



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

Wednesday, August 1, 2007

Regular Session – 5:45 PM

MAYOR - Gordon “Hawkeye” Flaherty

Interim Town Administrator – Gary Suiter

MAYOR PRO TEM – George Brodin

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

Regular Session – 5:45 PM

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 5:50pm. Roll call: Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Bill Burnett, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner

Staff present was, Town Planner Chris Cerimele, Town Treasurer Jay Brunvand, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova, Economic Development Director Ashley King and Assistant to Town Manager 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 and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation
- Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(e) to consult with Town Attorney Allen Christensen for the purpose of discussing a contract as relates to the Minturn Interim Town Manger. To discuss legal advice regarding advice to the Town Council on appointing Planning Commission members. And to update the Council on the Invest in Yourself, LLC v. Minturn legal case

Motion by Shelley 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, Elizabeth Mitchell, and Anne Castle for the purpose of receiving legal advice on the Ginn Annexation/PUD and Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(e) to consult with Town Attorney Allen Christensen for the purpose of discussing a contract as it relates to the Minturn Interim Town Manger.

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

Direction to the Attorneys is to continue the Ginn Annexation negotiations and update Town Council accordingly.

4. Approval of Agenda (5 min).

- a. Items to be pulled from Action Calendar
- b. Items to be pulled from the Discussion Calendar
- c. Items to be pulled from the Consent Calendar
- d. Items to be added
- e. Order of the Agenda Items
- f. Approval of the agenda

Motion by Jerry B, second by George B, to amend the August 1, 2007 Town Council Agenda by adding to the emergency item section 8a Resolution No. 11 – A Resolution concerning banking practices for the Town of Minturn and 8b Ordinance No. 15 – An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Brown and Caldwell, Inc. for professional engineering services.

Motion by Shelley B, second by Bill B, to approve the August 1, 2007 Council Meeting Agenda as amended. *All Voted in Favor*

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

- July 17, 2007 - Special Council Meeting
Arthor “Boots” Ferguson was not in attendance at the Special Council Meeting

Motion by George B, second by Hawkeye, to approve the July 17, 2007 Special Council Meeting Minutes as amended. *(Note: Kelly B. Bill B. abstained because they did not attend).*

- July 18, 2007

George B: On page 18 it should read CDOT not UP agrees with your mitigation plan.

Shelley B: On page 12 it should state that the Cowboy Poetry is on September 22, 2007 not September 2, 2007.

Motion by Jerry B, second by George B, to approve the July 18, 2007 Council Meeting Minutes as amended. *All Voted in Favor (Note: Kelly abstained)*

- 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

8. Discussion/action of Emergency Items, if necessary

8a. Resolution 11 Series – 2007 A Resolution concerning banking practices for the Town of Minturn

Motion by Bill B, second by George B, to approve Resolution 11 Series - 2007 A Resolution concerning banking practices for the Town of Minturn.

8b. Ordinance No. 15 – Series 2007 An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Brown and Caldwell, Inc. for professional engineering services.

Motion by George B, second by Shelley B, to approve Ordinance No. 15 Series – 2007 An Ordinance authorizing the Mayor of the Town of Minturn to sign an agreement with Brown and Caldwell, Inc. for professional engineering services.

STAFF REPORTS AND OTHER ITEMS

9. Reports/Correspondence/Announcements/New Business (10 Min)

a. Economic Development Director

Ashley K: Her Staff Report is on page 30 and she would like to inform everyone that the Missoula Children's Theater will be on Saturday @ 11am and 3pm at little beach park. There are about 30 children in the show including Council Member Tom Sullivan's kids. That is all she had to add and she was open for questions.

George B: How is Bills book coming along?

Ashley K: We are about a week out from printing, they are getting the bar codes and other last minute things ready and then we will be ready to start selling them.

Jerry B: Bill was made an offer by me to buy the 1st book for \$100 and donate the funding to Little Beach Park. That will be the only one he will sign. If anyone wants to buy it from me they can start the bidding.

George B: What is the title of the book?

Ashley: Minturn Memoirs.

