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

Wednesday, October 3, 2007
Regular Session –5:30PM

MAYOR - Gordon "Hawkeye" Flaherty
MAYOR PRO TEM – George Brodin
Interim Town Administrator – Gary Suiter
TOWN CLERK/TREAS - Jay Brunvand

COUNCIL MEMBERS:
Jerry Bumgarner
Bill Burnett
Tom Sullivan
Kelly Brinkerhoff
Shelley Bellm

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 4:30pm, Monday through Friday, by contacting the Town Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

Work Session – 5:00 PM

- **Preliminary Budget Review – Brunvand (30 Min)**

Regular Session – 5:30 PM

1. Call to Order

a. Roll Call
b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 6:09 P.M. Roll call: Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Tom Sullivan, Bill Burnett, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner

Staff present was, Interim Town Administrator Gary Suiter, Town Planner Chris Cerimele, Police Chief Lorenzo Martinez, Town Treasurer/Clerk Town Jay Brunvand, Attorney Allen Christensen, Public Works Director Rod Cordova and Deputy Town Clerk/AR Dylan Zastrow.

EXECUTIVE SESSION

2. Minturn Town Council will convene into executive session: (1 Hour)

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

Motion by Jerry B, second by George B, to convene into Executive Session Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys Allen Christensen, Arthur "Boots" Ferguson and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation; all voted in favor.

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

No direction to Staff or Attorneys

7:00 P.M.

4. Approval of Agenda (5 min).

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

Motion by George, second by Kelly, to approve the October 3, 2007 Council Meeting Agenda as presented; all voted in favor

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

- September 19, 2007
- Review/Comment – Council Action Report

Jerry B requested corrections on page 9 to reflect the Audit Company as Swanhorst and Associates and on same page to correct Water Tank to Water Tower. Hawkeye noted on page 8 that Jerry B. had recused himself due to a conflict of interest

Motion by George B, second by Shelley B, to approve the, September 19, 2007 Council Meeting Minutes as amended; all voted in favor.

Kelley B asked for an update on the Little Beach Park Parking; we have received two leases from the UPRR the first covers the portion of Cemetery Road that is within the RR right of way the second is for the upper deck parking area at the park between the tracks west to the river (approximate). This is an annually renewing lease with a 30 day termination clause. These leases have an annual cost of approximately $1,250 and were received about 2-3 weeks ago. They have been signed by Gary S. and returned to UPRR.

Hawkeye asked Tom S. for information on the retaining wall on UP land and drainage issue over by the Minturn Town Homes, what exactly would you like from them?
Tom: I would like a letter from UP stating they are okay with the retaining wall being on their property to ensure the home owners won't have to pay for removal and rebuilding if UP doesn't want it on their land.

6. Special Presentation/Individual Introductions/Citizen Recognition/Project Update

- State Representative Mike May, House Minority Leader

Mike May: Colorado State Representative

I represent the citizens of west/northwest Colorado. I am here to inform you what we are trying to accomplish. We are hoping to accomplish many things in the Counties by bridging through partisanships. We hope to make progress on rural health care. Maybe through private/public partnerships. We would like to enhance and expand on higher education. Sixty percent of the funding we obtain we have no control over, that goes to education, medicade and other federal programs.

Shelley B: You are looking at fund higher education? Colorado is ranked 49th in the Country for educational funding and I think we need to have more funding for primary education.
Mr. May: We agree with the latter point of your statement but the funding for education is much more than that, it is more towards the middle Country ranking wise. We need accountability in the system before we funnel money into the system.
George B: Thank you for being involved with local affairs.
Mr. May: I am dedicated to not interfere in local affairs but want to build partnerships.

- Employee Recognition; Lisa Osborne – Martinez

Chief Martinez introduced Lisa Osborne and her daughter Tabitha. Lisa just celebrated her first year as an employee of the Town of Minturn. Chief thanked Lisa O. for her service to the community and to the Town Staff. Her peers speak highly of her and her professionalism. He then presented her with a Certificate of Appreciation. He also presented her with a trophy of honor and dedication.

Lisa O: I want to thank everyone and it has been an honor to work for the Police Department, Council and the Citizens.

7. Public comments on items, which are NOT on the agenda (3 minute time limit per person).

8. Discussion/action of Emergency Items, if necessary

9. Town Administrator's Report (10 Min)

Gary S: requested a response from Council to schedule a budget meeting. Council scheduled 1hr during the Work Session to begin at 5:00pm on October 17th. Gary S requested approval from the Council for the Town to become a member of the Vail Chamber of Commerce; granted by all members of Council.

