



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

Wednesday December 19, 2007
Work Session – 5:00PM
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

Ginn Annexation Public Hearing Topics: Public Testimony and Applicant Response

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 – 5:00PM

- **Presentation and Discussion of Solid Waste Proposals from Waste Management and Vail Honeywagon – Suiter (30 Min)**

Regular Session – 5:30 PM

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye called the meeting to order at 5:30pm Those present included, Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner (*Note: Bill B. was absent/excused*)

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

EXECUTIVE SESSION

2. Minturn Town Council will convene into executive session: (90 Min)

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

Motion by Jerry B, second by Shelley 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, Anne Castle and Elizabeth Mitchell for the purpose of receiving legal advice on the Ginn PUD/Annexation; *all voted in favor (Note: Bill B. was absent/excused)*

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

Council direction to Town Staff and Attorneys is to continue negotiations with the applicant on the GINN PUD Annexation. Also to have them consider the water court stipulation and filing.

7:00 PM

STANDING ITEMS

4. Approval of Agenda (5 min).

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

Motion by Tom B, second by Shelley B, to approve the December 19, 2007 Council Meeting Agenda as presented; *all voted in favor (Note: Bill B. was absent/excused)*

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

- December 05, 2007

George B: Pg 21 item 11, Eco Transit decided to build a bus park in Leadville not Eagle.

Motion by Kelly B, second by George B , to approve the, December 5, 2007 Council Meeting Minutes as Amended ; *all voted in favor (Note: Bill B. was absent/excused)*

- Review/Comment – Council Action Report

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

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

Frank Lorenti: 1081 Main St.

I am here to address the Council regarding the Nuisance Ordinance. I have been working on getting some results on the Nuisance Ordinance for a year now. In 2005 Council spent money on a community survey asking the citizens what they thought was a top priority for the Council to address. Clean up garbage, clean up citizens yards, property value will go down if they do not clean up were some of the prominent comments. If we have a Nuisance Ordinance we need to enforce the Ordinance. Why has it never been enforced? When the community survey came out the Council stated their message came through loud and clear, but nothing has ever been done about it. I have filed a complaint and addressed Council regarding the Nuisance Ordinance. Council responded to my complaint in March and the Council was having Staff address my complaint. I have done an open records request regarding mitigation of the complaint and there is no paper work indicating anything has been done at this point. The law states the Town needs to state a date of compliance for a nuisance violation. My complaint has not been addressed in a timely manner and the planner does not have the right to add time to the date.

Let's enforce it or take out the Nuisance Ordinance out of the Municipal Code.

Hawkeye: We are addressing it and Chris is following up with your nuisance complaint. Chris has seen a major improvement on the property and things are in motion so he decided to extend the compliance date. Believe me it is getting done and I will follow through with it.

8. Discussion/action of Emergency Items, if necessary

9. Discussion Item - Town Administrator's Report (10 Min)

Gary S: I am looking to Council to award and enter into a contract for trash disposal and recycling proposals for the Town of Minturn we saw during the work session. Staff recommendation is to award the contract to Vail Honeywagon and approve it by motion.

For the audience we currently contract with Waste Management for our trash services and on a contract that has expired. We have had quite a bit of complaints with our current services and prior to resigning a contract I pursued proposals from two companies, Waste Management and Vail Honeywagon. The contract for the awarded company would be a 3 year contract. We have received proposals form both of them and Vail Honeywagon brought a sample bear resistant garbage can differing from the currents one and the examples is in the lobby. He then explained all the extras and costs for each proposal.

Shelley B: When would this service start?

Gary S: Vail honey wagon has to order the cans and they would have the cost reimbursed over the 3 year contract.

Matt S: We would try and get them out by February and start the contract at the beginning of February.

Motion by Tom S, second by George B, to approve and award a contract to Vail Honeywagon to service the Town of Minturn's Waste Disposal and Recycling Program.

Gary S: I received a complaint from Jackie Lovato of 471 Main St. She was concerned about RV's parking on Main St. for an extended period of time. Some residents of Minturn have a lot of cars and no parking for them so they move them around to be in compliance with Town and State Law. It is a habitual concern of Mrs. Lovato and others in the Community. I think her complaint is valid but I don't think her suggested resolution of reducing the amount of days someone can park on Main St. is the answer. It is going to be a long term problem with growth and we will have to continually address it.

Hawkeye: Are people allowed to live in their RV while parked on the side of the road?

Chief: We have an Ordinance which allows them to park for up 72 hours while occupying the RV and then they can get a permit from the Town to continue and the permit could be for up to 30 days.

