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

Monday, November 19, 2007

Work Session – 6:00PM
Regular Session – 7:00PM

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 – 6:00 PM

- Eagle River Fire District - Presentation on Impact Fees; Charles Moore (30min)
- Eagle Valley Library District - Presentation on Impact Fees; Charlyn Canada (30min)

Regular Session – 7:00 PM

1. Call to Order

a. Roll Call
b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 7:30P.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 were, Interim Town Administrator Gary Suiter, Town Planner Chris Cerimele, Police Chief Lorenzo Martinez, Town Treasurer/Clerk Town Jay Brunvand, Deputy Clerk/AR Dylan Zastrow and Town Attorney Allen Christensen

STANDING ITEMS

4. Approval of Agenda (5 min).

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

Motion by George B, second by Shelley B, to approve the November 19, 2007 Council Meeting Agenda as presented; *All voted in Favor*

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

- November 7, 2007

Shelley B: On page 67 of the packet it should state that the total eco bike path grant is $299k not $850k.
Kelly B: On page 69 of the packet it should state that the definition of workers does not encompass and capture all the construction workers and traffic. It should also state that there should be no traffic on Sunday's not limited traffic. As well, the applicant should follow Carter::Burgess recommendations. On page 70 of the packet it should state that the trip budget violations should start immediately, not at the end of the build out.
Also on Page 71 of the packet it should read major modification not major change.

Motion by Bill B, second by George B, to approve the, November 7, 2007 Council Meeting Minutes as amended ; *All voted in Favor*

- Review/Comment – Council Action Report

Shelley B: I think we need to address the School District land acquisition. I think we need to put it back on the action item memo.
Gary S: We have been meeting with the new board and things are going well and we will meet back up after Thanksgiving break.

7. Special Presentation/Individual Introductions/Citizen Recognition/Project Update - Ashley King

Hawkeye Introduced Ashley King, the Town of Minturn's Economic Development Director, and indicated what her responsibilities are for the Town. He commended her for her hard work and dedication to the Town and its Citizens. He then presented her with a certificate of appreciation and a gift from the Town.

Ashley K: She thanked the Staff and Council for their kind words and support.

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

9. Discussion/action of Emergency Items, if necessary

10. <u>Discussion Item</u> - Town Administrator's Report (10 Min)

Gary S: Included in his Manager's report is an update on the proposal and process for the Town's waste services. He has met with Waste Management and Vail Honey Wagon and they have presented some good solutions to problems the Town is experiencing. We will obtain the final proposals by months end and try and get it on the Town Council's December 5, 2007 agenda if not it will be on the December 19, 2007 agenda. This is a major move in the right direction.
Also attached is a letter from the USFS stating the Town is able to proceed with the Eagle River Phase II River Restoration Project.
We have also received a copy of the healthy Eagle County guide and he recommended everyone pick one up.
At the end of the Manager's report is the Carter::Burgess update report and Rob S. is present and can answer any questions you may have.

11. <u>Discussion Item</u> - Town Council Comments (10 Min)

George B: I have been in touch with the Eagle River Water and Sanitation District (ERWSD). They recommend a board to board meeting and after the meeting split into separate boards for private conversations.

DISCUSSION, HEARINGS AND ACTION ITEMS

12. <u>Discussion/Action Item</u> – <u>A 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 – Discussion Topics: Fiscal and Economic Analysis (Leland Consultants) and Employee Housing (Cerimele).

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 November 7, 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's presentation, the applicant's 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 November 7, 2007.

Bill B: He has had people approach him with general questions and he recommended they attend the Town Council Meetings.

Tom S: He has had people ask him general questions about the procedures of the hearing and where the Town is at in the process.

Shelley B: She has had a conversation with Michael Gallagher about the process of the public hearings.

Kelly B: Laura Wolf asked her about the referendum process and told her the annexation and project is not worth it to the Town because traffic would take away from property value and quality of life in Minturn.