George B. stated the sod placed on the Town lot at 243 Boulder looks good.
Shelley B. expressed concern that this not be used as a snow dump site this winter; Gary S. assured her that would not be the case.
Kelly B: In the Carter Burgess report it states that there needs to be an alert to UP regarding the drainage concerns so we need to follow up with that. Also, I would like to have the two USFS parcels, the "bone yard" and the housing compound appraised as one parcel; it will be.
Hawk: Have the leaks in the water tank been taken care of; yes. More maintenance will be needed in the future but the tank was inspected and repaired as needed.
Hawk asked if the Town will be addressing any more water leaks this season; Rob Singer stated there are two, he does not believe they are on the main line. One is on Pine St the other is on Main St. Hawkeye requested we give ample warning to the citizens of any shutoffs.

10. Town Council Comments (10 Min)

George B.: The ECO Transit Board met on September 20th. The county is going to implement a free youth pass starting in the near future to get people to ride the bus.
Shelley B. noted Wild West Day's was last Sunday and we had record attendance and we made a lot of money in donations. Last year was $160k with 500 less people.
Also, the Safe Routes to School committee is meeting in Rifle on Oct. 11th.

DISCUSSION, HEARINGS AND ACTION ITEMS

11. <u>Discussion/Action Item</u> – Eagle County School District; Inter Governmental Relations - (15 Min)

Gary S. introduced Eagle County School District Interim Superintendent Jon Pacheco, the ECSD Finance Officer and Media Officer. They noted the November election will result in the election of five seats on the Board of Education. An update was given on the status of the construction and related issues to the bond issue passed last year. Mr. Pacheco thanked communities and parents for holding fund raising programs such as Wild West Day. Mr. Pacheco also responded to a letter from Gary S. He assured the Council that the District is working diligently to address the issues stated to in the letter.

Kelly B. inquired on an update of the Minturn Middle School and the rumor that it is going to merge with Battle Mountain; no decisions have been made yet. Tom S. stated he believed it was important to keep a school within the Town of Minturn. Mr. Pacheco assured the Council they have heard that from the Principal and others in the community.

12. <u>Discussion/Action Item</u> – Update on Nuisance Violations and Parameters of Enforcing the Nuisance Law – Cerimele (20 Min)

Chris C. stated his report was in the packet and availed himself for questions.
Kelly B. thanked Chris C. for his hard work. It is important to the community but funds are limiting and we may not be able to pay a code enforcement officer.
Hawk: If this doesn't get done next year it's on the Council's shoulders not the staff. We (Council) are the ones to provide the tools to staff.

Chris: I am satisfied with the people who have been noticed, they are complying with them and I don't think fines should be implemented.

13. <u>Discussion Item</u>– Citizen Frank Lorenti to address Council regarding the Nuisance Law, Fluoride in Minturn's Water System and Sidewalks – (20 Min)

Mr. Frank Lorenti: 1081 Main St. asked why we don't have fluoride in the water system? Hawkeye stated we have been through this and we have decided it wouldn't be effective in our current system. The benefits weren't worth the attempt to put fluoride in the system.
Jerry B. stated there are other things out there that have fluoride in it and there are concerns that too much fluoride is bad. You need to research it before we spend more time on it.

Mr. Lorenti: On June 20th meeting George asked if we were going to build a sidewalk and Rob Singer (C&B) said yes. Mr. Lorenti reported that he had checked with Jay B. and he said there was nothing in the budget for this.
Hawkeye stated the Town had talked to CDOT and they have granted us 60k for anytime. The Town has another $60k from Lafarge that has been earmarked for this project however, the estimates came in way too high. We were about 400k short. We are bringing it up in our budget discussion to see if we can get more funding to do this.

Mr. Lorenti stated that he had received a letter in 2005 and up to as late as June that we were going to have a sidewalk and nothing happened. Hawkeye: We got the bids and we couldn't do it.

