project – Powell (30 min) pg 22**
9. **Discussion/Action Item: Resolution 25 – Series 2016 a resolution supporting Eagle County Ballot Measure 1B (5 min) pg 45**
10. **Discussion/Action Item: Resolution 28 – Series 2016 a resolution supporting Eagle County Ballot Measure 1A (5 min) pg 46**
11. **Discussion/Action Item: Resolution 30- Series 2016 a resolution supporting Eagle County Ballot Measure 3A and 3B. (5 min) pg 48**
12. **Liquor License Authority**
  - Deutschman Family LLC DBA Kirby Cosmo’s BBQ Bar renewal of a Hotel and Restaurant Liquor license; 401 Main St.; Mark Taberino, Owner/Manager – Brunvand (5min) pg 49

## COUNCIL AND STAFF REPORTS

13. **Town Planner (5min)**
  - Magusto’s Sign Approval pg 53
  - Boneyard Conservation Easement Plan
  - Completion of Entrance

**14. Town Manager (5min)**

- Manager's Report pg 54
- Action Report pg 55

**15. Town Attorney**

**EXECUTIVE SESSION**

- 16. Executive Session:** Executive Session: An Executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Eagle River Properties v. Town of Minturn, and an Executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) - Battle Mountain Resorts

**FUTURE AGENDA ITEMS**

**17. Next Meeting – November 2, 2016**

- Meeting: Discussion/Action – 1st Public Hearing on proposed fiscal year 2017 Budget – review public funding requests – Brunvand 11/2/16

**18. Future Meetings:**

- Meeting: Discussion/Action – 2<sup>nd</sup> Public Hearing on proposed fiscal year 2017 Budget and First Reading of Budget Ordinances – Brunvand 11/16/16
- Meeting: Discussion/Action – 2<sup>nd</sup> and Final Reading of proposed 2017 Budget Ordinances – Brunvand 12/7/15
- Work Session on housing – Hawkinson

**19. Set Future Meeting Dates**

- a) Council Meetings:
- November 2, 2016
  - November 16, 2016
  - December 7, 2016

**20. Other Dates:**

**21. Adjournment**

**FROM THE DESK OF  
JAY BRUNVAND, MINTURN FINANCE OFFICE  
MEMORANDUM**

TO: Mayor and Town Council  
 FROM: Jay Brunvand, Treasurer  
 CC:  
 DATE: 10/12/16  
 RE: FY2017 Budget

Tonight we will review the 2017 Budget and field Council questions and I have set aside about 45min for the entire discussion. I plan to go into a more detail on the General and Enterprise Funds than the other Funds as they are the primary source of the income and corresponding expenses for the town. I have attached a summary of what makes up the various funds and a list of our bank accounts for the Council’s education. This should give you an underlying basis of the structure of the Town operations.

At previous Council Meetings several items have been covered and direction was given to proceed by Council on some of the items. To date:

- We reviewed and agreed on a price structure for the Water Rates.

The water rate portion of our Enterprise Fund will be set as follows and as was agreed to by Council:

Total needed revenue: \$732,035.00. It is estimated that we will sell approximately \$25,000 to users above the base allowance of 6,000 gallons per Single Family Equivalent (SFE) and we have 740 SFE’s in town.

$$\$732,032 - \$25,000 = 704,035/740sfe = \$79.62$$

The Base Rate will be set at \$79/sfe. Those that use more than 6,000 gallons in any given month will pay \$4.64 for each 1,000 gallons over the 6,000 gallon allowance. Following is a comparison over the past three years:

<b>RESIDENTIAL WATER RATES</b>				
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>BASE RATE</b>	70.50	73.32	73.32	79.00
<b>EXCESS</b>				
<b>WATER</b>	2.73	2.84	4.53	4.64
<b>DEBT SERVICE</b>	5.93	5.93	1.65	1.65
<b>MO RATE/SFE</b>	76.43	79.25	74.97	80.65 *
	10,000	10,000	10,000	6,000
<b>ALLOWANCE</b>	GAL	GAL	GAL	GAL

\*2017 COMPARED TO 2015 = 1.8% INCREASE

- We reviewed the water tap fees and agreed to align them with the Eagle River Water and Sanitation District’s sewer tap fees. Following is a table showing the 2017 rates

	CURRENT	2017
RESIDENTIAL 3/4 IN	9,500.00	10,600.00
COMMERCIAL 3/4IN	10,000.00	12,099.00
COMMERCIAL 1IN	17,250.00	20,972.00
COMMERCIAL 2IN	38,250.00	46,783.00
COMMERCIAL 3IN	68,250.00	83,080.00
COMMERCIAL 3IN	152,250.00	185,519.00
COMMERCIAL 4IN	270,500.00	329,901.00
COMMERCIAL 6IN	609,000.00	742,883.00

- We have discussed the trash service and the associated costs as well as increasing the recycle program. Direction was given to have a dumpster delivered and placed in the dumpster enclosure at the north end of the Town Hall for use in Single Stream recycling. At this point Staff is not recommending an increase in the residential trash fee for 2017.
- Currently we are still negotiating a Memo of Understanding with Battle Mountain Resorts. This MOU will cover monthly funding, previous use of funds, use of existing BMR funds for the future, and will summarize development goals for the project.
- We agreed upon lease procedures for the Lease Lot. This will be formally addressed at the October 19 meeting and the procedures are being instituted at staff level for those interested in leasing land from the town for low impact use.
- We reviewed several graphs and tables that show the use of the budgeted funds and how the expenses make up the percent of the whole.

The town has 9 separate funds and each fund operates as its own accounting structure in accordance with Governmental Accounting and Generally Accepted Accounting Practices (GAAP).

Fund 01 = General Fund – This is the main fund and accounts for the general operations of the government. All Property and personal Taxes, Sales tax, etc are accounted for in this Fund.

Fund 02 = Enterprise Fund – This is the fund that manages the water treatment plant, the town wide residential trash service, and our parks.

Fund 03 = Conservation Trust Fund – This fund accounts for our lottery funds received from the state.

Fund 04 = Building Fund – administers the income and debt on the Town Hall.

Fund 05 = Market Fund – administers the Minturn Market both Summer and Winter.

Fund 06 = Capital Fund – administers the BMR funds for park improvement.

Fund 07 = General Improvement District – administers the functions of the GID which is associated with the Battle Mountain annexation.

Fund 08 = Scholarship Fund – administers the Minturn scholarships both revenue and expense.

Fund 09 = Battle Mountain Fund – administers the 2012 BMR agreement and as adjusted with new agreements.

Throughout each fund the account number structure is similar and guides you as follows: XX-YY-ZZZZ

XX is the overall Fund 01-09; Fund 01 is the General Fund, Fund 02 is the Enterprise Fund and so on.

YY is the Department;

00 = non department allocations such as taxes

01 = General Government

02 = Planning

03 = Municipal Court

04 = Legal and Police

- 05 = Events
- 06 = Public Works
- 08 = Debt Service
- 09 = Capital improvements

ZZZZ is the program within each department.

The town strictly conforms with GAAP Standards and State and Federal investment laws for investment of government funds. Although separated by Fund Accounting principles, all cash is comingled as allowed by law and standards. The Town's investment philosophy is to be as conservative as possible due to the fact that we are so reliant on property and sales tax revenues. Often during a month, it is not uncommon to transfer all of the money that was deposited to an account during the month for cash flow needs. Each month, Accounts payable and Payroll are paid twice a month.

- Property Tax reports are usually available after the 10<sup>th</sup> of the month and deposited in to COLOTRUST.
- Sales Tax is available after the 2<sup>nd</sup> Tuesday of the month and deposited monthly in Firstbank-General Cash.
- Water/Trash/Debt Service Fees are transferred from ERWSD by the 22<sup>nd</sup> of the month to COLOTRUST Prime.

Minturn Bank Accounts and uses:

- **COLOTRUST** – This bank is used only by Colorado governments, Special Districts, and School Districts and is an allowed investment depository of governmental funds.
  - COLOTRUST Prime – General: This account is a general savings account. Monthly the County transfers all Property Taxes and the ERWSD transfers all water, trash, and debt service fees into this account monthly.
  - COLOTRUST Plus – General: This account is used as a longer term general savings account.
  - COLOTRUST Plus – Conservation Trust Account – This account receives all state funds restricted for Conservation Trust funds. These funds are derived from the State Lottery system and the State has very strict accounting standards for the use of these funds. All liability payments for goods and services are paid from the General Cash checking account and an annual adjustment is made to balance the account to recognize the annual expenses.
  - COLOTRUST Plus – Little Beach Park – This account is an escrow account for the funds deposited for the completion of the Little Beach Park as a condition of the BMR Annexation. The original deposit was \$250,000 and the balance includes all interest earned since its inception. We hold this money as a restricted escrow account.
  - COLOTRUST Plus – Scholarship Endowment – This account is an escrow account for the funds deposited as a scholarship endowment fund as a condition of the BMR Annexation. The original deposit was \$350,000 and the balance includes all interest earned since its inception. We hold this money as a restricted escrow account.
- **CSAFE** – This account is a general savings account. Formally, this account was used as the repository of the Conservation Trust Fund. However, at this point the bank does not pay as well in interest as COLOTRUST so only a minimal amount is retained in this bank in an effort to reduce our risk factor.
- **Firstbank**
  - General Cash – This account is our only full service checking account. All accounts receivable and credit card payments are deposited here and all debt service, accounts payable, and payroll checks are run through this account.
  - Municipal Court – This account is a non-interest bearing escrow account for bonds held for the Minturn Municipal Court.
  - General Improvement District – This account is a non-interest bearing checking account and was set up as a condition of the GID and for its sole use. It is funded by BMR and checks are disbursed from the account as GID liabilities are incurred.
  - Scholarship Cash – scholarship money is transferred into this account from COLOTRUST-Scholarship and distributed annually per the Scholarship Committee direction.

- **United Bank of Missouri (UMB)** – This bank is the required receiver and disbursement center of our Certificates of Participation Bonds held on the Town Hall. All funds held in this bank are restricted for the sole use of the Town Hall bonds and include an interest account and a bond disbursement account. Payments for the bonds, less interest earned and rents received from the USPO and the apartments are funded through an AP check allocated 70/30 General Fund and Enterprise Fund respectively.