Jerry B: He has not had any conversations with the public regarding these public hearings since the last Town Council Meeting.

George B: He has not had any conversations with the public regarding these public hearings since the last Town Council Meeting.

Hawkeye: He has not had any conversations with the public regarding these public hearings since the last Town Council Meeting.

Dominic Mauriello of Mauriello Planning Group: Here on behalf of the applicant. He pointed out the applicant gave information to Council regarding responses from the applicant on council inquiries and he then presented them as exhibits for the public record. The applicant will submit the revised mitigation plan prior to the Dec. 5th meeting. It will include the memorandum from the wildlife division.

Hawkeye: Regarding the applicant's employee housing proposal, does it include all aspects of employees?
Mr. Mauriello: It addresses mainly the Ginn employees and not the building/construction employees.

Bill Cunningham: Leland Consultants 8200 South Quebec Street, Suite A3-104 Centennial, CO 80112.
He is here to report the Fiscal analysis impact of the Ginn proposed development.

The purpose of the review is to:
- Evaluate Ginn development program from a fiscal perspective for the Town of Minturn
- Ensure that Ginn development program is based in market and fiscal reality
- Inform the Town of Minturn of the fiscal implications of land use decisions

Analysis Components of the review are:
- Review GINN/BBC fiscal methodology/ assumptions for reasonableness
- Incorporate information from comparable mountain communities

- Address current Town Service cost implications moving forward
- Define fiscal issues for future consideration.

Analysis Assumptions:
- The development applicant attempts to reflect market based reality in their presentations
- Assume the development will have similar operating revenue and expenditure impacts as existing development
- Assume the project capital expenditures are covered by existing revenue sources-net capital impacts is neutral
- The applicants proposed impact figures are reflected in constant dollars – they do not reflect impacts of inflation.

Assumptions that The Battle Mountain Development Plan includes:
- 470 single family lots/units
- 1,000 condominium units
- 230 one bedroom suites
- 88,500 sq. ft of retail/restaurant space
- Development's build out period of 10-20 years.

He then compared the BBC analysis and the Leland analysis and showed the difference in comparisons. The major difference is in the estimated property market values by type. Leland consultants believed the applicant's numbers were too high and the chart indicates the differences.

Leland Consulting Group's adjustments to fiscal revenues estimates:
- Lower market values by land use type indicated in their analysis as indicated on page 87 of the Council packet
- Slower absorption of land uses: For example single family lots: 9-10 years. Condos: 15-16 years. One bedroom: 8-9 years and commercial space: 6 years.
- Cumulative impacts of lower values and slower absorption over time. The chart indicated what Leland consultants believe the actual numbers of absorption of land uses would be. Leland consultants compared what the applicant indicated the revenue for Minturn at full build out on an annual basis and they were almost 2 million $'s off what the applicant indicated of $10,740,000

Leland consultants created adjustments to the fiscal expenditure estimates from the applicant by doing a:
- "Move Up" annual expenditures to anticipate the new development growth. For example increase staffing upfront prior to the project beginning in anticipation
- Public safety expenditures "ramped up" to be able to serve Battle Mountain from day one: For example supplemental Town services on Battle Mountain should be higher than forecasted, staffing a second team on the mountain, the enhancement of telecommunications and an additional $1.4 million invested over the first five years.
- Public Works expenditures "ramped up" to be able to serve battle mountain long term: For example: Staffing of a second team on the mountain, improvements to roadways and wastewater infrastructure and an additional $1.0 million invested over the first five years.

All these indicate to Leland Consultants that the expenditure estimates from the applicant are not accurate because they don't take into consideration the immediate anticipation expenditures. We estimate 60% higher in expenditures than the applicant because of these factors indicated. These expenditures create smaller annual revenue for the Town but it is still significant revenue for the Town.

Mr. Cunningham: He then did an overview of the projects revenue and expenditures over an extended period of 20 years. The revenue is about 60% of what the applicant indicated, still the numbers at the estimated 60% is still pretty significant for the Town as revenue.