Kelly B: I have concerns that there needs to be a lot worked out with the Minturn Market, it seems like there have been some problems.

Ashley K: Problematic aspects of the Minturn Market will be addressed. We need to look at the future and build on the past. I would like to say that Jerry B is a star volunteer. Thank you for helping out.

Hawkeye: Have you had a chance to meet with Darla regarding a kiosk?

Ashley K: I think she is looking for more directional signs than a kiosk. I have been working with a company in Denver regarding directional signs.

b. Public Works

Rod C: He had no report but he was open for questions.

George B: You did a good job patching up Main Street.

Kelley B: There is a new bathroom at Little Beach Park that will need to get on the Public Works schedule for maintenance.

Rod C: They are locked and we will need to find a key in order access them

Hawkeye: Has Jonnies Gardens been able to work on the Park on Eagle Street?

Rod C: They are looking at getting it taken care of. They want to get it too the point were they are satisfied with it so they can take credit for it. They have signed the area stating it is their responsibility.

Hawkeye: Are you working on getting rid of that puddle because it is really trashing the road?

Roc C: We have looked at it and it is uphill towards the river, if you want to go in and trench it we could do that. That would require passing irrigation lines and other objects. We looked at doing what we did on the North end but we would have to eliminate those sprinkler heads.

Hawkeye: Thanks for patching all the pot holes in town you did a good job.

c. Police

Chief: Report is on pg 32 and open for questions.

Jerry B: Business license for a vendor delivery. If we require everyone to do so? We are off skew on this thing.

Shelley B: I agree, there are a lot that come through here and deliver. We can't expect everyone to do. They already have a license at their home town.

Chief: Our involvement is requested by town manager and town staff.

Jerry B: We need to think about addressing this.

Shelley B: You are saying budget should and deep rock shouldn't

Tom S: Budget won't pay for theirs.

Jerry B: we need to address this at a later date.

Chief: Western slope is compliant and Budget has not complied yet.

Shelley B: We need to look at this and review to give them their money back.

Jay B: Western slope sells on board, peddler. If they are going to deliver and you change the order they are selling it on site.

d. Treasurer/Clerk

Jay B: Hi report is on page 34 and he was open for question.

Jerry B: How are the phone shut off hours going?

Jay B: We are in the process of implementing it and waiting for everyone to obtain the 3 digit phone extensions.

Hawkeye: Thank you for filling in, you did a fine job.

e. Town Planner

Chris C: His report is on page 38. A few things that didn't make it on to my report; An issue came up that we don't have a variance officer which makes it hard to decide on variances.

The person hearing these variances is not a municipal employee or elected official. My recommendation would be to repeal the code and have the Planning Commission review the variances and make recommendations to the Council on their findings and the Council will have the final say on the variance. That is how the Town of Vail reviews variance. Gypsum give their Planning Commission the final say on variances, the same with Avon and Eagle. I am looking for direction to change the code to have an elected officials review the variance.

Hawkeye: As the code reads now a Staff member or Elected Official cannot review the variances?

Chris C: That is correct.

Tom S: I think we should go back to the old way, Shelley B: I agree.

Hawkeye: Ok

Chris C: I finally received the ILC from C & B development. They have a transformer in the Taylor Street right of way, it is a major problem. A condition was they were suppose to build a sidewalk in front of buildings A B C, they have built in front of B C but there is a high pressure gas line in front of A. The developer would like to come in front of Council as a work session and discuss the side walk.

Tom S: I remember one thing we talked about was the Lions Lane right of way that we sold them with the condition that there was suppose to be an easement there and no retaining walls. There seems like there are all sorts of retaining walls in that location. I think we should have the fire department take a look at his as well because their driveways and retaining walls have changed from their proposal.

Chris C: They did submit a parking plan area and storage. I am reviewing it right now.

Hawkeye: Since we are the hearing body for approval of this project they will have to work it out with you and you present it to us and we approve it.

Chris C: The transformer needs to be moved and the side walks were a condition.

Tom S: Everything can be fixed, it just costs money. They can pay for it.