## Official Minutes

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

**Wednesday October 5, 2016**

**Work Session – 5:00 pm**  
**Regular Session – 6:30 pm**

**MAYOR – Matt Scherr**  
**MAYOR PRO TEM – Earle Bidez**

**COUNCIL MEMBERS:**

Terry Armistead  
Harvey Craig  
Sidney Harrington  
Sage Pierson  
John Widerman

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 – 5:00 – 6:30 pm**  
**Please remember to bring your FY2017 Budget Book**

- 2017 Budget Review – Brunvand
- Discussion regarding Code Enforcement – Powell

**Regular Session – 6:30 pm**

### 1. Call to Order

The meeting was called to order by Mayor Scherr at 6:35pm.

- Roll Call

Those present included: Mayor Matt Scherr, Mayor Pro Tem Earle Bidez, Town Council members Harvey Craig, Terry Armistead, Sidney Harrington, and John Widerman. Note Sage Pierson was excused absent.

Staff present: Town Manager Willy Powell, Town Attorney, Mike Sawyer, Town Planner Janet Hawkinson, Econ Dev Coordinator Michelle Metteer, and Clerk/Treasurer Jay Brunvand.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Add consideration of the Turntable water agreement as the first item under Public Hearing/Discussion/Action.

Motion by John W., second by Sidney H., to approve the agenda as presented. Motion passed 6-0. Note Sage Pierson was excused absent.

## **3. Approval of Minutes**

- September 21, 2016

Motion by John W., second by Harvey C., to approve the minutes as amended/presented. Motion passed 6-0. Note Sage Pierson was excused absent.

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

- Update from Sheriff James Van Beek and Under Sheriff Mike McWilliams. Discussed items such as the service levels afforded Minturn, inmate labor, and Coffee with a Cop.
- Jill Ryan, Eagle County Commissioner candidate, was on the agenda but was unable to attend. Requested to be moved to October 19, 2016 meeting.
- Mr. Chris Romer, Vail Valley Partnership, discussed and spoke in support of Ballot Issue 1a, a ballot to set a tax to support affordable workforce housing.
- David O'Neal, workforce housing developer. Discussed options available for workforce housing in Eagle County. Council desired to tour the Wellington subdivision in Breckenridge. It was noted that it would be a public tour and it would be posted as a Worksession for the public. Dates were considered and set as Wednesday October 26 8:45 meet at Town Hall and drive over to Breckenridge.
- Pastor Dan Matney thanked the town for the Community Unity event held recently.

## **5. Special Presentations**

- Committee Reports
- Council Comments

Terry A. praised the work that was done on the various existing and new hike and bike trails in town. A thank you to Michelle M. and her efforts. Reminded everyone that the Minturn Community Fund fund raiser costume party is October 28 at the Saloon; all are invited.

Matt S. noted we are looking at changing water rates. He encouraged anyone interested in learning more about the water rates or the 2017 budget to contact Jay B. at the Town Hall.

## **PUBLIC HEARINGS, DISCUSSION, AND ACTION ITEMS**

### **6. Discussion Item: Westside Café as related to past due water costs – Powell**

The owners of the Westside Café in Vail were present as the new lessees of the Turntable at 160 Railroad Ave. They outlined what they were looking to do: a restaurant and the hotel. They plan on a restaurant with good food, a liquor license, and clean up the property and rooms. They have been working hard to make the place look nice.

Matt S. noted he felt he had a conflict of interest and recused himself. Mayor Pro Tem Earle B. took order of the meeting. Willy P. outlined the issues of the delinquent water bill. With the new owners, Westside Café, we have come to an agreement to pay the delinquency. The proposed payment plan is to pay \$2,500 upfront and \$1,000 additional each month. This would be a base plan and if money can be paid sooner it would. Any money paid by the Darla Goodell estate or a security deposit returned from the UPRR will be paid to the Town. The intent is to have the bill paid and still afford a viable business plan for the new owners.

Sidney H. asked if we could attach the delinquency to the tax bill; Mike S. stated this provision is not in our municipal code. The Town has and maintains a lien on the property and can shut the water off if the payment plan falls delinquent. This lien would be held until such time the delinquency is paid in accordance with the agreement.

Direction to staff was to include this agreement on the October 19 meeting for consideration.

Matt S. resumed his seat at the Council table.

### **7. Public Hearing/Discussion Item: Parking in Downtown area – Powell**

Willy P. outlined the issue and discussed the concerns for parking in the core area. The major issue is that some that live in the area park all day and night thereby limiting the use for the businesses. An option discussed would be to have time limited parking of up to two hours. He stated that if this were to be approved that we have a resolution to how this would be enforced at staff level. Willy P. noted a potential grant that Michelle M. had located that might be utilized to study, address, and upgrade potential parking needs.

Michelle M. outlined the parking grant; discussion ensued. It was noted the plan would be to review the 100 block but could extend based on what is found to be in need as the study proceeds.

Matt M. encouraged the public to comment.

John H. felt this was a positive direction. Discussion ensued as to what is required to undertake this grant. It was noted the grant decision would be made by November but the time commitment would extend well beyond that.

Janet H. felt many of the vehicles are employees for the businesses that are asking for the parking changes. Michelle M. noted that the businesses that do not have sufficient parking as required by Municipal Code are charged a fee for those required parking spaces. However, this is not payment in to the Municipal Parking lot rather it is a fee for the required but missing parking spaces; a cash in lieu of system.

**8. Discussion/Action Item: Memo of Understanding relating to Battle Mountain Project – Powell**

Mike S. and Mr. Tim McGuire, Battle Mountain, outlined the proposed Memo of Understanding (MOU). Mike S. noted that nothing in the MOU grants rights, rather it only lays out how applications for the project will be considered. The MOU also recognizes the money outlined in the 2012 agreement and that that money has been spent properly to date so is not an issue or repayment concern of the town. Of the remaining money, the MOU states the Town will allocate some for water court applications and fees, and \$200,000 will be used for property applications for various required town permits and applications as the development moves forward.

Terry A. stated this is a document to allow them to proceed with new development proposals, it does not touch the original annexation agreement.

Earle B. stated it is a very workable agreement to allow the developer to proceed with development of the property in an order that best benefits both the town and the developer in a balanced manner as long as we, the town and the developer, work together. This proposal will still include public comment but still recognizes the development is for land owned as private property.

Willy P. specifically noted this proposal is only for the originally annexed land. The recent USFS land trade option and any other potential land is no longer being considered; this is only the original Battle Mountain annexed land.

Mr. Tim McGuire stated this is a road map for BMR and the Town to move forward. He noted the agreement is long and complicated but does lay forth very clear action plans and processes. He stated this MOU covers the Mountain Top and involves 35 acre parcels with onsite well and septic and the Bolts Lake parcel which would not be served with individual wells.

John W. stated he had a lot of comments and asked if the Council was being asked to make a decision tonight; Mike S. stated yes. It was stated that voting yes did not mean he totally agreed with the plan. He felt it was very aspirational. It was noted his agreement to the MOU was not an agreement of the finished plan. Mr. McGuire stated again this agreement is a roadmap and is intended to move the development forward again by laying forth a plan to start the process. This is an agreement on the process not an agreement on specific aspects of development. John W. asked if any kind of bond would be required? Bonding would be negotiated based on the annexation agreements and as submittals are turned in. Discussion ensued as to how best to discuss any questions the public, council, or staff might have.

It was noted the MOU lays forth a schedule of approval however it was impossible to say how the public process would play out. Rather this was an agreement that set a process to follow and give assurances to the developer as to a time frame. Discussion ensued that the process has been in-depth however it remains very important to have public input opportunity at every necessary junction. All noted and agreed with the importance of public process and input.

Council felt it prudent to take this up on the October 19 meeting in order to allow the MOU to be released to the public. Because this was in the packet and now public, and because it will now be in the newspaper, postponing a decision is prudent.

Matt S. opened the meeting to public comment

Mr. George Brodin, 273 Boulder St, has read the MOU. He stated he is concerned that we are possibly changing the code to accommodate a development. It was clarified that we do not have in our existing code a process to approve large lot concepts, this proposed process would accommodate that. Mr. Brodin noted that by allowing large parcels we are losing revenue on the sale of water etc. Mike S. stated the appropriateness of large lots and gated communities is something that should be addressed when applications are submitted. Mike S. stated that although the density is being potentially modified the appropriateness of density levels is something that should be addressed at the submittal level. It was clarified that the 35acre parcels are considered only on the Mountain Top parcel, not other parts of the project.

Willy P. noted that the agreement and schedule is almost totally reliant on the developer providing complete and timely information to the Town. The Town has some conditions on a process for a timely reviewing and consideration for approval.

Mr. Bob Sachinski, 560 Taylor St, felt changing the code for lower density is much better than changing the code to allow higher density. He felt this would be a beautiful development. Discussion ensued that 35acre lots are defined at the county level, in a municipality they are not normally considered or defined as few would have a need for that size lot. Using the county 35acre lot concept allows for a proven conceptual use. The lots could not be further subdivided without Town approvals. Mike S. noted the cost and impact to install water and sewer infrastructure to allow for denser development at that altitude and that is a concern for all.

Mr. Ross Stein, Vail Daily, stated to feel free to reach out to him if they need for this project he would be happy to help with media and news coverage.

A motion Harvey C., second by Earle B., to table consideration of the Battle Mountain Memo of Understanding to the October 19, 2016 Council meeting. Motion passed 6-0. Note Sage Pierson was excused absent.

**9. Discussion/Action Item: Ordinance 05 – Series 2016 (Second Reading) an Ordinance considering Zoning Code Text Amendment as it concerns the 100 Block commercial development – Hawkinson**

Janet H. outlined the changes from the last meeting.

Proposed changes:

- 1) Added a list of materials that are not allowed. Discussion ensued as to why EIFS siding would not be allowed. EIFS is a very thin layer, where stucco is more sustentative.
- 2) Require a 3-dimensional model of the proposed building and site for lots 5,000 feet and larger.
- 3) Council included the condition that a residential unit could continue as a residential as identified.

Public Comments opened

No comments

Public comments closed

Motion by Terry A., second by Harvey C., to approve Ordinance 05 – Series 2016 (Second Reading) an Ordinance considering Zoning Code Text Amendment as it concerns the 100 Block commercial development as amended. Motion passed 7-0.

**10. Action Item: Council motion to formally accept the FY2017 Preliminary Budget – Brunvand**

Jay B. outlined that this was an acceptance of the FY 2017 Budget and would set forth the public hearing dates.

Motion by Sidney H., second by Terry A., to accept the Fiscal Year 2017 Proposed Annual Budget and set Public Hearings at 6:30pm on November 2 and November 16, 2016 to be held in the Council Chambers at 302 Pine St, Minturn as presented.

**COUNCIL AND STAFF REPORTS**

**11. Town Planner**

- Planning Commission open position

Janet H. noted a resignation on the Planning Commission. Currently Burk Harrington is an alternate commissioner. Janet H. recommended Burk H. be moved up to a sitting commissioner.