Hawkeye: Is there a different law for parking compared to the abandoned vehicle laws.

Chief: There are differences but if a vehicle is considered to be impeding traffic, pedestrians and snow removal then they can be ticketed to move and if not compliant can be towed.

Gary S: If it becomes a problem then we can implement parking limitations in the code

Hawkeye: This is just rumor control around Town so everyone knows there isn't a 3 day limit to parking on the street.

Shelley B: I think the problem is that people in Town have too many cars, more than they have residential parking, so they are parking them on Main St. and moving them incrementally in order to get around the current prohibiting laws.

Chief Martinez: As the same of previous winters we are tagging these vehicles more often then normal to move them so we can continue snow removal.

Hawkeye: Comcast is removing public access channels 18 and 20 but channels 5 and 10 will be in operation.

10. Discussion Item - Town Council Comments (10 Min)

George B: The Eco board meeting discussed policy on service provided and impacts on the Minturn Market.

Hawkeye: I would just like to recognize Council Member Bill Burnett, tomorrow December 20, 2007 Bill will turn 87 years old. Happy Birthday Bill.

DISCUSSION, HEARINGS AND ACTION ITEMS

11. Discussion/Action Item – Consideration of Authorization for Water Court Stipulation and Filing –Castle (10 Min)

Anne Castle: Holland and Hart

She would like to address Council with two issues that were previously discussed during the Executive Session this evening.

1. Water court case filed by Avon in 2005; The Town of Avon is willing to add a stipulation to achieve our goals. We would like authorization to sign the stipulation.

Motion by Tom S, second by Shelley B, to authorize representatives of Holland and Hart to sign a stipulation in a water court case with the Town of Avon *all voted in favor (Note: Bill B. was absent/excused)*

2. Application for water rights to be filed on behalf of the town of Minturn. This will provide the town with water rights for growth in the future. We would like authorization to file the water rights application on behalf of the Town of Minturn.

Motion by Tom S, second by Shelley B, to authorize representatives of Holland and Hart to file an application for water rights on behalf of the Town of Minturn.

12. Discussion/Action Item – A 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 – Discussion Topics: Public Testimony followed by Applicant Response

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 19, 2007.

Tom S: He has had general questions from the public regarding the status of the public hearing and he stated to them that tonight would be the last of the verbal public testimony and encouraged them to attend.

Shelley B: No, she has not had contact with the public about the public hearings since the last public hearings.

Kelly B: No, she has not had contact with the public about the public hearings since the last public hearings.

Jerry B: No, he has not had contact with the public about the public hearings since the last public hearings.

George B: He has had general questions about where they are in the process and he encouraged them to attend the meeting.

Hawkeye: I received a written response from Ruth Born the Town Manager of Redcliff in response to the last public hearing our Council held.

Hawkeye: He then opened the public testimony portion of the public hearing for petitions for annexation.

David Many: 465 Spruce St. Redcliff CO: I am against the proposed annexation. The impact on Redcliff would be damaging for many reason. Having the employee housing right next to Redcliff would have negative effects on the Town. The road impact study done by the applicant doesn't include widening Turkey Creek and Willow Creak Rd. They are currently 14ft wide, a one lane road. Ginn wants to put all construction traffic through Redcliff on those roads. The additional 135 construction vehicles are unacceptable. Also the proposed 195ft. Icon building being constructed is terrible. There is also going to be light pollution from this project and no light pollution is one of the reasons I live in Redcliff. I don't think the Minturn Town Council has the right to make the choice to affect Redcliff and Minturn. This project needs to come to a public vote. I think the construction employees would come from out of state outsourcing and not from the local communities. I also think that Tom Sullivan needs to recuse himself considering he has done real estate deals with the developer.

Ellie Caryl of Eco Trails – 3289 Codey Mesa Rd Gypsum CO:

I am here to address the eco trail project which the town of Minturn is a partner in. Our funding comes from mass transit sales tax and it takes years to get the funds to build a section of the eco trail, which its goal is to connect the communities. We search other avenues for funding as well. We are encouraging the Town of Minturn, if the project is approved, to require the developer to fund/build the entire connection from Dowd Junction to Redcliff.

Hawkeye: Has the trail been designed.

Mrs. Caryl: We have picked out a possible route but there is no money for a design plan.