Hawkeye: I agree with tom

Chris C: I will work with them on it. Another item is the Old Town Hall site. There is the possibility of affordable housing. Chief contacted a company for pre-fabricated housing, and it seems like a feasible concept.

Shelley B: Is there room to do a ground floor area like a Senior Center and on the top put affordable apartments for employee housing.

Tom S: Nothing is going to be done this season. We don't want to be in the position to sell our land. A lot of thought needs to go into this property.

Shelley B: I just think we need to go through all options before we take any action.

Hawkeye: We need to have the community comment on what they want to see in that done on that property.

Tom S: Let's sod it for now and do what we said we would do, then move on from there.

f. Carter – Burgess

Rob Singer – 707 17th Street, Denver: Their Staff Report is on page 50.

There are items in the Staff Report that deal with the water loss and audit report from last council update. Are there any questions?

Hawkeye: Are there any plans to fix the identified water leaks?

Rob S: Yes, we are looking on further testing for leaks and the leaks identified up by the Tank. We are prioritizing the areas inflicting the most impact first.

Hawkeye: Is the tank leaking or are the lines leaking?

Rob S: We believe it is a combination of both. But I don't think that is the primary cause of the Town's water loss. We believe it stems mainly from service connections.

Hawkeye: What are we doing about the meters that don't work?

Rob S: We are getting a report together we are going to send out to the community.

The next item is the South Main sidewalk project. This project is time sensitive. We have received very high bids, higher than we expected and the lowest was \$650,000. We have been looking on ways to cut costs and get those numbers down and the number is now at about \$530,000. We are looking for direction on this issue. We need to know if we need to either enter into a contract, look into reducing it by changing it or looking into more bids.

George B: If we started out at Cemetery Bridge where would we run out of money?

Rob S: How much money?

George B: Let's say \$100,000.

Rob S: About 50 ft.

Matt Hoover - Carter burgess – 707 17th Street, Denver: We looked at Cemetery Bridge to the first house and that runs about \$195, 000-\$200,000.

Bill B: If we don't have enough money I don't think we should follow through with it.

Hawkeye: Should we obtain bids from Denver based companies?

Bill B: How much money do we have for this project?

Jay B: About \$160,00 from Lafarge and Grants. The rest would come out of the fund balance.

Hawkeye: I don't think we should tap into the fund balance.

Tom S: I suggest we wait for the Ginn project and if it passes we could include that as a condition.

Shelley B: I say we delay the project.

Kelly B: I agree that we should delay it.

Jerry B: Delay the project.

Hawkeye: Will CDOT take the Grant back if we delay the project.

Rob S: I am not sure but I can find that information out for the Council.

One other item is the Old Town Hall property. We have a bid and we would like to have direction on the bid to either enter a contract or wait.

Shelley B: That is what we said we would do so we should do it.

Hawkeye: We should hold a sod party to cut down on the Town's labor costs.

Motion by George B, second by Bill B, to approve appropriating funds to continue with the Old Town Hall project but not to exceed \$25k

g. Town Attorney

h. Town Manager

i. Town Council

ECO approved a \$70,000 Grant for the proposed trail.

DISCUSSION, HEARINGS AND ACTION ITEMS

10 Discussion/Action Item - Resolution 10 - Series 2007 - A Resolution Appointing Gary Suiter as The Town Of Minturn's Interim Town Administrator.

Motion by Shelley B, second by Tom S, to approve Resolution 10 - Series 2007 - A Resolution Appointing Gary Suiter as The Town Of Minturn's Interim Town Administrator.
All Voted in Favor

11. Discussion/Action Item - Eagle County Commissioner Arn Menconi - Minturn support for Early Childhood Education in Eagle County

Kate Forinash – Eagle County Health and Human Services:

The Bright Start and early childhood Council has a history of 2 years. The Commissioners approved a study to assess the needs for early childhood development. They studied the current capacity of each area. After the study and finding the needs we began a plan to address those needs. We are looking for support from people who believe that children have the right to be born healthy and to succeed or for parents who are overwhelmed with everything going on or for older children who are experiencing an achievement gap. All of these needs addressed require a program like this. Everyone needs child care whether if they have a job or if they need to go somewhere. Economics play into the needs of families as well. There are a lot of reasons why early childhood is important. Your hand out explains the gaps and services regarding middle class and children with learning disabilities. Four community connections we are looking at are Early Care and Learning, Health and Safety, Social and Emotional Development and Family Support. The handout explains the gaps and services in child care and amplifies the families at risk

The entire amount for the first year of proposal is \$1.5 million dollars. The County Commissioners stated that this should be a community endeavor and challenged the Bright Start/Early Childhood Council go out and raise \$350,000. We are on our way and have submitted applications for funding. The County has instituted a program to match the community funding raising effort to reach the goal of 1.5 million dollars. We would like your participation in this program because this cannot happen with the work of just one organization. We would be able to address the needs of the families in our community and the needs of their children. We would like to work with the Town of Minturn regarding early child hood and we will be working with Poo Corner on facility improvements that they need to have in order to address the needs of the children and the community.

We will begin to train and recruit licensed family child care homes through out the County to address the needs of those communities. With local community support we can achieve the goals set out and address the needs of the local communities in child care.

Shelley B: We already have the head start and early head start and how does this program aid those.

Mrs. Forinash: They both don't have enough room to address the needs of the number of families. Also, they take only the most needed and not the ones who aren't as bad off. We will add to those programs by addressing the families early on to address disabilities or developmental issues. Our program will be more cost efficient. We are trying to address the

problem before it gets too bad. It involves the County and School District the hospital and Colorado West Mental Health.

Shelley B: It seems like a lot of the funding goes to people that are not U.S. citizens. They don't have an immigration status in the United States. Why should we allow our tax payers to fund programs with non- U.S. citizens?

Mrs. Forinash: All the funding we will have will be limited by State and Federal Statutes and have safe guards to address questionable funding. Life threatening issues will not be questioned. For example; exempted prenatal care and immunizations because they are life threatening.

Shelley B: What is the federal poverty level? The income level here is way above the national level. Even though we are above the poverty level people are still struggling to make it up here. How are you establishing the poverty level?

Mrs. Forinash: There is a national poverty level based off all of the lower 48 States and that is what we are basing ours off of. We recognize all families will need help. We are working on a fee sliding schedule. We are looking at State and Federal programs to aid families in need. We are looking at affordability grants to hold down the costs for all families. The grants will be delegated to the provider and the provider will be able to assess which family should be eligible for the grants.

We will address the outcomes and results and adapt on what we have observed. We will expand on the things that have impact and the ones that don't we will not continue those.

Shelley B: How are we going to fund the program after the first year?

Mrs. Forinash: The commissioners can only fund the first year and we have set up a 5 year plan and address this with the commissioners annually.

Pete Buckley - Eagle County Tax Payer:

The last time I was here with Tom Stone asking the Town Of Minturn to not support the increase of the Eagle County Government. We noticed that Minturn did not support the Home Rule which in effect affected the size of the Eagle County Government and in my opinion in a smaller government we all pay less taxes.

Working families were asked to increase the amount of taxes we pay. Now working families are being asked to support this early child care in effect to aid Arn Menconies personal agenda which we said no to in November. This is in addition to the current taxes we pay. With the excessive spending of Arn Menconi the County is attempting a recall vote as I am sure you are aware of. The County Commissioners stated they were concerned about our cost of living and affordable housing the items they have passed have only increased the cost of housing. This program wants even more tax money. Aren't we matching our own money when they ask the citizens to match the counties money?

I appreciate how conservative Minturn is with their money. I believe donations like this need to be from the private sector not the public sector.

12. Discussion/Action Item - Public Hearing on CU 07-04; Hi Cranes, Inc Conditional Use - Cerimele (15 Min)

Chris C: I recommend that this CU be tabled, the applicant hasn't heard back from Union Pacific (UP) yet. I recommend the Council tables this CU to the August 15, 2007 Town Council Meeting.