Impact Considerations: There are issues with these numbers that will affect the market you cannot control.

- Fiscal impact analyses are based on several variables that can fluctuate therefore, Leland Consulting would recommend the Town continue to run sensitivity analyses on certain key variables.
- Project revenue estimates are based on assumptions regarding the development absorption, market conditions and anticipated market values. There are risk factors with each of these variables.
- Current Town service costs are not necessarily in balance with revenues due to some deferred maintenance and infrastructure needs. This would create some "catch up" expenditures immediately therefore increasing expenditures more than anticipated by the applicant.
- Fiscal expenditures are expected to correlate with development but it needs to be considered by the Town that the applicant has not considered anticipated expenditures. For example; increasing Town Staff size to accommodate the increase in business and activity, preparation.
- Consider the need for onsite, offsite and increased employee housing for all new businesses directly or indirectly related to this project.
- Though it will be a private resort with high level of services to the residents there will be an adverse impact on the public safety and public works departments for the Town of Minturn. This will increase as the project moves forward towards final build out and even after.

All of these things lead to concerns to work force housing, one while the project starts out, as it builds out as well as the Town's need to Staff out to accommodate the new development.

Jerry B: Please explain the definition of absorptions. Is that the raw property or developed unit?
Mr. Cunningham: Development absorption deals with both but its how soon you can sell those developed units.

Jerry B: What dollar per square foot did you use for these numbers?
Mr. Cunningham: We didn't use a dollar per square foot because we did not have those numbers. We took what the applicant indicated the lots/units worth and what they would sell for along with the market value in Eagle County in comparison to any market analysis studied.

Jerry B: You indicate the cost of services for police and fire departments on your spreadsheet, we don't have to pay for the fire services.
Mr. Cunningham: It is just labeled under that, those numbers only includes police services.

Jerry B: Leland Consultants indicates about 4 times the amount of the applicant's estimation for these services, why is that?
Mr. Cunningham: I used information given to me by the current budget and information indicated to me by the police chief and what they would have to facilitate if a project of this size occurred.

Kelly B: I believe the applicant's numbers came from the 2008 budget which doesn't reflect what we would have to do as anticipation to the project.
Jerry B: I think the numbers will be different than anticipated because it is a gated community.

George B: On page 90 of the packet information it states the 2007 number of employment in the Town at 300 people, where did that number come from?
Mr. Cunningham: This includes all people who are employed within the Town limits, not just Town employees.

Tom S: Leland Consultant's estimated surplus is much lower than the applicants. Even though that is the case the surplus still looks pretty good for the Town. I am not use to this size of a development, is this type and size of project good for the town?
Mr. Cunningham: If we hit price points indicated and the level of funds then I believe a good deal for the Town from an expenditure/revenue standpoint. Leland Consultants are very conservative in their estimates and it looks like a good deal thus far with our estimates, you just have to hit those price points.

EMPLOYEE HOUSING:
Chris C: Work force housing is one of the biggest issues addressing mountain communities and we have a chance as a Town to change this trend with the possible development. After review of current communities and employee housing Staff's recommendation is to make the applicant provide 80% of their full-time equivalent employees. Also, Staff would ask Council to consider having 100% of the employee housing on property or within Eagle County.

Kelly B: Where is Staff proposing the employee housing facilities be located?
Chris: Staff recommendation for employee housing is flexible.
Kelly B: Where did you look to get the proposed 80% employee housing?
Chris C: Pitkin County stated with their current situation that 60% employee housing is not adequate and Eagle County stated with their current situation that100% would actually be adequate. So with those proposed numbers Staff believes 80% provided employee housing by the applicant is adequate.