Mr. Lorenti: We have a serious nuisance problem and people aren't taking pride in living in Minturn. I would like to beg to differ on Kelly's assessment of Chris's work. Mr. Lorenti then quoted some meetings regarding bear proof trash cans stating that not all citizens have a bear resistant can, that this hasn't been addressed and why can't the Town just put a note on the violators' doors informing them of the law. I know there is confusion on holidays when the trash will be picked up, can the Town just give everyone a calendar telling the Town when the Trash will be picked up. He then showed a trashcan that was spilled over and asked why Public Works hasn't addressed it. Hawkeye stated we contract the trash service out and Public Works isn't responsible. Shelley B. stated that she is a home owner that is not able to get a bear proof trashcan; Waste Management does not have any to give out to the citizens due to the fact that most municipalities in the area have adopted the same regulations. Once our contractor gets them we can then get them here.
Mr. Lorenti stated that there was a nuisance complain on 8/3/06 and wondered if it had been addressed yet. I have a letter here stating it. Chris C. stated the letter was written by the last planner one.
Mr. Lorenti: I would like this to be taken care of. Hawkeye stated it was a project of another person who left, your point is taken and we will follow through with it.
Mt. Lorenti: What is going on with Mr. Quintana's property? Chris C. stated he had visited the property in question and was impressed with his progress and we agreed that Mr. Quintana would continue to address the issues. Also Chris C. sent out a letter regarding his other property but I cannot see it anything from the street. Hawkeye: We cannot just walk onto some ones property for no reason. Mr. Lorenti: You can and I can prove that you can. Hawkeye: I have discussed this with the attorney and we can't go onto some ones property without cause. Mr. Lorenti: I will find it and bring it back. I also have a problem with the remediation plan of the nuisance law. It needs to be in writing. The Town has nothing in writing. I did a public records

request and they told me there are not remediation plans for the Town of Minturn. Mr. Quintana has had a year and there are cars parked there.
Tom: You don't think people should be able to park their cars.
Mr. Lorenti: He then showed a picture and asked if this area is a non issue that Chris C. stated that it wasn't. Also, when can we find a completion on Mr. Quintana's property? Chris C. stated it was going to be done in September and its not. Hawkeye: He (Chris C.) went back there and there was significant progress made and it is his choice to extend the deadline. It is the Planners decision.
Gary S.: Point of order, I want to address the people who are here for the public hearing. We are addressing the situation and making progress and we are working from north to south. There is an issue with adequate funding and resources to address the nuisance law.
Hawkeye: there are some things that have fallen through the cracks and we need to follow through with it. We also need to follow up with and punish violators who put their trash out early.
Gary S. stated these are bear resistant not bear proof, they are wild life resistant cans. Our contract is up with Waste Management and we need to renegotiate the contract to also include recycling.

14. <u>Discussion/Action Item</u> - CU 07-03; Tory Enterprises (Budget Trucks) is requesting Conditional Use Approval for a motor vehicle parking lot at North Main Street – Cerimele (15 Min)

Hawkeye introduced the item and referred to Chris C.

Chris C. received a phone message this morning from the applicant Ms. Deslianna Brown stating she would not be in attendance at the meeting and won't attend any other meetings until she hears from her lawyer. Ms. Brown contends she has a lease which the Town refuses to look at that includes the entire parcel as identified in her application. Allen C. stated the Code states a conditional use is reviewed by the Planning Commission and then the Council decides based on that recommendation and that the applicant (Ms. Brown) is not required to be present for the Public Hearing or the Council decision.

Hawkeye stated that if we don't have a valid lease to review the Council should not pass the agreement; she has a lease but not for the land she claims she has a lease on. Discussion ensued as to if the item should be passed, tabled or denied. It was noted that she does not have a valid lease (the lease in contention expired in June and we have not submittal that this lease was continued or not. Ms. Brown's corporate status has been updated by the State to compliant; however, because the lease and her insurance are unsure her business license has been submitted but not approved.

Hawkeye opened the public hearing. Chris C. referred to his report in the packet and availed himself to questions. It was noted for the record that the applicant was not present nor required to be.

Mr. Ryan Flaherty, 160 Rail Road Ave, on behalf of the Turntable Restaurant, stated the Budget Truck operation (Applicant) has been a big concern for them. The lease they have conflicts with the lease they have whereby a portion of land is leased to both parties due to a change made by Ms. Brown on her contract.

Hearing no further comment the Public Hearing was closed.

Motion by George B., second by Bill B., to deny Conditional Use 07-03; Tory Enterprises (Budget Trucks) request for a motor vehicle parking lot at North Main Street; all voted yes, Tom S. no (6-1 Motion carries)

15. <u>Discussion/Action Item</u> - CU 07-07; El Dorado Development is requesting Conditional Use approval for a multi-family residential development in the mixed-use zone of the Old Town Character Area – Cerimele (30 Min)

(Note: George B. recused himself from the Board as a conflict of interest. George B. lives directly across Boulder Street from the proposed development.)