Brendan Olson - 298 Eagle St. Minturn CO:

I am here to urge the Council to send this to a referendum vote. We need to not lose this opportunity but it needs to come to a public vote. I also agree with a 35 acre per unit, it is a good idea to cut down on the density of the project. With the development coming in and

taxes being raised I don't want to be taxed out of this area, I love it here. I believe we need to keep Colorado wild.

Harry Taylor - Director of Transportation for Eagle County; 111 Wildhorse Gypsum CO:
I would like to have the Council and Staff to consider if the project is approved that local transportation be provided by the developer. The local transportation would benefit the community as well as region wide transportation. If you achieve local transportation you take away the reliability from the regional transportation therefore it would increase the overall efficiency.

David Johnson: Eco transit: I have provided Chris with the 2030 project and eco trails comments from the Ginn proposals. We are here to work with the Town to ensure the benefit of all parties involved.

John Bailey: 0006 Blue Grouse Eagle Colorado.

I support Minturn's desire to have the Ginn development provide the contiguous eco trail from Dowd Junction to Redcliff. The local community and surrounding communities would all benefit from this trail. Also it will mitigate traffic that will definitely increase with this project. I believe the Town should have the developer pay the full cost of the scope of the project. I also encourage a time line for all of this and to have the eco trails project started immediately.

Stuart Brummett - 421 Main St. Minturn CO:

I encourage the Council to consider this development. I want to make sure that we don't lose control of the project if it is approved, especially areas that are going to visually impact the Town. I want a policing agent, possibly the planning department to oversee the development. I suggest you put in a condition that they save the mine shaft building at Gilman; it is a huge historical site for people driving through. If it is not safe then put a fence around it and keep people out. Also, the trussel bridge off of Tigawan Rd. has a historical value and we need to keep it intact as well. Lastly, do we really need a 195ft building at the Bolts Lake Character area? Please take these all into consideration prior to voting on it. I encourage the Council to maintain the architectural uniqueness of the area as well as control of the development.

Jennie Hursey - 955 Red Sandstone Rd. A8 Vail CO.

I am here to discuss the eco trail from Dowd Junction to Redcliff. A public survey was taken and it states this is an improvement to the local community's quality of life. The survey results clearly states that having a contiguous trail that connects the communities will be beneficial to the quality of life and a traffic mitigation tactic.

David Clapp: 392 Taylor St.

I do look forward to having the Town ability to have access of a ski resort and golf course. These are my two favorite activities to do. But, I have a concern with the size of the building and the amount of buildings they propose to build. They haven't changed a thing since the beginning and I would like to see some other options. What is the optimal build out? This hasn't been addressed. I would like to see a cost analysis of 1 home per 35 acres, 2 homes per 35 acre and so on. Do what is best for the Town of Minturn.

Linda Osterberg - 1716 Main St. Minturn CO:

Ginn has a right to develop his land. He has a right to one unit to 35 acres. I don't think we have a concept of the full build out impacts on the Towns. I would like to see Mr. Ginn build the employee housing and eco trail first and then the remainder of the project.

Ruth Borne – Town Manager of Redcliff.

She submitted to the record a letter addressed to the Board of Minturn from the Board of Redcliff dated December 18, 2007.

We appreciate your consideration of the last 1,100 acres of annexation for the Battle Mountain Project. I would like to address the Council's concerns of what the benefits to Minturn would be if Redcliff was allowed to annex the remainder of 1,100 acres. The

Benefits to Minturn:

- Backup water support for safety and environment
- Less carbon output
- Utility sharing
- Minimize public service cost and management
- Mutual agreement on density and scope of development
- Quicker resolution to obtaining workforce housing
- Long term cooperation between communities

Benefits to Redcliff:

- More control over development impacts to Redcliff
- Opportunity to provide water service
- Back up water supply
- Shared utilities
- Better control of traffic impacts and ability to enforce mitigation
- Cooperation between communities

She then explained the conditions Redcliff would like to see in an agreement and proposed language between the two Towns regarding the possible second annexation.

We will continue to work together if the board doesn't agree to these conditions.

Conclusion: By appointing the proposed annexation language and/or the additional conditions language, Minturn retains its interest and control. And, the two communities can work in an atmosphere of mutual cooperation for economic vitality and quality of living.

Hawkeye: We are going to forego a response and review it with our attorneys and get back to those conditions with the public hearing and planning commission conditions.

Diana Seherr – 511 Main St. Minturn CO:

She thanked the Staff and Council for helping with this project and process and commended everyone for doing a great job.

My passions as a citizen are if they annexation goes through I think we need to continue ways to work with UP and eco transit for traffic mitigation. There is going to be a massive increase traffic coming through the Town of Minturn if the project is approved.