Jerry B: Is the Staff recommendation of the applicant providing 80% employee housing over the 20 year build out?
Gary S: Working with other communities and municipalities they have stated that there are around 40% employee housing right now. They have stated that is not enough and that they are looking at changing their laws to require 60-80% employee housing and that is what they recommended the Town of Minturn do in light of the proposed development. Other communities stated they believe they need 100% employee housing taking into account their

location and special needs. We need the Town to look towards the long term of 80% and over the build out of the proposed development.

Jerry B: Even if we obtain employee housing the cost of that housing is still more expensive here compared to Eagle or Leadville thus, people will be living outside of Town. That would make it difficult to require the applicant to have a certain percentage of employee housing onsite. Is the employee housing units going to be filled or are they going to be vacant?
Gary S: I don't think 100% of employee will want to live in one place so you are going to have employees living off site and in other locations.

Kelly B: I think we need to consider the location of the housing. I think some housing needs to be on site and hopefully south of Town to limit the amount of traffic through Town but I think it's not realistic for us to require the applicant to have all 100% of employee housing on site. The current Town limit of Minturn is too small to facilitate a portion of the developments employee housing and I think we need to utilize the land in the current Town limits for the people who are committed to the Town of Minturn and won't be transient employees.
Gary S: It is the Staff recommendation and my belief that seasonal housing control be done by the applicant.
Bill B: We were told the applicant was going to have employee housing in Willow Creek near Red Cliff, is that still on?

Chris C: Based on a letter the applicant submitted this evening it states their proposal is to provide 40% of the onsite full-time equivalent work force based on Council's comments on November 7, 2007 and that at lease 50% of that number will be provided onsite within the Town of Minturn or Red Cliff's municipal boundaries. We do not agree to double this requirement to 80% based upon Mr. Cerimele's recommendation. We believe the applicant's commitment is a meaningful and credible program in relation to how Ginn and Ginn Resorts are operated.

Tom S: I think that these big resorts are going to realize that 40-60% employee housing isn't going to be enough, look at Vail Resorts, they are only 50% staffed as of right now because they do not have enough employee housing to facilitate their company.

Mr. Mauriello: To address Council Member Burnett's question, the applicant is proposing The Willow Creek area and Gilman area as two sites for mass employee housing. The applicant's proposal is a minimum that can be adjusted.
Bill B: Within the first two years where are you going to house the employees building these employee housing units?
Mr. Mauriello: It will be the responsibility of the contractor not the applicant. It is the job of the contractor to supply the housing for their employees during the construction period and the applicant's responsibility to house the employees of the resort.

George B: The more the applicant presents I believe employee housing is one of the more pressing and concerning issues.
Tom S: The one thing the applicant has going for it is that they have the land to address the housing concerns.

George B: One concern with traffic is the time it will take to enter on to Main St. It will affect the quality of life here in the Town of Minturn. I think you may need to have a person out there directing traffic to allow people to access Main St. This will affect the quality of life for all parties involved including the Town's Citizens, contracted employees and resort employees.
Sarah Baker on behalf of the applicant: 1914 Beard Creek Tr.
The applicant has addressed Council Member Brodin's concern in our altered traffic mitigation plan handed to Council this evening. The applicant has dropped the estimated wait period to enter Main St. from a side St. from 5minutes to 2 minutes. We also have ideas of a traffic light but we will need to obtain the help of the Town because CDOT doesn't care for traffic lights on highways. CDOT is willing to meet with the Town on these issues.

Hawkeye: Regarding contractor and employee housing I think the applicant should consider 100% of employee housing so you are not behind in 20 years. Also take into consideration the housing for the employees to service the 1,700 units, not just the employees for the restaurants, retail shops and resorts.

Shelly B: I think we need to take into consideration moving some of the employee housing to Leadville and other surrounding areas. If the applicant provides 40% employee housing it is a good start but I think the applicant should look to provide more than that. But, I do believe that 100% is an unrealistic number as well.

Jerry B: A free market economy will drive the applicant to supply the housing to make sure the project and resort run well therefore they will have to increase employee housing to maintain the integrity of the project and resort.