Hawkeye introduced the item and referred to Chris C. for staff presentation: He introduced CU 07-06.
Chris C. outlined the proposal and issues. The Planning Commission recommended approval for this project. Chris C. stated staff also recommends approval.
Hawkeye asked if the drainage plans are draining their lot into the CDOT right of way. Is CDOT aware of this? Chris stated this was done at the Minturn loft and there hasn't been an issue. He was unaware if the applicant had contacted the Highway Dept or if that was even necessary; he will confirm.
Shelley B. asked if all the required parking spaces on site? Yes, there is no street parking.
Tom S. recalled that in the old town CDOT gave the Town the right of way access. Chris: The State Highway code stated that the State has to have approval.
Jerry: I was under the impression that the area by the liquor store was not able to get one. Does the architect have info on that? Stewart Brommet, applicant representing Eldorado Development, a permit application was sent to CDOT 7 days ago and it is estimated to take 45 days. The plan doesn't include backing out onto Main Street. The development is a tri-plex down from a 4-plex to address neighbor concerns. The traffic will be split between Main St. and Boulder St.
Jerry: Incase the permit is not approved on Main St. Could you change your plan to have traffic on the side street? No, there is a problem with an 11 ft. elevation change from Boulder to Main St. We built the plan to have a garage on one of the units on Boulder St. If the State CDoT denies access then we would come back with a new project proposal.
Hawkeye: Where are you planning to put the drainage on the North side of the building? There will be drainage on either side of the building and it will run under the side walk and on to Main St. Mr. Brummet is requesting Council to approve the Conditional Use application.

Hawkeye opened the Public Hearing.
Sissy Olsen, 261 Main St., stated she was not clear on the drainage issue. It will drain along the sides of the building and then onto Main St.

Gary S. stated that C&B did a turn radius calculation on the proposal and found one spot that wouldn't work. This concern is being looked into by the applicant and has come up with a plan to fix it.
Chris C. stated that was a Design Review Board condition for approval and it is being addressed.
Bill B.: Where is their snow storage located? It is on the landscape plan and it is believed the applicant is in compliance.

Hawkeye: I reviewed the conditions and asked that a letter by the state be obtained stating they can have their drainage on the CDOT right of way. Also to have storage of snow with proper turning radius for each parking unit.

Motion By Tom S., second by Shelley B., to approve CU 07-07 approval for a multi-family residential development located at 271 Main St in the mixed-use zone of the Old Town Character Area; all voted yes, Hawkeye no (Motion passed 5-1)

(Note: George B. recused himself from the Board as a conflict of interest. George B. lives directly across Boulder Street from the proposed development.)

16. Discussion/Action Item - CU 07-06; Tom Sullivan is requesting Conditional Use approval for approximately 1,900 square feet of commercial space in the mixed-use zone of the Old Town Character Area – Cerimele (15 Min)
(Note: Tom S. recused himself and removed himself to the audience. Tom S. is the owner of the property and the applicant.)

Hawkeye introduced the CU 07-06 and referred to Chris C.

Chris S. outlined the proposal for Council and detailed the issues noting the Planning Commission recommended approval of this proposal with conditions. Discussion ensued on the concern of 1500sqft of the building to be considered as storage thereby not requiring inclusion in the parking calculation, the proposed parking being off premises, and the agreement to upgrade the Main Street Right Of Way parking in front of the site for parking. Chris C. stated this would still remain on-street public parking and available for anyone to park in those spaces. The proposal calls for a "bulb out" with a sidewalk at the corner to delineate the parking. Although this feature is a recommendation in the OZ Architect's streetscape plan this plan has not been adopted.

Hawkeye asked if the plan calls for burying the utilities; a phone pole along Harrison Ave may need to be addressed but under grounding the utilities is not called for.

Tom Sullivan, Applicant, 120 Nelson Ave. Tom S. gave a brief summary of the history of the building as over 100 years old, and his ownership. Currently the property is a single family house. The proposal is to leave the house and add to the property a restaurant. This would bring tax revenue to the Town, be a commercial draw further down Main St., and keep the house and historical character of the Town. The proposal would also create more parking for the Town. Tom S. would rent the restaurant area out. He has committed to making street improvements by repaving Harrison Street, adding sidewalks on both sides of the street and moving the fire hydrant. By altering the utilities however if he had to move the utilities it would not make the project financially unfeasible.