Motion by Tom S, second by George B, to table CU 07-04; Hi Cranes, Inc Conditional Use until the August 15, 2007 Town Council Meeting. *All Voted in Favor*

**13. Discussion/Action Item - Public Hearing on CU 07-02; Lawrence Chadwick
Construction Conditional Use - Cerimele (15 Min)**

Chris C: Mr. Chadwick would like to obtain a CU for his construction vehicle storage lot. All the requirements have been met. Planning Commission has approved the CU. Mr. Chadwick agreed to the conditions set forth by the Planning Commission but he needed a change, the vehicles needed to be started before 7am in the winter which is outside of business working hours.

Hawkeye: He opened the public hearing on cu 07-02

He then explained the process of the hearing: 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.

Lawrence Chadwick: I am here to obtain a CU on the land I have leased for the past 31 years in order for construction and vehicle storage.

Hawkeye: You aren't planning on changing any procedures that you have in the past 31 years.

Mr. Chadwick: Moving sometime soon, that's about it.

Rod Cordova: I would like to compliment Mr. Chadwick for his help with the Town and cooperation in the water leak fix on his property.

Chadwick: Thank you.

Hawkeye: Has anyone on the Council had contact with the public on the issue?

Bill B, Tom S, Shelley B, Kelly B, Jerry B, George B. and Hawkeye all stated they had not had any contact with the public regarding this issue.

Hawkeye: Then closed the public hearing after asking if there were any more public comments on the issue.

Hawkeye: He thanked Lawrence for everything that he has done for the Town.

Motion by George B, second by Tom S, to approve CU 07-02; Lawrence Chadwick
Construction Conditional Use. *All Voted in Favor*

14. Discussion/Action Item - 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.

Hawkeye: He 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 July, 18 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 on July 18, 2007.

Tom S: I spoke to former Planning Commissioner Jim Brinkerhoff and asked if Council has discussed the plans of the project yet and I told him no.

Shelley B: People have mentioned to me that the Town is doing a good job with the process of reviewing this project. Also, a Red Cliff resident asked when the public comment period would start. My daughter also asked me about it, she is the one who has written letters.

George B: No

Hawkeye: Employee from Eagle County who passed their new proposed 30% employee housing requirements have asked questions about the project.

A lady from Vail stated she believes its in Minturn's best interest to annex the land. Also, a young lady from Minturn stated the Council should put this to a vote by the people. He advised them to come to the public hearing and pass that information on for the record.

Jerry B: No, Bill B: No, Kelley B: No.

Hawkeye: He then asked the Planning Director if there was further information to be added to the public.

Chris C: I have nothing to add.

Rob Singer - Carter Burgess (707 17th Street, Denver) representing Town Of Minturn.

Mike Gill - Carter Burgess - 707 17th St. Denver

Rob S: This is the first of a series of presentations Carter and Burgess will be conducting.. This presentation will focus on traffic upon request of Council. This presentation will mimic the proceeding presentations so if there is anything the Council would like done differently in the presentations please let us know.

Presentation Outline:

- Submitted traffic information by the Applicant
 - Criteria for review
 - Results of traffic review
 - Where we are at
1. What has been submitted: A traffic impact analysis that went out to various referral agencies such as Carter Burgess, Colorado Division of Wildlife, CDOT Eagle County Community Development, Town of Red Cliff, Town of Vail and Eagle County for review. There are responses to those studies by the reviewed agencies. The applicant also presented their proposal to the Planning Commission and the Planning and Zoning Department. Included in the submitted information were the construction frameworks, Town improvement frameworks and the resort frameworks. They have also presented to the Town Council.
 2. Review criteria - The questions asked while reviewing the traffic proposal were:
 - a. Does the applicant's submittal meet the MMC requirements? According to the MMC 16-20.4(2)(h) the applicant's submitted information meets the written requirements of the MMC. They have also addressed alternative transportation.
 - b. Does it meet Federal, State and industry standards? Based on requirements from agencies involved and Carter Burgesses review and the assumptions presented by the applicant the criteria does meet the required standards.