Motion by Shelley B, and second by Bill 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 December 5, 2007 Council Meeting; *All voted in favor*

13. <u>Discussion/Action Item</u> – <u>A 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 nothing to add.

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 December 5, 2007 Council Meeting; *All voted in favor*

14. <u>Discussion/Action Item</u> - <u>A 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.

Motion by George B, second by Jerry 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 December 5, 2007 Town Council Meeting; *All voted in favor*.

15. <u>Discussion/Action Item</u> - <u>A 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.

Motion by Jerry B, second by Kelly B, 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 December 5, 2007 Council Meeting; *All voted in favor*.

NOTE: Kelly B. and Tom S. excused themselves

16. <u>Discussion/Action Item</u> – Consideration of Contract with Carter::Burgess for Engineering Services – Suiter (10min)

Gary S: Our current contract with Carter: Burgess expires next month. Upon review of the work orders with Rob S. we decided it was best to start over with a new contract, work

scopes and work orders. Town Attorney Allen Christensen has reviewed the contract and has no objections. If any contract negotiation between the Town and Carter::Burges is above $20k will bring it back to Council as stated in my contract . Staff recommends approval of the contract.

Hawkeye: Leland Consultants were subcontracted through Carter::Burgess this evening for a financial analysis, is this type of contracting efficient? Should we as a Town just contract companies instead of having one of our contractors subcontract another company?

Gary S: It depends on the situation. But the Town can require Carter::Burgess to obtain written permission prior to subcontracting any other company to deal with the Town's business via bringing it before Council. All sub outs from carter burgess will be discussed and approved.

Motion by George B, second by Bill B, to approve a Contract with Carter::Burgess for Engineering Services, a*ll voted in favor. (Note: Kelly B. and Tom S. were absent/excused).*

FUTURE AGENDA ITEMS

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

- Ginn Petitions for Annexation – Continued from: 11/19/07 – 12/5/07
- Public Hearing will be held for the following file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain – Continue from 11/19/07 – 12/5/07
- Public Hearing will be held for the following file PUD AZDM 06-01 (File #2) Amendment to Zone District Map – PUD Preliminary Development plan-Battle Mountain. – Continue from 11/19/07 –12/5/07
- Public Hearing will be held for the following file PUD PP 06-01 (File #3) Preliminary Subdivision Plat-Battle Mountain Planned Unit Development Preliminary Plan– Continue from Continue from 11/19/07 –12/5/07
- Resolution #17 Series 2007 - A Resolution Approving a Contract for Engineering Services with Carter::Burgess – 12/5/07
- Ordinance #20 Series – 2007 (Second Reading) – An Ordinance Creating a Supplemental Appropriation to the 2007 Town of Minturn Budget – Brunvand (10 Min) – 12/05/07
- Ordinance #21 Series – 2007 (Second Reading) – An Ordinance Setting the General Property Tax Mill Levy for the Town of Minturn 2008 – Brunvand (10 Min) – 12/05/07
- Ordinance #22 Series – 2007 (Second Reading) – An Ordinance Adopting the Fee Schedules for Fiscal Year 2008 for the Town of Minturn – Brunvand (10 Min) – 12/05/07
- Ordinance #23 Series – 2007 (Second Reading) – An Ordinance Adopting and Recognizing the Town of Minturn's 2008 Revenues and Expenses by Fund – Brunvand (10 Min) – 12/05/07
- Resolution 16 – Series 2007 – A Resolution Approving Land Use Application C.U. 07-03; Tory Enterprises – 12/5/07
- Work Session: Non-conforming Use – 12/5/07

18. Set Future Meeting Dates

a) Council Meetings
- December 5
- December 19
- January 2

b) Planning & Zoning Commission Meetings
- November 28
- December 12
- December 26

19. Adjournment

Motion by George B, second Jerry B, to adjourn the December 5, 2007 Town Council Meeting at 9:39pm; *All voted in favor(Note: Tom and Kelly were absent/excused).*

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk

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SEAL
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