Kelly B. stated she liked the low density plan. We have discussed slant parking on the streets. If Tom S. is willing pay for it and make it public it is a positive contribution. I like the concept of preserving old Minturn. I like the Plan.
George B: I like the layout of the plan and the parking idea.
Shelley B: The parking would help us out. The parking would be utilized. It helps us more than it hurts us.
Jerry B: I like the project and it is a win-win situation for both sides.

Hawkeye opened the Public Hearing.
Darla Goodell: Turn Table Restaurant 160 RR Ave, stated she was not for or against it. Questioned if people on Main St that lost their parking can come and park there? Minturn created their own parking problems.

Stewart Brummet, Minturn: I think this is a great project. This area is mixed use and this fits into what we need in the Town.

In their was no further comment, Hawkeye closed the Public Hearing.

Bill B: We need to make sure that it states public parking.
Hawk: How many seats are they going to have? Chris: 50-60 Seats.

Motion by Kelly B., second by Shelley B., to approve CU 07-06 for approximately 1,900 square feet of commercial space in the mixed-use zone of the Old Town Character Area as presented with the following condition:

- The applicant obtains a variance from the off-street parking requirement

All voted in favor, Hawkeye voted nay (Passed 5-1) *(Note: as the applicant Tom Sullivan had recused himself)*

17. <u>Discussion/Action Item</u> – VAR 07-01 Tom Sullivan is requesting a variance from the off-street parking requirement of the Minturn Municipal Code for a proposed development at 382 Main Street in the mixed-use zone of the Old Town Character Area – Cerimele (15 Min)

(Note: Tom S. recused himself and removed himself to the audience. Tom S. is the owner of the property and the applicant.)

Hawkeye introduced the item and referred to Chris C.
Chris C. stated his report and recommendation was in the packet and availed himself to questions.

Hawkeye: Why is there no parking for 1,500 sq ft of building; Chris C.: Because the code doesn't required it as the space is considered storage.
Hawk: What study did you do to determine that there is no need for parking for the storage unit; Chris C.: there will be no one residing there. Hawk: How many spaces do we require for the dwelling units; 2 for the housing, 1 for the apartment. The applicant is providing 10 spaces in the public right of way. Although the amount is correct the parking is off site thus requiring the variance for the parking.

Hawkeye asked if the applicant had anything to present; nothing, is requesting approval of the variance.
Tom: I have nothing to add. I would like approval of the variance.

Hawkeye opened the Public Hearing.

Lynn Fieger, 497 Eagle Street: I think this a good idea and it helps out the parking. As a restaurant there needs to be a handicap. Tom: the last spot on Harrison was thought to be designated.
Chris: I will have to look and see if the Town can designate a handicap spot.
George: What about snow storage and removal.
Tom: Snow storage would be in the front yard, as well as the shed area in the back. I would also clean the parking spaces.
Hawk: Has the applicant addressed lighting for the parking.
Chris: He has to follow the code and it has been addressed.
Hawk: He closed the Public Hearing.

Motion by Shelley B., second by Kelly b., to approve VAR 07-01 Tom a variance from the off-street parking requirement of the Minturn Municipal Code for a proposed development at 382 Main Street in the mixed-use zone of the Old Town Character Area the variance as presented; all voted yes, Hawkeye nay (motion carried 5-1) *(Note: as the applicant Tom Sullivan had recused himself)*

(Note: Tom S. recused himself and removed himself to the audience. Tom S. is the owner of the property and the applicant.)

18. <u>Discussion/Action Item</u> – <u>Public Hearing</u> on Petitions for Annexation for Battle Mountain Annexation Parcels No. 1-9 for the annexation of territory to the Town of Minturn, Colorado for the purposes of determining and finding whether the areas proposed to be annexed as the Battle Mountain Annexation Parcels No. 1-9 comply with the applicable requirements of the Municipal Annexation Act of 1965, as amended, and is considered eligible for annexation.

Hawkeye introduced the discussion/action item and the applicants for the annexation hearing - Ginn Battle North LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLP
He then opened the public hearing that has been continued from September 19 2007. He explained that there were also three land use application and all information will be added as testimony to all applications to this public hearing, as well as the process of the public hearings. The order of the public hearing is important. It begins with the Staff presentation, the Applicant presentation, Public comment (verbal or written) the applicant's response to any testimony and then staff can provide response to any testimony. He then asked if any council members had contact with the public about the annexation since the last public hearing held September 19, 2007.

Bill B: Just letters from school kids, I believe they have been submitted.