He will sit as an alternate Commissioner at the next Planning Commission meeting and appointed by resolution at the October 19 Council meeting.

- Boneyard Conservation Easement

Janet H. outlined the proposed Conservation Easement. She noted this was for discussion only, it would not be approved at this meeting.

Harvey C. asked about uses of the park, Janet H. outlined the uses. It does allow some new uses but does not allow commercial development.

Earle B. was very concerned and stated he thought there would be much less development and landscaping and more left natural and native. Discussion ensued on this concern of which the intent was to have a natural forested green space, not a community park. Matt S. stated he would like to see explicitly what is and is not allowed on the site in addition he would like to know what could and could not be built on the site in the future. He felt this should be included in the document for historical guidance. There was concern of the no-dog rule and how impactful that would be. It was stated that the no-dog rule would be hard to enforce and would be ignored by those using the Conservation Easement and by those crossing the Easement to access trail heads.

Direction was to bring this back to a future meeting with the concerns addressed.

## **12. Town Manager**

- Manager's Report

### **Turntable Issues**

The vacant trailers have been red tagged stating they cannot be occupied until an inspection and corrective measures are complete and approved by the town. Westside has told me they intend to replace all four trailers.

I sent an email to Westside and the Hansens demanding payment of the water bill by Oct. 4. See attached email.

### **Minturn to Dowd Trail**

I hope to have an update at the meeting regarding an easement from the State Land Board.

### **Zoning Code Revisions**

Following code revisions for the 100 block, the next priority is to develop a zoning code amendment for Dowd Junction. Staff has begun this task.

### **General Items**

Staff has been working hard on the 2017 Budget and Battle Mountain MOU negotiations.

Street lights in the 100 block of Main St are scheduled to be delivered on Friday and installed shortly thereafter.

Matt S. asked Council for direction on the gun range. It is extremely dirty with trash and debris and it is in the county. Matt S. recommended to contact the gun club and tell them the town requests it be cleaned and maintained or the Town will recommend to the USFS that it be closed. Options were discussed.

Direction was to have staff contact the gun club and discuss. If the site is not cleaned up and maintained, staff is directed to contact the USFS to have the USFS maintain it or close it.

- Action Report

### **13. Town Attorney**

## **EXECUTIVE SESSION**

- 14. Executive Session:** Executive Session: An Executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Eagle River Properties v. Town of Minturn, and an Executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) - Battle Mountain Resorts

Executive Session was not needed. Mike S. stated the Eagle River Properties has filed a Motion to Dismiss and Mike S. will petition the court for attorney fees. He will keep the Council informed.

## **FUTURE AGENDA ITEMS**

### **15. Next Meeting – October 19, 2016**

- Special Presentation: Public Access Channel 5
- Budget Review – FY 2016 Decision Points (Worksession) – Powell/Brunvand
- Resolutions in support of the county ballot measures
- Resolution rolling back the lease lot restrictions.

### **16. Future Meetings:**

- Meeting: Discussion/Action – 1st Public Hearing on proposed fiscal year 2017 Budget – review public funding requests –Brunvand 11/2/16
- Meeting: Discussion/Action – 2<sup>nd</sup> Public Hearing on proposed fiscal year 2017 Budget and First Reading of Budget Ordinances – Brunvand 11/16/16
- Meeting: Discussion/Action – 2<sup>nd</sup> and Final Reading of proposed 2017 Budget Ordinances – Brunvand 12/7/15
- Boneyard Management plan and conservation easement – Hawkinson
- Work Session on housing – Hawkinson

### **17. Set Future Meeting Dates**

- a) Council Meetings:
- October 19, 2016
  - November 2, 2016
  - November 16, 2016

**18. Other Dates:**

**19. Adjournment**

Motion by Earle B., second by Harvey C., to adjourn the meeting at 10:31pm. Motion passed 6-0. Note: Sage Pierson was excused absent.

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Matt Scherr, Mayor

ATTEST:

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Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 26 – SERIES 2016**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE  
TOWN OF MINTURN TO SIGN A DEFFERED PAYMENT  
AGREEMENT WITH RAILROAD ROCKS, LLC d/b/a  
TURNTABLE RESTAURANT AND HOTEL.**

**WHEREAS**, the Town of Minturn desires to enter into a Deferred Payment Agreement with RAILROAD ROCKS, LLC. as set forth in Exhibit A.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF  
THE TOWN OF MINTURN, COLORADO THAT THE MAYOR OR HIS DESIGNEE IS  
AUTHORIZED TO SIGN ON BEHALF OF THE TOWN OF MINTURN ANY AND ALL  
NEGOTIATED DOCUMENTS REQUIRED TO EXECUTE SAID AGREEMENT.**

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS  
19<sup>TH</sup> DAY OF OCTOBER, 2016.**

TOWN OF MINTURN

By: \_\_\_\_\_  
Mathew Scherr, Mayor

ATTEST:

\_\_\_\_\_  
Jay Brunvand, Town Clerk

## DEFERRED PAYMENT AGREEMENT

THIS DEFERRED PAYMENT AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of October, 2016 by and between the TOWN OF MINTURN, COLORADO ("Minturn" or the "Town"), and RAILROAD ROCKS, LLC d/b/a TURNTABLE RESTAURANT AND HOTEL ("Railroad Rocks") together with Michael Dennis, whose address is 3020 S. Frontage Road, Unit 4, Vail, CO 81657 and Steve Solomon, whose address is 2605 Bear Trap Road, Unit A, Avon, CO 81635.

**WHEREAS**, Railroad Rocks has assumed ownership and operates a restaurant at 160 Railroad Avenue, Minturn, CO 81645 ("Turntable Property"); and

**WHEREAS**, the Turntable Property, which is owned by and leased to Railroad Rocks by the Union Pacific Railroad, is delinquent in the payment of water utility bills owed to the Town; and

**WHEREAS**, such delinquency was caused and created by the Turntable Property's prior tenant; and

**WHEREAS**, Minturn and Railroad Rocks desire to establish a reasonable manner for the payment of all delinquent water utility bills past-due and owing that will allow for the continued operation of the restaurant and provision of water service.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency is hereby acknowledged, the Parties to this Agreement promise, covenants, and agree as follows:

**Section 1.** The foregoing recitals are hereby incorporated as if set forth in full.

**Section 2.** **Payment:** The Parties agree to the following terms and conditions for the full payment of all past-due and owing:

(A) *Amount of Indebtedness.* As of the date of this Agreement first written above, the Turntable Property is delinquent to the Town in the "Balance" of \$24,578.67. Railroad Rocks, Mr. Dennis, and Mr. Solomon, individually and collectively, acknowledge the accuracy of the Balance and shall be jointly and severally liable for payment of the Balance pursuant to the terms and conditions of this Agreement.

(B) *Form of Payment.* Railroad Rocks shall pay to the Town an initial payment of \$2,500.00 no later than October 31, 2016. Thereafter, Railroad Rocks shall, as a part of its monthly water utility bill, make additional monthly payments to the Town of \$1,000.00 until the Balance is satisfied. Such payments shall be made exclusive of accruing utility bills, fees, costs, taxes, and assessments lawfully

imposed by the Town or other governmental entity having proper jurisdiction. So long as Railroad Rocks is not in default of this Agreement, no interest shall accrue on the Balance and, notwithstanding any part of this Agreement to the contrary, the final month's payment shall be limited to the remaining Balance amount.

(C) *Early Payments.* In the event that Railroad Rocks receives from the Union Pacific Railroad any amount of the security deposit originally made by the Turntable Property's prior tenant or a settlement or other money amount from the estate of Darla Goodell, Railroad Rocks shall provide the Town with documentation of the same within ten days and render payment of the full amount so received to the Town with the next due monthly payment. Railroad Rocks may, at its election, make any additional early payments toward the satisfaction of the Balance.

(D) *Late Payment.* If Railroad Rocks fails to pay as provided in this Agreement, the Town may, at its sole discretion, call the full remaining Balance immediately due and commence the shut-off of the water utility servicing the Turntable Property. Any amounts due at the time of a default shall accrue interest at the rate of 18% per annum.

(E) *Lien in Abeyance & No Shut-off.* The Town shall neither file a lien on the Turntable Property nor shut-off the water utility service as a result of the Balance remaining so long as Railroad Rocks is not in default of this Agreement.

**Section 3.** **Authority:** The undersigned represent and affirm that they are authorized to enter into this Agreement on behalf of Parties hereto.

**Section 4.** **Governing Law:** This Agreement has been entered into in Colorado, and the validity, interpretation and legal effect of this agreement shall be governed by the laws of the State of Colorado. Venue shall be the Eagle County District Court.

**Section 5.** **Attorney's Fees:** In the event legal action is necessary to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

TOWN OF MINTURN, COLORADO

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

ATTEST:

\_\_\_\_\_  
Clerk

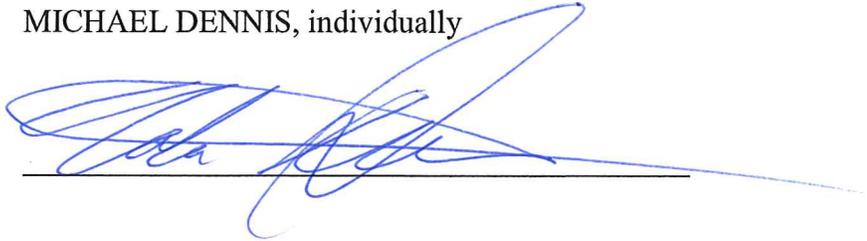
RAILROAD ROCKS, LLC

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

Name: Steve Solomon

Title: Partner

MICHAEL DENNIS, individually

\_\_\_\_\_  


STEVE SOLOMON, individually

\_\_\_\_\_  


**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 24 – SERIES 2016**

**A RESOLUTION APPOINTING TOWN PLANNING  
COMMISSIONERS**

WHEREAS, The Minturn Town Council has vacancies on the Planning Commission and desires to fill these vacancies; and

WHEREAS, pursuant to Minturn Municipal Code Section 16.21.4(c), the Planning Commission is required to be appointed to overlapping terms; and

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

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING INDIVIDUALS ARE HEREBY APPOINTED AS INDICATED:**

<b>NAME</b>	<b>TERM</b>
Burk Harrington	October 2014 through March 2019

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS  
19<sup>th</sup> DAY OF OCTOBER, 2016.**

TOWN OF MINTURN

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

ATTEST:

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

October 6, 2016

To: Residents of Minturn  
Fr: Willy Powell, Town Manager

Re: Memorandum of Understanding (MOU) between the Town and Battle Mountain Corporation

The Minturn Town Council considered and made a first review of the MOU at their meeting of October 5, and the MOU will be further considered at the next Council meeting of October 19. The MOU is somewhat complex and this memorandum is written to help the public understand the most important points of the MOU. The MOU follows along with a letter from the Town Attorney.