I am in support of the eco trail from Dowd Junction to Redcliff and delegating those finances and responsibilities to the developer. I am glad the developer brought in LEED Certification of green sustainable building to the table. Please consider the LEED Certification; it is a great way to develop. Let's be proud that this got built the right way.

Darren Tucholke - 530 Taylor St. Minturn CO:

I believe the project is going in the wrong direction. I think we need to limit the developer to 1 unit per 35 acres. We are wasting too much time and money on this project in my opinion. The size of this project is ridiculous. He read a local Eagle County survey of citizens that reflect their desire to keep things undeveloped in this area. I think this should come to a Town vote in the end. I don't think Tom should step down either and we can avoid that with a Town vote.

Katie Tuchoke - 530 Taylor St. Minturn CO:

I have a concern that the 1,700 doesn't include employee housing. The estimated number of employees would require another 170 units. I am for employee housing but that is quite a bit of extra units. The zoning should stay at 35 acres per unit. This needs to go to a Town vote. The Town voted on the proposed RV Park, why wouldn't we vote on this?

Chris Trigg – 304 Eagle St. Minturn CO:

I come with a proposal-task force for an environmental sustainability plan.

I am asking the Council to consider initiating an environmental sustainability plan. I have been a citizen for 20 years and I have concerns about the environment.

The developer has agreed to a LEED certification for their project. This is the top standard. This is the Town of Minturn's optimal time to adopt these LEED certifications and continue them throughout our Town.

Tim Parks – 236 Eagle St. Redcliff CO:

I still support this project for development of the Battle Mountain area. There are some negatives to this project. Change is a problem. People have left this area because of lack of economic development.

The changes include the public not having unrestricted access to someone else's private land. It will affect the flavors of both Towns but, it's the citizen's responsibility to control that change.

Traffic would be a huge issue but that is something we will have to deal with. The proposals they have given are pretty solid and good.

I envy Minturn because they went to your Town first. They would then go to Redcliff then Eagle County if Minturn didn't come to the table to take on this huge responsibility. Don't lose your chance to control this project.

The benefits are huge; the clean up of the superfund sites, economic stability, year round job opportunities. For the price of the land Mr. Ginn purchased we could have gotten a worse dirtball developer who wouldn't clean up the superfund site and would create as much employee housing. We are lucky to have a high class company come in here that can afford to help us out and clean up the area. This is a benefit for generations to come. I ask the Council to embrace this and bring it in close so you can control it. Say yes with a lot of conditions. If it comes to a Minturn vote then so be it.

Hawkeye: He closed the public testimony portion of the public hearing. He commended everyone for coming and being involved and respected everyone's opposing opinions.

APPLICANT RESPONSE:

Sarah Baker: given the time we will shorten our presentation with traffic and wildlife mitigation.

Dominic Mauriello:

Tonight's Agenda:

- Final Traffic plan
- Mountain access plans study
- Revised Wildlife mitigation plan
- Employee housing and PUD Guide will be postponed until the next meeting given time constraints.

We have had many meetings with Carter Burgess who presented to the applicant many concerns of the Town and Carter::Burgess with the traffic plans and we have ironed them out to where Carter::Burgess feels comfortable with our plans.

Traffic Management plans:

- Plans revised based on input from the Town Council and comments from Carter::Burgess
- Enforcement mechanisms simplified giving the town vast authority and options for enforcement including:
 - withholding building permits and TCO's,
 - red-tagging of improvements f
 - fines up to \$3k per violation
- Improvements plans clarified:
 - Town improvements required at beginning of project phasing
- Traffic monitored and reported real time

Hawkeye: Does this replace or add to the previous report?

Mr. Mauriello: Yes this replaces those old documents and Sarah will get you those redlined versions.

MOUNTAIN ACCESS (Mike Gamba – Gamba & Associates - 113 9th St. Glenwood Springs CO): -Preliminary Mountain Access Plans

The study evaluated hwy 24 from Gilman to Redcliff and focused on where to put an intersection. Given the geometrical grade we found that the highest peak of hwy 24 between Gilman and Redcliff would be the optimal area for the Battle Mountain access. We believe a round about entrance instead of a T – intersection would work best in this situation. The round about would create accident mitigation and is a safer type of intersection. The area we chose for the access point are close to low speed areas because of curves in the highway which will slow down traffic in anticipation for the round about. As well we are proposing raised medians at the entrance to each section of the round about for safety. We believe, because CDOT does not like roundabouts in urban highways, they would be fonder of a T-intersection. We have not come to agreement on that as of yet but we are working with them on it. He presented multiple T-intersections proposals and elaborated on the pros and cons of each. All Intersections proposed would accommodate large trucks and semi's on Hwy 24.