Tom S: Hand full of people asked where we are in the process.

Shelley B: A resident told me this needs to come to a public vote and I advised her what steps she can take. Someone asked me what we are presenting tonight.

Kelly B: Rob Davis asked me if there is a PUD plan he could look at and if we were involved with the EPA review. I told him he could ask Staff for that information and that he could contact the EPA professionals.

Jerry B: People asked me where we were at in the process.

George B: No

Hawkeye: One citizen told me they thought this should go to a public vote.

Chris C: I have nothing to add.

Sarah Baker, Attorney for Ginn Club and Resorts, addressed some record keeping issues. We have a few people here to give updates. She then went over the agenda and then presented exhibits for the record.

Lisa Sacotta:
Biological assessment was prepared for the proposed Bolts Lake remediation activities submitted to the USFS.
Final Biological Opinion was transformed in august from USFWS and EPA
Terms and conditions to implement the one reasonable and prudent measure in the BO are included.
Bill Weber: We met with the head of the EPA and we believe we have resolved all of our issues. We are still working well with UP and have interred into an agreement with them on a feasibility study and it is a 3 stage process. We have been doing studies to see what improvements need to be made.

Bill Andre: Colorado Division of Wildlife, introduced Mr. Jerry Craig and turned this over to Jerry Craig, he is the expert in the Peregrine Falcon

Jerry Craig: 1409 S. Summit Ft. Collins.
He gave his background and expertise in raptors and the peregrine falcon. He gave a brief summary of the history of the peregrine falcon. He is here to answer the questions of the Council. I have worked with the applicant and I am impressed with their willingness to minimize impacts.
Tom S.: What things are they presenting; Craig: Terrain consulting, how construction and density is addressed and the railroad. It is going to be experimental.
Jerry B.: Are there other pairs in the area? Craig: the closest is Dotsero, Frisco and down south.
Jerry B.: Is the area not really conducive for them to live? Craig: We have studies from the '90s so there isn't a lot of evidence.
Jerry B.: You mentioned the increase of prey for them.
Mr. Craig: You have a mono structure for birds here but when you build a ski resort it will increase the diversity of birds thus increasing the prey for the Peregrine Falcon. The possibility of water increasing would also increase the diversity and number of prey.
Kelly B.: If we implemented the ½ mile buffer zone, are you comfortable with that? Craig: With the awareness of the birds, the area will have to be closed to people during certain sensitive times. People are going to want to visit and see them but it must be closed down.
Kelly B.: Right now there are houses in the ½ mile buffer. How many buildings would have to be moved to adhere to the ½ mile buffer? Dominic: There are about 15 lots there that are within that ½ mile buffer. Also part of a ski run.
Gary S.: What are the early signs of distress one would look for? Craig: It's hard to tell. If they occupy the cliffs or not, abandoned eggs or not. Mostly no production.

Tom S.: Bill, is the applicant willing to make this work? Weber: Yes the applicant is willing to make this work. We will work with the suggestions for mitigation.
Tom S.: can you avoid building on those lots. Weber: It is the last phase of construction. We would have to look at it at that point. Mr. Craig: These birds go up to 200mph on a dive and striking things is a problem. The utilities would be buried. There wouldn't be any mirrored windows or they would try to fly through. I think we will have to develop quite a few things as we go along.
Kelly B.: Are you going to outline things the Division of Wildlife and the Applicant agree and disagree on? Mr. Andre: yes.
Tom S.: has the applicant addressed these issues? Andre: they have gotten back to us on these issues. If Jerry is good with this the Division is ok with it. Jerry wanted monitoring of the Peregrine Falcon and the applicant agreed to this.
Tom S.: You will come back with a follow up and agreement. Mr. Andre: Yes.