Important aspects of the MOU are the following.

- An MOU is not a binding agreement. Rather the MOU is an aspirational document which lays out a “roadmap” of land use submittals and reviews to occur and in conformance with the Municipal Code.
- Battle Mountain Corporation (BM) is proposing to develop on their private lands. No Forest Service land trades are contemplated now or in the future.
- BM contemplates developing 35 acre or larger lots on the “mountain top.” The Bolts Lake area is contemplated for a residential PUD with densities to be decided during the review process. See conceptual maps contained as appendices to the MOU.
- Target dates for reviews contained within the MOU are not binding, rather a guideline. Timelines for land use reviews depend on many aspects including the following: timely and quality submittals by the applicant, thorough staff review, public hearings granting the Planning & Zoning Commission, Town Council and public sufficient time to consider the applicant submittal.
- Renegotiation of the Annexation and Development Agreement of 2008 to more closely align with any approved PUD and its commensurate density and effect on the Town.

Town Council and Staff are committed that any Battle Mountain land use approvals will constitute responsible developments, will adequately mitigate impacts, and not place undue burdens on Minturn tax payers and utility rate payers.

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

Sander N. Karp\*  
James S. Neu  
Karl J. Hanlon  
Michael J. Sawyer  
James F. Fosnaught  
Jeffrey J. Conklin  
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*\* Fellow of the College of  
Labor and Employment  
Lawyers*

Matthew L. Trinidad  
Patrick L. Barker  
Jon T. Hoistad  
Delphine F. Janey

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

*\*\* Fellow of the American  
Academy of Matrimonial Lawyers*

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

*\*\*\*All correspondence should be sent to the  
Glenwood Springs office*

September 30, 2016

To: Minturn Town Council

From: Town Attorney

Re: Memorandum of Understanding with Battle Mountain

Over the last few months, the Town's Battle Mountain Committee has engaged in several meetings with Battle Mountain to discuss the future of the project. Battle Mountain is interested in exploring alternative development scenarios from what is provided for in the existing PUD. Our initial meetings were to discuss the process that would be required to bring more detailed proposals before the public, the Planning Commission and the Town Council. The attached Memorandum of Understanding (MOU) outlines a process for revised development proposals both on Battle Mountain and in the Bolts Lake area to receive formal consideration.

In the course of the discussions about process, it made sense to flesh out possible framework for some of the alternative proposals Battle Mountain is considering. In particular, you will see a fair level of detail about a "Mountain Top Concept" that would be an alternative development pathway for the lands on Battle Mountain. The Mountain Top Concept contemplates larger lots on the mountain top with a minimum size of 35 acres. I want to stress that this is an alternative development pathway as the original zoning of the mountain top area for a ski area is anticipated to remain intact.

The Mountain Top Concept is consistent with many rural subdivisions in Eagle County. Similar to how rural subdivisions occur in Eagle County, the Mountain Top Concept as outlined in the MOU would permit for limited review by the Town for the creation of large lots. Very large lots (over 350 acres in size) could be created with an administrative review. Large lots (35 acres in size) could be created with a special subdivision process that would entail review by the Planning Commission.

Implementation of the Mountain Top Concept would require changes to the Town Code, the PUD zoning, and the Annexation and Development Agreement for Battle Mountain. All of these changes will undergo robust public processes. A proposed timeline for consideration is included in the MOU. However, that timeline is fully subject to these concepts being vetted in public meetings

Page 2

after opportunities for public comment. Thus, approval of the MOU does not constitute any sort of approval, or even endorsement, of the development concepts articulated in the exhibits.

The MOU similarly contemplates additional process relative to alternative development paths for the Bolts Lake area. The MOU provides that Battle Mountain will submit a Concept Plan application (as contemplated under the Town's PUD code) to introduce new development concepts for Bolts Lake. The Concept Plan will be considered in public meetings with opportunities for public comment. After the Concept Plan is reviewed, Battle Mountain anticipates bringing a revised preliminary PUD plan to the Town. This would require providing in-depth information on a variety of development topics. Further, it will require amendments to the Annexation and Development Agreement and the Town Code. Again, robust opportunities for public participation and Council deliberation exist with each application.

As Council is aware, many years ago Battle Mountain deposited a sizeable amount of money with the Town in escrow to cover certain expenses. Over \$1,000,000 of that money was earmarked for legal and consulting work. The MOU contemplates that the Town will further earmark \$200,000 of the legal and consulting escrow to pay outside costs (e.g. legal, engineering) incurred by the Town associated with the applications and processes described in the MOU. This is in addition to the \$15,000 per month that Battle Mountain pays to help offset Town staff expenses under an agreement from 2012. The \$200,000 earmark will leave over \$250,000 in escrow to cover other Town legal and consulting expenses that have a nexus to Battle Mountain (for example the Tucker Rule 106 litigation, upcoming water court cases, and efforts to have the Bolts Ditch congressionally authorized).

I would direct Council's attention to paragraphs 7 and 8 of the MOU. These provisions make clear that the MOU is aspirational in nature. It does not confer any rights without future Council actions. The MOU does not create any guarantees of substantive outcomes. Finally, the MOU does not amend any other agreement between the Town and Battle Mountain.

I look forward to discussing the MOU with you in more detail. Tim McGuire of Battle Mountain will also be present to answer questions.

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 27 – SERIES 2016**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE  
TOWN OF MINTURN TO SIGN A MEMO OF  
UNDERSTANDING WITH BATTLE MOUNTIAN  
CORPORATION.**

**WHEREAS**, the Town of Minturn desires to approve a Memo of Understanding with Battle Mountain Corp. as set forth in Exhibit A.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF  
THE TOWN OF MINTURN, COLORADO THAT THE MAYOR OR HIS DESIGNEE IS  
AUTHORIZED TO SIGN ON BEHALF OF THE TOWN OF MINTURN ANY AND ALL  
NEGOTIATED DOCUMENTS REQUIRED TO EXECUTE SAID AGREEMENT.**

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS  
19<sup>TH</sup> DAY OF OCTOBER, 2016.**

TOWN OF MINTURN

By: \_\_\_\_\_  
Mathew Scherr, Mayor

ATTEST:

\_\_\_\_\_  
Jay Brunvand, Town Clerk

**MEMORANDUM OF UNDERSTANDING  
RELATING TO BATTLE MOUNTAIN PROJECT**

This Memorandum of Understanding Relating to Battle Mountain Project (this “**MOU**”) is made and entered into this [\_\_\_] date of October, 2016 (“**Effective Date**”) by and among Battle One Developer, LLLP, a Georgia limited liability limited partnership, Battle Two Developer, LLLP, a Georgia limited liability limited partnership (together with their respective successors and assigns, “**Battle**”), and the Town of Minturn, Colorado, a home rule municipal corporation (“**Town**”).

**RECITALS**

This MOU is made with respect to the following facts:

A. Battle, through certain affiliates, manages and is the owner of certain real property (the “**Project**”) that is the subject, *inter alia*, to the following matters as previously approved by the Town (collectively, the “**Existing Entitlements**”), acting by and through its governing body (“**Town Council**”):

(1) as approved by Town Council pursuant to Ordinance 10-Series 2008, that certain Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement dated February 27, 2008 (the “**Annexation Agreement**”).

(2) together with related matters as approved by Town Council pursuant to Resolution No. 18-2008, that certain Planned Unit Development Preliminary Plan and Battle Mountain PUD Guide (the “**PUD Preliminary Plan**”) which addresses the uses, density and intensity of use, and other development parameters for the following planning areas within the Project: the Willow Creek Character Area; the Rock Creek Character Area; the Holy Cross Character Area; the Bolts Lake Character Area; and the Gilman Character Area.

(3) together with related matters as approved by Town Council pursuant to Resolution No. 19-2008 (collectively, the “**Preliminary Plats**”):

(a) with respect to the Willow Creek Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 1 – “Willow Creek” Resubdivision of a part of Battle Mountain Exemption (“**Willow Creek Preliminary Plat**”)

(b) with respect to the Rock Creek Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 2 – “Rock Creek” Resubdivision of a part of Battle Mountain Exemption (“**Rock Creek Preliminary Plat**”);

(c) with respect to the Holy Cross Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 3 – “Holy Cross” Resubdivision of a part of Battle Mountain Exemption (“**Holy Cross Preliminary Plat**”).

(d) with respect to the Bolts Lake Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 4 – “Bolts Lake Village” a Resubdivision of a part of Battle Mountain Exemption (“**Bolts Lake Village Preliminary Plat**”); and

(e) with respect to the Gilman Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 5 – “Gilman Village” a Resubdivision of a part of Battle Mountain Exemption (“**Gilman Village Preliminary Plat**”); and

B. Pursuant to that certain 2012 Agreement Regarding Escrows and Funding (“**Funding Agreement**”), the Town and Battle (individually, a “**Party**” and, collectively, the “**Parties**”) previously have contemplated the need to negotiate in good faith to amend the Annexation Agreement.

C. Responsive to the foregoing, Battle has prepared various information related to alternative development strategies for the Project which was used in public meetings hosted by the Town.

D. Battle has further prepared the following proposed modified development plan concepts for portions of the Project which the Parties anticipate will be the basis of formal applications to the Town as contemplated in this MOU:

(1) the Bolts Lake Village concept that is attached at Appendix A hereto (the “**Bolts Lake Concept**”); and

(2) large lot development concepts for the Willow Creek, Rock Creek and Holy Cross Character Areas that is attached at Appendix B hereto (the “**Mountain Concept**”).

E. In order to further investigate and potentially implement the matters discussed conceptually in Appendix C, the Parties wish to process applications for the Amendments as defined in Paragraph 1 below and, in general conformance with the bullet point outline set forth in Appendix D hereto.

F. Subject to approval of applicable land use entitlements, enactment or modification of applicable agreements, and successful resolution of certain pending litigation matters, the Parties will investigate and potentially implement a framework for development of the Project in phases, including a rational and economically feasible plan for the provision of public improvements and payment of fees to mitigate the impacts of development; and create the opportunity for near-term development of the Bolts Lake Village area and the Mountain area that will be responsive to and respectful of community input and community needs.

## AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this MOU and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Amendments.** The Parties will in good faith undertake to coordinate and efficiently process applications in an efficient, cost-effective and timely manner for the following matters (collectively, the “**Amendments**”):

(a) **Initial Phase.** As further outlined in Appendix D hereto, the Town (in consultation with Battle) will process regulation amendments in accordance with Minturn Municipal Code Sec. 16-21-410 *et. seq.* (collectively, “**Code Amendments**”) to the Minturn Municipal Code (“**Code**”):

(i) By October 31, 2016, Battle will endeavor to provide the Town with draft ordinances facilitating the amendments to Chapters 16 and 17 of the Code described below. The Town will work diligently on providing comments to Battle on the draft ordinances with the goal of having draft ordinances acceptable to Battle and Town Staff by November 16, 2016.

a. In order to enable the Mountain Concept, adding to Chapters 16 and 17 of the Code, as applicable, provisions that allow for the following within the Willow Creek, Rock Creek and Holy Cross Character Areas:

(1) a process to enable administrative review and approval of subdivision exemption plats to create not more than 10 legally conveyable parcels, each having a minimum land area of three hundred fifty (350) acres (“**Exemption Plat Process**”);

(2) a separate process to enable Planning and Zoning Commission review and approval (with right of review by Town Council) of subdivision plats to create legally conveyable parcels, each having a minimum land area of thirty five (35) per parcel (“**35 Acre Process**”); and

(3) clarification that parcels created pursuant to the Exemption Plat Process and parcels created pursuant to the 35 Acre Process are not required to obtain an approved final development plan under, *inter alia*, Town Code Sections 16-10-20 and 16-15-200.

b. In order to facilitate the Bolts Lake Concept, adding to Chapters 16 and 17 of the Code provisions that allow for the creation of legally conveyable phasing blocks as part of the approval of a PUD Preliminary Development Plan and associated development agreement (“**Phasing Block Process**”).

(ii) The Town will endeavor to have public notice requirements completed so that the Code Amendments can be considered by Planning Commission by the Commission’s second meeting in December, 2016 or first meeting in January 2017.

(iii) The Town will schedule a public hearing before the Town Council on the Code Amendments following a final recommendation being made by the Planning Commission.

(b) Second Phase. In order to better inform the Town and the public of the types of development, intensity of development, locations of development and other matters pertaining to the Bolts Lake Concept, Battle will endeavor to submit to the Town an application for a Planned Unit Development Concept Plan (the “**Bolts Lake Concept Plan**”), in accordance with Town Code Sections 16-15-90 to 16-15-120, not earlier than six (6) weeks following Town Council’s final action on the Code Amendments pursuant to Section 1(a)(iii) above.

(i) The Town will endeavor to have public notice requirements completed so that the Bolts Lake Concept Plan can be reviewed by Planning Commission by the Commission’s second meeting in the month following the date on which Battle submits its application for the Bolts Lake Concept Plan pursuant to Section 1(b) above.

(ii) The Town will have public notice requirements completed so that the Bolts Lake Concept Plan can be reviewed by the Town Council following the Planning Commission’s review and recommendation.

(c) Third Phase. In order to facilitate the consideration of the Mountain Concept and the Bolts Lake Concept and such other and related matters as the Parties determine necessary and appropriate in connection therewith, including but not limited to facilitating development of the Project in phases pursuant to a rational and economically feasible plan for the provision of public improvements and payment of fees to mitigate the impacts of development within the Project:

(i) Concurrent with review of the Bolts Lake Concept Plan, the Parties will schedule a series of meetings to discuss topics related to amendment of the Annexation Agreement, the PUD Preliminary Plan and, if deemed necessary or desirable, the Preliminary Plats and such other ancillary agreements among the Parties related to the Project as may require amendment (collectively, “**Entitlements Amendments**”). The Parties will endeavor to complete the discussions about amendments of the Annexation Agreement by March 15, 2017.

(ii) The initial discussions related to amendments to the Annexation Agreement shall focus on those amendments required to facilitate the Mountain Concept. Battle will endeavor to provide the Town with a proposed draft amendment to the Annexation Agreement as outlined in Appendix D facilitating the Mountain Concept by December 15 2016. The Town will work diligently on providing comments to Battle on the draft amendment with the goal of having final draft amendment acceptable to Battle and Town Staff by January 31, 2017. The Town will endeavor to schedule consideration of the amendment on the Town Council’s first meeting in March, 2017.

(iii) Battle will endeavor to provide the Town with a draft amendment to the Annexation Agreement facilitating the Bolts Lake Concept by March 31, 2017. The Town will work diligently on providing comments to Battle on the draft Bolts Lake amendment. The draft amendment of the Annexation Agreement related to Bolts Lake

can only be finalized and considered in conjunction with an application, review and final approval to amend the existing PUD Preliminary Plan.

(d) **Fourth Phase.** In order to facilitate the implementation of the Bolts Lake Concept, as such Concept Plan may be reviewed and modified by the Town and Battle after the process referenced in Section 1(b), Battle may submit applications to amend the PUD Preliminary Plan and the Annexation Agreement (and in accordance with Town Code Sec. 16-15-130, 16-15-140, 16-15-160, 16-15-170, and 16-15-230) consistent with the Bolts Lake Concept Plan and the discussions with Town staff about the Annexation Agreement. It is anticipated that the time for the Town to process the applications to amend the PUD Preliminary Plan and the Annexation Agreement will be between 60 and 90 days. The Town will endeavor to have public notice requirements completed so that the applications for amendment of the PUD Preliminary Plan and the Annexation Agreement can be considered by Planning Commission by the Commission's first meeting in the third month following Battle's submittal of such applications. The Town will schedule a public hearing before the Town Council on the PUD Preliminary Plan and the amendment to the Annexation Agreement following a final recommendation being made by the Planning Commission.

2. **Cooperation.** In connection with processing the Amendments, Battle and the Town will in good faith have regularly scheduled meetings, not less than bi-monthly, to coordinate regarding the progress of the Amendments in accordance with the timing milestones stated in Paragraph 1.

3. **Nature and Purpose of the Bolts Lake Concept.** The Bolts Lake Concept and Entitlements Amendments are not intended to identify with certainty the specific location and configuration of individual Phasing Block street and lot layout, lot sizes, lot locations, product types, floor area ratios, parking areas, open space and park layout, recreation areas, building and architectural design standards and other site design matters that will be considered as part of a final development plan for individual Phasing Blocks. The Bolts Lake Concept Plan and PUD Preliminary Plan amendment will meet the requirements of the Town Code and provide an adequate description and design of the following: zoning character areas with approximate densities and types of units, collector roads layouts, core utility layouts for water distribution and sewer collector, non-motorized access routes within the Bolts Lake area and connections with the Town, locations of domestic water storage, and design of and desired uses surrounding Bolts Lake.

4. **Costs and Expenses.** The Funding Agreement sets forth the obligations of the parties related to the costs and expenses incurred in connection with negotiation and execution of this Memorandum and the matters addressed herein. In addition to the monthly payments made by Battle to cover the Town's administrative costs, the Town agrees to use an amount not to exceed \$200,000 of the Town's Funds (as defined in section 6 of the Funding Agreement) earmarked for Legal and Consulting Costs for the purpose of paying legal and consulting costs incurred by the Town in reviewing and processing the items described in this MOU. After the sum of \$200,000 of the Town's Funds has been spent or committed by the Town for purposes of paying legal and consulting costs incurred by the Town in reviewing and processing the items described in this MOU, the terms of the Funding Agreement shall control. Except as expressly described in this MOU, the Funding Agreement shall not be interpreted to be amended in any way.

5. **Ratification of Use of Funds.** The Town hereby ratifies Battle's use of the Developer's Funds (as described in paragraph 5 of the Funding Agreement) to date as disclosed on Appendix D and Battle hereby ratifies the Town's use of the Town's Funds (as described in paragraphs 6 and 14 of the Funding Agreement) to date as disclosed on Appendix E.

6. **Term; Termination.** This MOU may be terminated by either party, in its sole discretion, by giving the other party written notice 30 days in advance.

7. **Aspirational Nature of Agreement.** This MOU is aspirational in nature. The dates described herein constitute target dates to initiate or accomplish tasks. Said dates are not enforceable deadlines. Furthermore, the Parties acknowledge that the items described herein are subject to public approval processes and governing law. Nothing herein shall constitute a waiver of any public right or legally required process. Nothing herein shall be construed as a statement of support by the Town of Minturn or its Town Council nor shall it constitute a guarantee that any proposed Code provision, agreement, or land use entitlement will be granted. The intent of this MOU is to establish a process for the consideration of the items discussed herein in the context of governing law.

8. **No Amendment of Any Other Agreement.** This MOU does not constitute and shall not be interpreted as an amendment to any other agreement between the Town and Battle (or its predecessors).

**[Signature Page Follows This Page]**

IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date.

**BATTLE:**

Battle One Developer, LLLP,  
a Georgia limited liability limited  
partnership

By: Bassel Battle Investment, Corp.,  
a Colorado corporation, its General  
Partner

By: \_\_\_\_\_  
Name: Lorne Bassel  
Title: President

Battle Two Developer, LLLP,  
a Georgia limited liability limited  
partnership

By: Bassel Battle Investment, Corp.,  
a Colorado corporation, its General  
Partner