Tom S: How big is the retaining wall in that area right now?

Mr. Gamba: The smaller one is about 10-15 ft and another about 60ft. The maximum retaining wall height with the round about would be approximately 45ft. which would have

the lease amount of environmental disturbance. The T – intersections would require a maximum retaining wall of about 100ft. which would be tiered with landscaping.

Tom S: You are confident that CDOT would approve at least one of these?

Mr. Gamba: Yes. Also we wouldn't alter the road path but just widen it with the access lanes.

Tom S: Is this going to be the main entrance to Battle Mountain for construction vehicles

Mr. Gamba: To my knowledge this is the only access to Battle Mountain for construction vehicles.

Mr. Mauriello: For the record; someone stated they heard that Willow Creek Rd. would be an access for construction vehicles for Battle Mountain. It is written down and clearly stated that Willow Creek Rd. will remain as only an emergency access road, not for daily construction purposes.

Tom S: So in February we will have an idea of which type of access intersection you will be obtaining?

Mr. Gamba: Yes.

WILDLIFE MITIGATION PLAN - Status Update:

Bill Weber 156 RR Ave Minturn CO on behalf of the applicant:

He thanked the division of wildlife and Bill Andre for working with Ginn to create a wildlife mitigation plan that everyone will accept. We are very close to finalizing a plan. After education himself on the subject Ginn has decided to go with a mitigation fee as a transfer so it won't cost the Town of Minturn any money. This would be a cost of the developer and cap out at \$3.5 million

Bill Andre - Division of Wildlife:

We have worked diligently together and will be getting approvals from our respective authorities and write out a final draft. I expect we will be done by February.

Kelly B: Carter::Burgess had a laundry list of concerns and I was wondering if the applicant has addressed a lot of the list and where are we at in the process?

Mike Gill – Carter::Burgess: We have addressed the bulk of Council and Carter:: Burgess concerns with the applicant and we have a few lingering items to address at this point. We have been satisfied with the results thus far though.

Kelly B: How about the transit system for employees?

Mr. Gill: Right now there is a zero tolerance policy for exceeding the trip budget and they have to meet their 70% goal of transporting employees up the mountain. They will have to figure out how they want the transit system to run.

Kelly B: I would like to explore more information of private transit as opposed eco transit.

Mr. Weber: We are going to offer our own private transit system as well as extend this service to the citizens of Minturn.

Kelly B: I believe getting access to UP would benefit the traffic mitigation issues.

Mr. Weber: We are working well with UP and have had their Sr. associate from Omaha to come to us to meet on the issue. It was amazing and unfounded that they traveled to see us. We have another meeting soon.

Kelly B: I would like there to be no traffic on Sundays.

Mr. Mauriello: I know we would address the concerns for times like special events and discuss other traffic during the weekends as well.

Sarah Baker – On behalf of the applicant: We will address the Employee Housing concerns and PUD Guide summary and revisions at the next meeting because of time constraints at this one.

Motion by Shelley B, 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 January 3, 2007 Council Meeting; *all voted in favor (Note: Bill B. was absent/excused)*

13. Discussion/Action Item – A Public Hearing will be held for 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.

Arthur “Boots” Ferguson: 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 the public hearing on PUD PDP 06-01 (File #1).

Hawkeye: He closed the public testimony on this public hearing.

Bennett Raily – 6573 S. Heritage Rd. Centennial CO – Outside council on behalf of the applicant.

To attain a water right you have to manifest your intent publicly. Traditionally you would post signs stating the point of diversion or place of storage. We have worked through our planning process and the water supply component of it we realized that some of the facilities we filed on at the end of 2006 and needed to state how the water would be diverted into those structures. So, today posted signs and filed in the water court an application for enlarged reservoirs in some locations and in cross creek a number of points of diversion that could fill particular reservoir. We have also informed the Town of Redcliff and the School District of our intentions to ensure everyone was on the same page.

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 January 3, 2007 Council Meeting; *all voted in favor (Note: Bill B. was absent/excused)*

14. Discussion/Action Item - A Public Hearing will be held for 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.

Arthur “Boots” Ferguson: 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 the public hearing on PUD AZDM 06-01 (File #2).

Hawkeye: He then closed the public testimony portion in this public hearing.