Kelly B.: It seems like the problems with elk are the off site mitigation and use closure for the golf course area. Also buffer zones seemed to be a problem. Another concern is the wildlife bridge over HWY 24. What are your recommendations? Mr. Andre: I have had meetings with Mr. Weber on all the issues and have made great progress thus far. We will most likely have an agreement by the next meeting. The original plan had a bridge over HWY 24 and I don't think CDOT cared much for it.
Kelly B.: are you recommending closure of the golf course during the winter to avoid snowmobiling and cross country skiing? Employees will have access for maintenance but it will be closed.
Shelley B.: what about maintaining hunting access around the Ginn property and through the Ginn property? Mr. Andre: We haven't discussed access through the property but they would like to have minimal hunting on their property. Weber: We talked about having guided hunting up there for our residents. Right now we are not planning on using our property as access for FS hunting.
Shelly B.: Arrow Head has a list of people that can access, not guided tours, but use the property to access the FS road. I think it is important. Weber: We have made that accommodation this year.
Shelley B.: What measures are you going to take to ensure the residents won't want to shoot all the elk for eating their grass? I would like the bear issue to be addressed as well. Weber: We will have an educational program as to what to expect prior to purchasing. Kelly B.: A staff member mentioned enforcement measures weren't adequate. What other things can we have them address? Chris C.: They have fines on there for putting trash out early or feeding wildlife; I thought they were pretty week. Mr. Andre: Vail and Pitkin County are the leaders on the bear situation. They fine high and require a bear resistant can. I think you need to raise the fines to get the point across.
Hawkeye: Can the Mitigation Funds be addressed to all the animals that have been listed in this report? Mr. Andre: The new mitigation plan would address everything but the Lynx. Hawk: So the cost may need to go up. Mr. Andre: Yes. Hawk: Is it going to be a permanent funding source? Mr. Andre: Yes.
Tom S.: Do we need to get Ginn to commit to this so it doesn't get lost? Allen C.: You can make it an Ordinance, it can be a condition. We have people keeping an eye on it. Tom S.: This seems like it's just a verbal consent? Sarah: There is a rule that all conditions and commitments stated during the public hearing is held up by law. Mr. Andre: The Council can make a list and Mr. Weber and I can include them in the agreement.

Hawk: Do you see the river being stocked again? Andre: If it is cleaned up it will be stocked but I don't have a time line.

PUBLIC COMMENTS:

Lynn Fieger, 497 Eagle St., Two issues: I have a petition on the Ginn project I would like to present to the Council. We believe that the Town, if it passes, needs a community and art center. It will have negative impacts but it needs to balance it. This isn't anything Minturn could pay for and the applicant should take on the cost of these two things and be a condition of approval. Second: Eagle County Bike trail has guidelines we think need to be followed. It needs to be contiguous and continue from their property to Dowd Junction not just through their property and it should be paid for by Ginn.

Tim Osborne: 1030 Main St. I have been here for 8 years and it's a special place for everyone. I think green building should be a major factor. It sounds like a chance for Minturn to grow.

Craig Corretto: 7088 US HWY 24 Red Cliff Nova Guides, we operate on a County road and will that turn into a Town Road? We have maintained a gate on Tigawon Road to access the road and close it. We have our equipment storage on the Eagle County right-of-way. He then read a letter of conditions to use Ginn's land if approved. It is stated that Ginn can deny use of the road with 30 days notice. I would not like to see half of my winter revenue be lost if they changed that condition. Lastly state we have addressed all of Ginn's conditions and we look forward to working with them.

Tim Parks: 236 Eagle St. Red Cliff Mango's Rep. I have been to a majority of the meetings and commend the council for their good work. I am a proponent of the proposal and have been impressed with the applicant's ability to address concerns and what they have done on other resorts of theirs. I believe the community will benefit quite a bit but everyone has to make sacrifices. It will bring Jobs, Taxes, the Town of Minturn will move from one of the poorest Towns per capita to a prosperous monetarily Town per capita from this. The clean up is going to be a major benefit. I think Minturn needs to step up to it and help control it. The project will be here and we need to embrace. I would also like to Town of Minturn to allow Red Cliff to annex the last 1,000 acres in phase 2.

Dianne Scheer: 511 Main St. She is with the Eco Trail County wide as well as a citizen. The Dowd Junction to red cliff is currently low on the list of trails we need to deal with and with Ginn this is a great opportunity for it to be built. We have met with Ginn on our recommendations and the Council needs to understand this.

Pete Vance: 251 Main St. Thanks to the Staff and Council to allow us to speak. We as citizens have a voice on what happens in our Town and how we want them to be developed. We have the ability to create green building for our Town and for our children's futures. Other cities are addressing the carbon footprint issue and I think we can be a part of the leading cities and Towns. I think we need to address alternative energy in any new development and be on the cutting edge.

Christina Wyatt: 1038 Main St. I agree with Tim and I support this proposal. I would like the Town to ensure they adhere to and have clear building specs and that they address the concerns of the environment.

Jim Gonzalez: 472 Main St. I attended the Planning Commission meetings and commend them. I would like to state to the Council that this will affect people for a very long time and that we need to ensure there aren't any gray areas because it will address many facets of our daily lives and other people for a long time. Make sure it's the right thing.