By: \_\_\_\_\_  
Name: Lorne Bassel  
Title: President

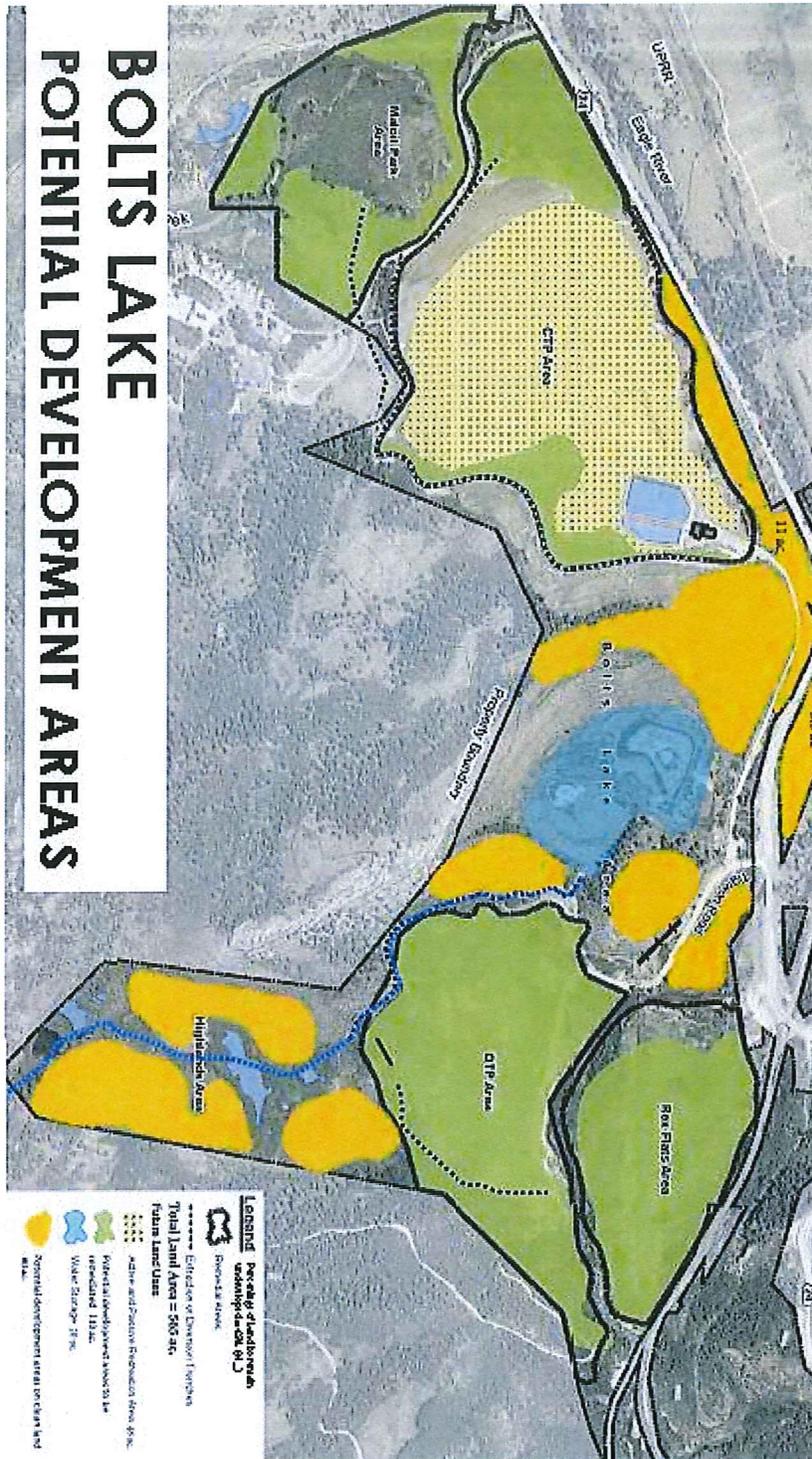
**TOWN:**

TOWN OF MINTURN, a municipal  
corporation of the State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Mayor

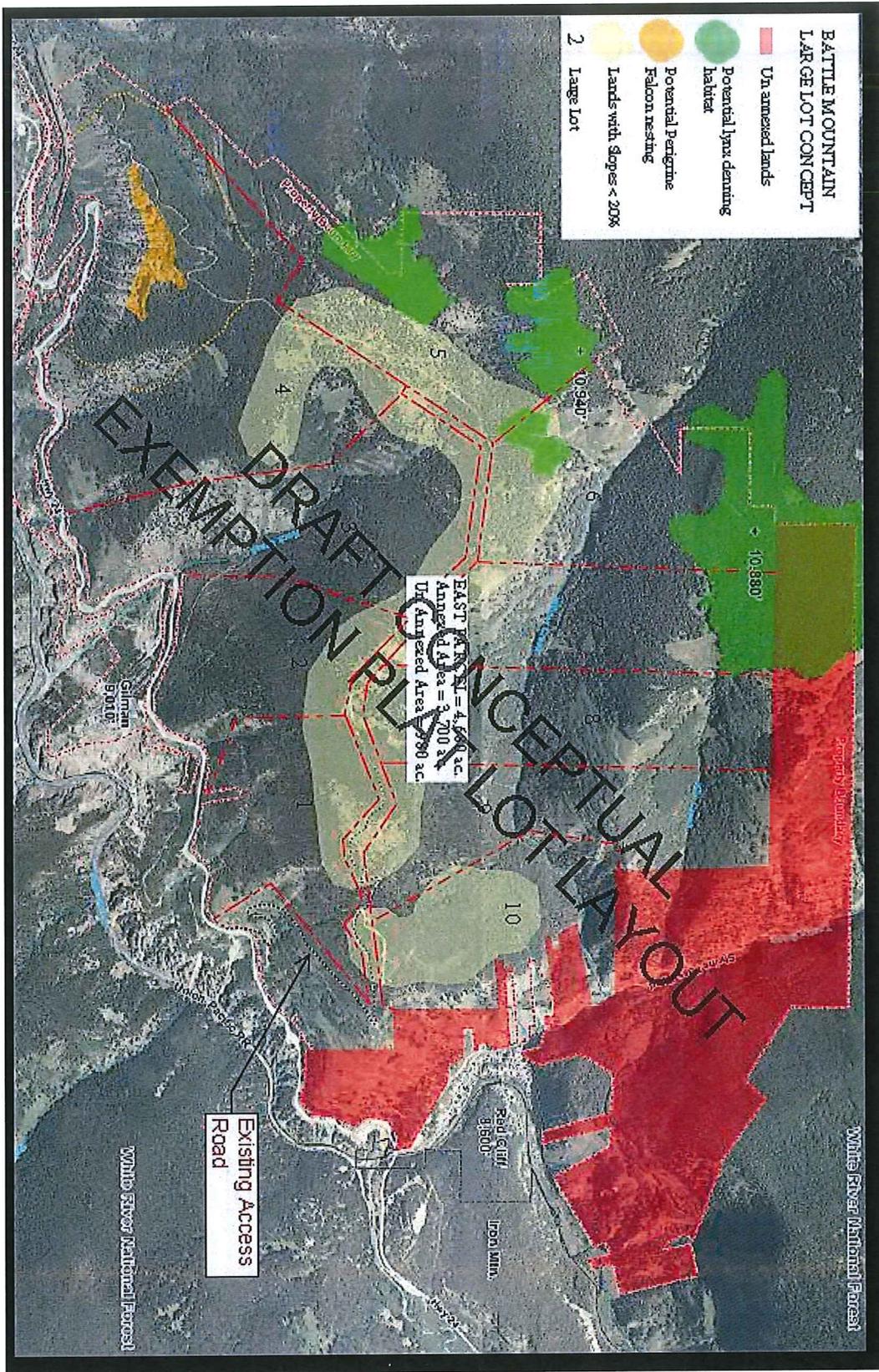
**Appendix A**  
**Bolts Lake Concept**

[Follows this Page]



**Appendix B**  
**Mountain Concept**

[Follows this Page]





## Appendix C Statement of Intent

Crave Community Company “Crave” has listened to Minturn community input and is seeking to continue collaboration regarding land located South of Minturn and managed by Crave (commonly referred to as Battle Mountain property or “project”). The goal is to advance planning, and amendments to existing agreements, to allow a project that results in a mutually agreeable robust, mixed use community comprised of different product types and price points. In addition Crave seeks to work with Minturn to amend zoning and subdivision regulations to allow 35 acre ranch lots within designated zone districts at the Mountain Top. The overall goal is to preserve and protect the rights and interests of both the Town and the developer while allowing the flexibility of plans to adjust to the long term build out of the project.

In order to achieve this, Crave believes that amendments to the annexation agreement and to the existing PUD are required and will allow for a successful project that benefits the community. Amendments to the annexation agreement would be phased with an immediate minor amendment to allow 35 acre lot creation on Mountain Top land, which will not trigger any existing annexation commitments, but which may trigger obligations to be described in an Annexation Agreement amendment. Subsequent to this initial amendment, Minturn and Crave would collaborate on an amended and restated annexation agreement that aligns exactions and related requirements with current conditions and the scale of a project on the Bolts Lake property only. The agreement would include a phasing of public improvements and impact fees that rationally correspond to the service needs and impacts of actual development. Future development of existing PUD approved density on the Gilman and East parcel will require similar revised annexation agreements, but those are not being contemplated at this time.

The new structure for the Bolts Lake project shall address all necessary items as required by the Town Code for development including but not limited to the specific issues below:

- The developer will be responsible for all onsite improvements required for the project including utilities, roads, trails, environmental mitigation and ultimate water storage capacity including storage capacity for Minturn (as to be determined during the process outlined in the MOU).
- The developer will be responsible for off-site improvements that are rationally related to impacts imposed by the Project.
- Exactions will be limited to those typically required to be addressed by a developer as set forth in the Town Code and impact studies related to the Project, such as school, emergency services, traffic and other direct project related impact fees.
- The first phase of development at Bolts Lake is assumed to have the ability to utilize existing Town water. It is very important to understand if this is feasible and to understand what will be necessary to allow this to occur. Crave will work with Town personnel and consultants to verify this assumption, as well as to determine approximate capacity available and any other specific requirements for this to occur. Battle and the Town will make their staff and consultants reasonably available upon the signing of this MOU to review the legal and

engineering implications to provide an initial phase with existing Town water, so that this issue can be addressed in conjunction with the meetings to discuss topics related to amendment of the Annexation Agreement outlined in Section 1.c.i of this agreement.

- The amended agreement would outline when the developer is required to build Bolts Lake (likely based on the exceedance of a specific number of units).
- In order for the community to understand how individual phases within the Bolts Lake area may be advanced, conceptual plans will be developed with public input. These plans will still be conceptual in nature, to be finalized on a phased basis during the final development plan and platting approval processes.
- The definition of what constitutes a unit will be agreed upon, possibly based on number of bedrooms or gross square footage. This could allow smaller more affordable units to be developed in the project while still allowing the project to be economically successful.
- The amended agreement will address wastewater treatment needs and determine if a wastewater treatment plant is required, or if the Upper Eagle Valley Water and Sanitation District can provide sewage treatment, and if so, whether the collection system from the Project to the Avon Treatment Plant has adequate capacity.