Ms. Baker: The applicant has nothing further to add

Motion by Kelly B, second by Shelley 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 January 3, 2007 Town Council Meeting; *all voted in favor (Note: Bill B. was absent/excused)*

15. Discussion/Action Item - A Public Hearing will be held for 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.

Arthur “Boots” Ferguson: 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 the public hearing on PUD PP 06-01 (File #3).

Hawkeye: He then closed the public testimony portion of this public hearing.

Ms. Baker: The applicant has nothing to add to the public hearing.

Motion by Kelly B, second by Shelley 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 January 3, 2007 Council Meeting; *all voted in favor (Note: Bill B. was absent/excused)*

16. Discussion/Action Item – Discussion with Planning Commission Chairman Regarding Potential Conflict of Interest – Christensen (10 Min)

Allen C: I believe this is on the agenda because of a letter the Town received from Mr. Boyd's attorney. It was heard that it was requested by the Planning Commission Chair for ERWSD sue the Town of Minturn regarding water easement issues. That is not the case, we have the recordings, we have reviewed them and at no point does it even come close to the Planning Commission Chair state he wanted ERWSD to sue the Town of Minturn.

Hawkeye: The Council has heard that you have violated to judicial process that you have discussed applications out side the forum.

Woody Woodruff: I take my job on the Planning Commission very seriously. This incident was concerning the easement through Mr. Boyd's property. I went to the ERWSD meeting and mentioned I was a part of the Planning Commission for the Town of Minturn and that I recused myself from all hearings on this issue. I have spoken to Chris as a citizen of Minturn on the issue. I wanted to know what the ERWSD board was going to do regarding this water easement issue. The ERWSD had mentioned that they thought of suing the Town of Minturn but had decided not to. I mentioned that the Town has a major easement issue and that its not the Towns problem and that ERWSD will have to deal with it. I addressed the ERWSD board as a citizen and business person and land owner within the town.

Shelley B: I would like to state that Michael Boyd gave me a copy of the meeting from the Planning Commission. Did anyone else get this?

Woody W: I know what this is about. It is the interpretation of the code that we are asked to look at. This isn't the bible it is an always changing code. We were addressing the river setbacks and what we would like to see in the code and we discussed his property as an example as what can and does need to happen on the river setback. We also talked about other properties as well. That hat is the Planning Commissions job, to find out what is wrong and make it right by the code. We were attempting to figure out what we thoughts the setbacks should be in the code.

Jerry B: I think this goes back further then this instance. At this point the Planning Commission didn't have an application in front of them before they had a discussion about the application. This sounds like it created a predetermined decision on this application. He then recited a previous Mr. Boyd application. Mr. Boyd got approval prior to going through the Planning Commission for approval. You took it upon yourself to go to the Town Manager regarding a Town employee and a decision that was made that affected your property as well.

This seems like a pattern and you have a right as a citizen to express your concerns in the Town but when you use your power as being on the Chair on the Planning Commission is over stepping your boundaries. You cannot use your position to persuade situations and issues in the Town.

Woody W: I did not go to the Town Manager about personnel I went there regarding procedures. The Town Staff over stepped the Planning Commission's procedures for approval and gave a permit to Mr. Boyd that should have never been approved. Wiley gave the permit without giving any information to anyone on the Planning Commission. I want to work with the Council on all issues that the Town faces.

Hawkeye: Discussing Mr. Boyd's property 2 weeks prior to the hearing was a poor choice, and poor timing/judgment. It is not illegal because there wasn't an application in front of you but you may want to think about that before you lead a Commission discussion.

Woody W: You are right. I will take that into consideration the next time this situation comes up.

17. Discussion/Action Item – Proposed Additional Council Meeting in January and February – Christensen (10 Min)

- January 30, 2008
- February 13, 2008

FUTURE AGENDA ITEMS

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

- Ginn Petitions for Annexation – Continued from: 12/5/07 – 12/19/07
- 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: 12/5/07 – 12/19/07
- 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: 12/5/07 – 12/19/07
- 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: 12/5/07 – 12/19/07

19. Set Future Meeting Dates

a) Council Meetings

- January 3
- January 16
- February 6

b) Planning & Zoning Commission Meetings

- December 26
- January 9
- January 23

c) Other

22. Adjournment

Motion by George B, second Shelley B, to adjourn the December 19, 2007 Town Council Meeting at 10:44PM; *all voted in favor (Note: Bill B. was absent/excused)*


Hawkeye Flaherty, Mayor

ATTEST:


Jay Brunvand, Town Clerk