Rob Davis, Minturn: Council needs to be cautious, once the preliminary plan is approved you can't go back and they have vested right. The Council needs to act as a defense attorney for the Citizens. Council needs to get the answers they need. I think a citizens open forum would be great, something a little less formal where the citizens can give their opinions. We have a traffic study but not a real plan or counter study to address the numbers as presented. Ginn should pay for the renewal of the sidewalks and road improvements. Using the railroad is a great idea.

Bob Gallegos 432 Main St. I was born in Gilman and raised in Minturn. For years we have kept this Town a small Town compared to the rest of the valley. We have known changes were coming but we have spent money to keep it this way. We have succeeded in keeping this town small. Ginn wants to come into our Town and build their resorts in our Town. I visited the property with Ginn representatives and it is beautiful. I don't have a problem with anything they want to do on their property. But, how are they going to build up there without impacting our community. We are already having traffic problems in the area. My concerns are for the Town of Minturn and Red Cliff. I think we need a bypass highway if not this Town will die from the traffic. If we can get a solution to the traffic problem then I would be in support of it.

Motion by Shelley B., and second by George B., to continue the public hearing on Petitions for Annexation for Battle Mountain Annexation Parcels No. 1-9 for the annexation of territory to the Town of Minturn, Colorado for the purposes of determining and finding whether the areas proposed to be annexed as the Battle Mountain Annexation Parcels No. 1-9 comply with the applicable requirements of the Municipal Annexation Act of 1965, as amended, and is considered eligible for annexation to the October 17, 2007 Council Meeting; All Voted in Favor.

19. <u>Discussion/Action Item</u> – A <u>Public Hearing</u> will be held for the following file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain

Hawkeye: Introduced the next public hearing - PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain, the applicants are Ginn Battle North, LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLP.
He then opened the public hearing.
Allen C: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.
Chris C: He had some written comments to add that did not make it into the packet and Council has been given that information.

Ms. Baker: I would like to state for the record the applicant has closed their presentation on the application for amendment to zone district map and will follow with Council with summaries.

Motion by Shelley B., second by George B., to continue the public hearing on file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental

Impact Report-PUD Preliminary Development Plan-Battle Mountain to the October 17, 2007 Council Meeting. All Voted in Favor

20. <u>Discussion/Action Item</u> - A <u>Public Hearing</u> will be held for the following file PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain.

Hawkeye: Introduced the next public hearing - PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain. The applicants are Ginn Battle North LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLC. He then opened the public hearing.

Allen C: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.
Chris C: He had nothing to add to his report.

Ms. Baker: I would like to state for the record the applicant has closed their presentation on the application for amendment to zone district map and will follow with Council with summaries.

Motion by Shelley B., second by George B., to continue the public hearing on file PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain to the October 17, 2007 Town Council Meeting. All Voted in Favor.

21. <u>Discussion/Action Item</u> - A <u>Public Hearing</u> will be held for the following file PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan

Hawkeye: Introduced the next public hearing - PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan. The applicants are Ginn Battle North LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLP. He then opened the public hearing.

Allen C.: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.
Chris C: He had nothing to add to his report.

Ms. Baker: I would like to state for the record the applicant has closed their presentation on the application for amendment to zone district map and will follow with Council with summaries.

Motion by Shelley, second by George, to continue the public hearing on file PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan to the October 17, 2007 Council Meeting; All voted in Favor.

Motion by Tom second by Shelley to move the 11/21 meeting to 11/19

FUTURE AGENDA ITEMS

22. Items to be added to future agendas / work session

- Ginn Petitions for Annexation – Continued from: 10/3/07 – 10/17/07
- Public Hearing will be held for the following file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain – Continue 10/3/07 – 10/17/07
- Public Hearing will be held for the following file PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain. – Continue from 10/3/07 – 10/17/07
- Public Hearing will be held for the following file PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan– Continue from 10/3/07 – 10/17/07

23. Set Future Meeting Dates

a) Council Meetings
- October 17
- November 7
- November 19

b) Planning & Zoning Commission Meetings
- October 10
- October 17
- November 14

c) Other
- Special Joint Meeting: Town Council Representatives and Staff with USFS October 9, 2007

24. Adjournment

Motion by Jerry B., second George B, to adjourn the October 3, 2007 Town Council Meeting at 12:24AM; all voted in favor

Hawkeye Flaherty

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO SEAL 1904