**Appendix D**  
**Bullet Point Outline of Proposed Amendments**

1. Amendment to the subdivision code permitting the limited creation of exemption parcels within defined Character Areas of the Mountaintop with a minimum acreage of 350 acres by administratively reviewed subdivision exemption plats (Exemption Plat Process). No more than 10 parcels, each with a minimum area of 350 acres, may be created pursuant to the Exemption Plat Process.
  - a. Town review of plats under the Exemption Plat Process would be limited to ensuring that:
    - i. The plat conforms with specified state survey / platting requirements.
    - ii. The plat conforms with specified Minturn plat requirements.
    - iii. Each of the parcels created by the Exemption Plat Process have legal access from a public road to the parcel boundary. In this instance, legal access will be limited to the exemption plat (a) depicting a road that physically connects to each 350 acre or larger parcel, and (b) identifies the method by which legal access to the exemption parcel is (or will be) provided (E.G. easements, ecrs, etc.)
    - iv. Construction of or security for the access roads would not be required before filing a subdivision exemption plat with the County thereby creating separately conveyable parcels.
  - b. Provisions noting municipal services to parcels created by the Exemption Plat Process is essentially non-existent and that such lots will not be disconnected from the Town due to the non-provision of services otherwise provided within Minturn.
2. Amendment to the subdivision code to create a separate subdivision process for lots 35 acres or larger in size within designated Mountaintop character areas ("35 Acre Process").
  - a. One step approval with P&Z with ability to appeal or call up to Town Council (similar to design review).
  - b. Review criteria for the 35 Acre Process would be limited to:
    - i. Demonstration of legal and physical access from a public road to all lots being created.
      - (1) Legal access would include that adequate easements or road dedications exist in appropriate form to permit the long term use, operation, repair and maintenance of an access road. Legal access

would also include demonstration that an appropriate legal arrangement exists for the common repair and maintenance of roadways that serve more than one lot (HOA, road association).

- (2) Physical access would include that all proposed roads meet Town public works standards for the number of lots/units being served and that the road design is compliant with referral entities' requirements (i.e. Fire District, Ambulance District, etc.).
  - (3) Confirmation that designated segments of certain Mountaintop roads and non-motorized trails will provide public access to designated open space tracts or areas, as generally described in the Mountaintop Concept conceptual depiction for 35 acre parcels that is attached at Appendix B of the MOU (and limited to such), and to be identified in the amendment to the annexation and development agreement.
  - (4) Construction of access roads or provision of adequate security to construct access roads prior to recording plat.
- ii. Determination that each lot created would contain a minimum of 1 acre of "buildable" land (building envelope) based upon the approved "wildlife/view corridor/ slope" map.
  - c. Provisions noting that municipal services to 35 acre lots are limited and that such lots will not be disconnected from the Town due to the non-provision of services otherwise provided within Minturn.
3. Amend the zoning code and PUD Guide to permit the creation of lots utilizing the 35 Acre Process within specified character areas on the Mountaintop:
- a. Implement lot dimensional standards.
    - i. 35 acre minimum lot size
    - ii. Front / side / rear yard setbacks
    - iii. Impervious surface limitations
  - b. Permitted uses by right / conditional use / special use / prohibited uses (Primary residential structure / ADU / Outbuildings)
  - c. Adopt a master map outlining buildable / non-buildable locations within Mountaintop character areas. This map would be created using information on wildlife corridors, view shed corridors, wetlands and stream corridors, and critical slopes. This map will be used in determining (a) whether a proposed lot at the time of subdivision contains a buildable area, and (b) whether at the time of

building permit a proposed structure is located in a potentially buildable area (building envelopes).

- d. Compliance with PUD open space requirements.
  - e. As conceptually depicted on the graphic in Appendix B of the MOU showing potential 35 acre parcel configurations (and limited to such), delineation of the specific segments of those Mountaintop roads and non-motorized trails that will provide public access. All segments of the Mountaintop roads and trails that are not shown in Appendix B as open to the public may, at developer's sole discretion, be restricted to private use (and emergency services) to serve the potential 35 acre parcels.
4. Amend Building Code to include provisions specific to construction in the Mountaintop character areas:
- a. Payment of impact fees at time of building permit (traffic, parks, etc.), to be established before the building code is amended, so that the parties (a) establish the methodology by which the amount of such fees will be determined; (b) identify the scope of impacts to be addressed by such fee; and (c) establish a methodology for calculating the fees with certainty in the future (i.e. in current dollars, with a reasonable CPI adjustment).
  - b. Determination that structures will be in a "buildable area" as designated by the master map.
  - c. Determination of adequate legal and physical water supply from exempt well.
  - d. Determination of adequate wastewater treatment and issuance of a septic permit.
  - e. Determination of compliance with hazard avoidance / mitigation requirements.
  - f. Determination of construction of access roadways to applicable approvals / codes.
  - g. Determination of adequate access driveway that complies with Town standards and referral agency requirements.
5. Amendment to Municipal Utility Code to provide:
- a. Within designated Mountaintop character areas water service may be provided by well or potentially community water system.
  - b. Within designated Mountaintop character areas wastewater treatment may be provided by septic system. Incorporate a septic system permitting system.
  - c. Provide that upon approval by the Town, water service within designated Mountaintop character areas can be provided by a community water system that is not operated by the Town:

- i. Legal water supply (water rights) sufficient for the requested amount of development. Community water system's water rights will not interfere with Town's water rights.
  - ii. Physical water supply in both quantity and quality sufficient to meet the requested amount of development.
  - iii. Compliance with CDPHE community water supply regulations
  - iv. Establishment of appropriate entity to manage and operate the community water supply.
  - v. Incorporation of adequate indemnities of the Town from operating, managing, owning or financially supporting the community water system.
  - vi. Comply with Fire District standards for fire suppression requirements.
6. Limited amendment to the Annexation and Development Agreement to provide:
- a. The creation of parcels or lots pursuant to the Exemption Plat Process and 35 Acre Process will not be subject to the requirement of a final development plan and will not trigger the payment and exaction requirements under the main ADA.
  - b. As depicted in the Mountaintop Concept conceptual depictions attached at Appendix B of the MOU (and limited to such), designation of specific segments of certain Mountaintop roads and non-motorized trails that will provide public access to certain limited and specifically designated public open space tracts or areas within the Mountain Top area.
  - c. As depicted in the Mountaintop Concept conceptual depictions attached at Appendix B of the MOU (and limited to such), designation of specific and limited public open space tracts within the Mountain Top area.
  - d. Payment of impact fees at time of building permit (traffic, parks, etc.), to be established before the building code is amended, so that the parties (a) establish the methodology by which the amount of such fees will be determined; (b) identify the scope of impacts to be addressed by such fee; and (c) establish a methodology for calculating the fees with certainty in the future (in current dollars, with a reasonable CPI adjustment).
  - e. Provisions indicating the reduced services that will be provided to the lots or parcels created through the Exemption Plat Process and the 35 Acre Process (no water, sewer, shallow utilities, public roads, snowplowing, streetlights, maintained parks, etc.) and this will not be grounds for disconnection from the Town.



**Minturn, Colorado**  
**Resolution Number 25 - 2016**

**A RESOLUTION OF THE MINTURN TOWN COUNCIL OF MINTURN, COLORADO,  
IN SUPPORT OF OPEN SPACE, RIVERS, WILDLIFE, & TRAILS BALLOT ISSUE 1B**

**WHEREAS** During the last 14 years, since the passage of the Open Space program in 2002, the Eagle County Open Space program has protected our natural beauty and scenic vistas.

**WHEREAS** the Open Space program has retained Eagle County's rich history, culture, and agricultural uses; preserved critical wildlife habitat; curbed sprawl in the face of extreme development pressure; and has provided access to our public lands, improving opportunities for high-quality dispersed outdoor recreation.

**WHEREAS** On August 30<sup>th</sup>, by unanimous vote, the Eagle County Board of Commissioners referred an extension and augmentation of the Eagle County Open Space program to the ballot, known as Issue 1B.

**WHEREAS** Passage of Ballot Issue 1B will continue the Open Space program as described above.

**WHEREAS** Issue 1B will enable bonding authority to complete the Eagle Valley Trail in approximately seven years instead of the 40 plus years under the current funding mechanism and will dedicate a portion of the mill levy for debt service to pay bond interest without increasing taxes.

**WHEREAS** Open lands, rivers, and wetlands are critical pieces of the environment in Eagle County. The use of open space funds to protect and enhance our water quality, protect wildlife habitat, conserve our open and beautiful views, and enhance recreation opportunities are vital to our quality of life, and keep our recreation and tourism economies strong.

**WHEREAS** With hundreds of miles of soft trails in Eagle County, on county and federal lands, effective trail stewardship is vital. Issue 1B will dedicate funds toward the sustainable maintenance of our current soft trails and may, in time, be used for the creation of new, environmentally responsible trails, all of which enables residents and visitors alike to partake in all the exceptional outdoor experiences that Eagle County has to offer.

**NOW, THEREFORE, BE IT RESOLVED** that the TOWN OF MINTURN offers their public support for Ballot Issue 1B.

**INTRODUCED, READ, APPROVED, AND RESOLVED THIS 19<sup>TH</sup> DAY OF  
OCTOBER, 2016.**

\_\_\_\_\_  
Matt Scherr, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jay Brunvand, Town Clerk

\_\_\_\_\_  
Date

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 28 – SERIES 2016**

**A RESOLUTION IN SUPPORT OF BALLOT MEASURE  
1A: AFFORDABLE WORKFORCE HOUSING IN EAGLE  
COUNTY, COLORADO**

**WHEREAS**, 69% of the business community in the Vail Valley Partnership’s annual Workforce Study has recognized affordable workforce housing as a significant and major problem; and

**WHEREAS**, the Town of Minturn recognizes the need for a regional approach to addressing affordable workforce housing ; and,

**WHEREAS**, issue 1A addresses affordable workforce housing in Eagle County through an ‘all of the above’ approach including:

- Providing and improving the quality, availability, and affordability of housing in Eagle County
- Providing down payment assistance loans for home ownership
- Acquiring land for future housing units affordable to the workforce
- Investing in private/public partnerships for the provision of workforce and affordable housing
- Related housing programs and services;

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE  
TOWN OF MINTURN, COLORADO THAT THE TOWN OF MINTURN OFFERS THEIR  
PUBLIC SUPPORT FOR BALLOT ISSUE 1A**

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 19<sup>th</sup> day  
of October, 2016.**

TOWN OF MINTURN

By: \_\_\_\_\_  
Matt Scherr, Mayor

ATTEST:

\_\_\_\_\_  
Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 30 – SERIES 2016**

**A RESOLUTION SUPPORTING BALLOT MEASURES 3A AND  
3B ON THE NOVEMBER 8, 2016 BALLOT**

**Whereas...** Reduced funding from the State of Colorado has forced Eagle County School District to cut its operating budget by approximately \$40 million and has been forced to maintain the facilities only on a break/fix schedule; and

**Whereas...** Additional cuts are likely to be made in funding from the State of Colorado for the 2017/18 school year; and

**Whereas...** The proceeds of 3A will be used for recruiting and retaining quality teachers and staff, reducing class size, restoring programs like art, music, technology, counseling and physical education, replacing outdated textbooks and classroom learning materials, expanding hours and services in the district's preschool programs, funding ongoing maintenance of school facilities, reducing costly emergency repairs, and funding transportation to improve safety and reliability

**Whereas...** The proceeds of 3A will prevent the loss of our best and brightest teachers to other school districts, allow for more one-on-one attention from the teacher, and the tailoring of instruction based on students' needs, by reducing class size. Improve motor skills, language development, decision making, visual learning, inventiveness, cultural awareness and academic performance by restoring art, music and physical education. Extend the useful life of existing school facilities and transportation, and reducing costly emergency repairs, by properly funding ongoing maintenance. Protect property values and strengthening local economic development.

**Whereas...** The proceeds from 3B will provide students with relevant, updated instructional technology to prepare global-ready graduates. Replace outdated roofs, heating, plumbing and other critical repair backlogs, extending the useful life of existing facilities and improving energy efficiency—saving taxpayer dollars. Improve school safety and security districtwide, including secure entrances and safety equipment. Add classrooms and other learning spaces at Eagle Valley High School in Gypsum to address rapid enrollment growth and allow for expansion of science, technology, engineering, math (STEM) and career/technical programs. Fund renovation and reconstruction at Eagle Valley Middle School, Eagle Valley Elementary School, Red Sandstone Elementary School and Red Canyon High School in Eagle to accommodate student population growth and provide comparable learning environments to that of other district schools.

**Whereas...** The proceeds from 3B will provide proceeds to extend the useful life of existing school buildings. Save taxpayer dollars by reducing expensive emergency repairs and improving energy efficiency. Improve the safety and security of each school districtwide. Provide room to learn, including instructional spaces to strengthen STEM and career/technical programs. Give every student—not just some—access to a safe, secure, quality learning environment that helps prepare them for tomorrow's jobs and careers. Protect property values and strengthening local economic development.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE TOWN OF MINTURN OFFERS THEIR SUPPORT FOR BALLOT MEASURES 3A AND 3B.

INTRODUCED, READ, APPROVED AND RESOLVED THI 19<sup>TH</sup> DAY OF OCTOBER, 2016.

TOWN OF MINTURN

By: \_\_\_\_\_  
Matt Scherr, 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  
Mayor – Matt Scherr  
Mayor Pro Tem – Earle Bidez  
Councilmember – Terry Armistead  
Councilmember – Harvey Craig  
Councilmember – Sage Pierson  
Councilmember – Sidney Harrington  
Councilmember – John Widerman

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### AGENDA ITEM COVER SHEET

<b>AGENDA TITLE:</b> Deustschman Family LLC DBA Kirby Cosmo’s BBQ Bar Annual License Renewal; 474 Main St.; Mark Tamberino, Owner/Manager.
<b>MEETING DATE:</b> October 19, 2016
<b>PRESENTER:</b> Brunvand
<b>BACKGROUND:</b> This is an application for an annual renewal of a Hotel and Restaurant liquor license. The application has been reviewed and an on-site review of the premises was conducted by the Clerk and no issues have been found. The application has been reviewed by the Town Attorney and an investigation of the police records has been conducted by the Eagle County Sheriff’s Office and not issues that would preclude approval were found.  Staff is recommending approval of this renewal by Council.
<b>CORE ISSUES:</b>
<b>BUDGET/FINANCE IMPLICATIONS:</b> The applicant has paid the required \$56.75.
<b>STAFF RECOMMENDATION/MOTION:</b> “Motion to approve the Deustschman Family LLC DBA Kirby Cosmo’s BBQ Bar Annual License Renewal; 474 Main St.; Mark Tamberino, Owner/Manager as presented.”

**RETAIL LIQUOR OR 3.2 BEER  
 LICENSE RENEWAL APPLICATION**

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

KIRBY COSMO'S BBQ BAR  
 PO BOX 93  
 MINTURN CO 81645-0093

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.

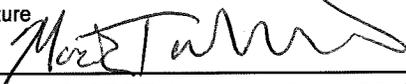
**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

Licensee Name <b>DEUTSCHMAN FAMILY LLC</b>		DBA <b>KIRBY COSMO'S BBQ BAR</b>		
Liquor License # <b>42433710000</b>	License Type <b>Hotel &amp; Restaurant (city)</b>	Sales Tax License # <b>42433710000</b>	Expiration Date <b>12/04/2016</b>	Due Date <b>10/20/2016</b>
Operating Manager <b>Mark Tamberino</b>	Date of Birth <b>05/27/1976</b>	Home Address <b>2433 Draw Spur Unit B-2</b>		
Manager Phone Number <b>970-401-3060</b>	Email Address <b>bbq@kirbycosmos.com</b>			
Street Address <b>474 MAIN ST MINTURN CO 81645</b>				Phone Number <b>9708279027</b>
Mailing Address <b>PO BOX 93 MINTURN CO 81645-0093</b>				

- 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 \_\_\_\_\_
194. Since the date of filing of the last 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.
- Since the date of filing of the last 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
- Since the date of filing of the last 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
- 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

**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>Mark Tamberino</b>	Title <b>owner</b>
Signature 	Date <b>9/22/16</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

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Deutschman Family LLC

is an entity formed or registered under the law of Maryland, 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 20061430195.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 10/05/2016 that have been posted, and by documents delivered to this office electronically through 10/07/2016 @ 10:26:49.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 10/07/2016 @ 10:26:49 in accordance with applicable law. This certificate is assigned Confirmation Number 9871319.



A handwritten signature in cursive script that reads "Wayne W. Williams".

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 Validate a Certificate 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 "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*



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

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

**MEMORANDUM**

To: Mike Sawyer, Attorney  
Phillip Cusick, ECSO/Minturn  
CC:  
Date: 10/7/16 10:23 AM  
RE: Liquor License

Attached please find a copy of the Annual Liquor License Renewal Application for a Hotel Restaurant Liquor License for the Deutschman Family LLC, DBA Kirby Cosmo's, Mark Tamberino Owner/Manager located at 474 Main St. I have reviewed the application and conducted an onsite inspection which resulted in no issues. Further although I have asked the ECSO to review the application. I am forwarding it on to you for further review and your report. I will be recommending approval to Council at the October 19, 2016 Council Meeting.

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

Thanks, jay



Planner Report  
Sign Approval  
Magusto's Restaurant  
10-12-2016

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The Planning Commission approved the Magusto's illuminated box sign on 10-12-2016 with the following conditions:

\*This sign complies with the code Section 16-19-110 (2) Illumination:

*'Signs may be designed to give forth artificial light source. Illuminated signs shall be installed as to avoid any glare or reflection into any building used for residential purposes, or into any street, alley or driveway if such reflection or glare might create a traffic hazard. (B.) hours of illumination: signs located adjacent to and across the street from residential areas shall remain lighted until no later than 11:00pm or until the close of business, whichever is later.'*

\*This sign has the ability to be an animated sign –

Animated signs are prohibited as per code Section 16-19-70.

\*Approval of this sign is with the condition that the animated feature is not used – only 1 message a day can be shown on the sign in a solid light, not animated.

\*The approval of this sign is with the condition of a trial basis of 6 months – April 10, 2017. If complaints are made in regards to the sign, the animated feature is used or it appears to cause conflict with traffic on Highway 24, the sign is to be removed.

TOWN OF MINTURN  
P.O. Box 309 ♦ 302 Pine Street  
Minturn, CO 81645  
Phone: 970-827-5645 Fax: 970-827-5545

William Powell  
Town Manager



Town Council  
Mayor – Matt Scherr  
Mayor Pro Tem – Earle Bidez  
Councilmember – Terry Armistead  
Councilmember – Harvey Craig  
Councilmember – Sidney Harrington  
Councilmember – Sage Pierson  
Councilmember – John Widerman

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## **Manager Memo October 19, 2016**

### **Turntable Issues**

Building Inspector Charlie Davis and the Westside owners met on site to inspect the trailers on 6<sup>th</sup> St. A report will be generated for corrective measures. The Westside owners were very cooperative and realize improvements are necessary for life/safety issues and to have quality tenants. They continue to plan replacements with modulars which meet code requirements and no larger foot prints.

Westside has signed the water bill reimbursement agreement and it is in your packet for action.

### **Minturn to Dowd Trail**

Staff and Inter-Mountain Engineering staff and Forest Service staff walked the preferred alignment of the trail on Oct. 6. No issues for the alignment were presented. Discussions were held on additional environmental studies necessary for the FS to process an application for an easement. Staff met with Ellie Caryl and Inter-mountain on Oct 11 and determined there are sufficient funds remaining with the grant Eagle County has given the town for planning the trail.

Timing of construction of the Dowd to Minturn segment of the Eagle Valley Trail is dependent on the success of the ballot question allowing a portion of open space funds to be use for trail construction.

### **Zoning Code Revisions**

P&Z has begun discussion of a zoning code revision for acceptable uses at Dowd Junction.

<b>ACTION PLAN</b>	<b>responsible party</b>	<b>status</b>
10/19/2017		
<b>TOP PRIORITIES</b>		
<b>Code Enforcement</b>	Powell	zoning code, nuisance, parking
Provide necessary funding		will be proposed in 2017 budget
Develop enforcement strategies		Council discussion on 10/5
hire enforcement officer		begin hiring process in Oct.
<b>Communication Strategies</b>		
Council strategy--concerts, coffees, etc.	Council	
Consider live phone reception	staff	
Staff returns phone calls w/ 24 hours		
<b>Economic Development Strategies</b>	Metteer, ECAC	
EDAC meeting 8/16 to review plan		Council to review plan 9/21
<b>Main Street Pedestrian Planning</b>	Powell	
Final Design		to be submitted 2/7/17
TAP grant		submitted 7/27, award announcement Nov. 1
apply for DOLA grant		need to discuss timing with DOLA representative
determine construction schedule		2019
<b>SECOND TIER PRIORITIES</b>		
<b>Water Rates</b>	Water Comm.	
Water rates to be reviewed 8/17		rates to be decided during budget process
Final water rates for 2017 defined in budget		
<b>Zoning Code Updates</b>	Hawkinson	
100 Block		100 Block revisions approved Sept. 21
Dowd Junction		P&Z has begun discussion
<b>Zoning Code Update Dowd Junction</b>	Hawkinson	next priority for PZ
PZ Council action by November		staff is developing a draft table of uses
<b>Bike Path Minturn to Dowd</b>	Powell, Hawkinson	State Land Board easement discussion in play
Alignment, easements, permits		remaining environmental studies being contracted for
<b>Soft Paths</b>	Metteer	
construction to occur Sept. 17		good turn-out for volunteer day and largely finished
<b>Speed Limits Main St.</b>		
Does Minturn conduct study and budget		
<b>Governance</b>		
Is this a priority of new Council?		