- c. Have they addressed Staff, Council and referral agencies comments? At this point the applicant has addressed the concerns of the Staff and all other agencies involved.
 - d. Have the Planning Commissions requirements been met? Conditions required by the Planning Commission have been addressed in their submitted information.
 - e. Are the Town Council's requirements being addressed? Upon the request of the Council the applicant is working to obtain the information the Council is seeking for the traffic mitigation plan.
3. Results of Traffic Review: There are though some important points to consider regarding the results of this review. At this point with current traffic through Minturn road function and level of service and acceptable to CDOT. There is a 30 second average wait to enter from side streets. Details of their traffic plan may be acceptable to one person but not another. There will be an increase of traffic through the Town Of Minturn with or without battle mountain development. Restricted traffic vs. Unrestricted traffic, restricted creates less traffic.
- The Town Of Minturn is currently having traffic problems during the two peak times. More development in this area will equal more traffic and creating more problems during those peak times. It is difficult to visualize what more traffic really means to the Town Of Minturn so Mike created a visual.

Mr. Gill: We have created a visual representation of what traffic looks like now in the Town Of Minturn and what the traffic may look like with the Battle Mountain Project. We will show morning, morning peak, regular and evening peak. As presented on this animated visual, drivers are currently waiting on the S curve entering into Town. The side street drivers are waiting, at most times but sometimes they are able to hit a gap created by the S-Curve, about an average of 30 seconds. These problems are being created currently at a level B service.

Future Traffic with no changes to roadway: This will create fewer gaps for vehicles to exit onto Main St. from a side street. The average time to wait for side street exits will increase to about 1 minute of wait time. This increased traffic represents a C and D level of service. Incorporated into the Oz Architect CIP proposal we made a simulation with a traffic signal at Cemetery Bridge to increase gaps. We also simulated a traffic signal at the bridge on the North side of Main St. by the S curve creating a gap for side street traffic attempting to enter Main St. The traffic signal can identify pulses in traffic and adjust accordingly to the increase or decrease of traffic. With traffic lights you will create delays on both ends of Main St. creating traffic gaps and decreasing delays for side street entries.

Questions to consider:

1. Was it done in an appropriate manner? If the assumptions to generate the data are correct, Yes. It's a generally accepted practice. Are their assumptions correct? Yes but with qualifications. The nature of the development and the assumptions are plausible. The applicant submitted information that supports the trip generation. The assumptions are acceptable with the proposed enforcement mechanisms in place. This is also a subject of debate. Carter Burgess believes these are plausible given the information but with conditions.
2. What are the assurances with the town: Trip budget, committed physical improvements to existing roadway (bulb outs) and enforcement mechanisms that are a part of the frame work and traffic management will help out no matter what. Currently we are under negotiations on what the consequences are when they go over their trip budget. Most

proposals of this manner don't go into such detail so we believe they are confident with their numbers.

3. Is the applicant contributing to the existing traffic problems? The off peak hours create a more available capacity for traffic than peak hours. The incremental negative impact to the roadway is much greater during the peak hours than during non-peak hours. Any physical improvements to address peak hour problems will have a positive effect on traffic. If they span their work shift change hours and working hours to non-peak hours it will limit the traffic during peak hours and create steady traffic through more of the day instead of traffic jams.
4. Has the applicant addressed agencies concerns: Action Items: Only Minturn and CDOT have jurisdictional authority over traffic mitigation, traffic plans and traffic alterations. CDOT comments and concerns will be addressed during the access-permit review. To date, Carter Burgess comments have been addressed for the PDP. The Planning Commission requirements have not been fully address but they need to be prior to the final development plan and Town Council's comments are on going throughout this public hearing process.
5. What the applicant still needs to provide: Revised traffic impact analysis based on comments. Applicant attempts to acquire no further action letters from referral agencies where appropriate. Town and applicant negotiate and enforcement mechanism. Applicant provides: town traffic improvement plan. Constructions traffic management plan. Resort/guest and employees traffic management plan. Timeline for physical improvements to roadway. Applicant continues to explore rail access. And, address all Council requirements.

Kelly B: can we get these presentations in advance to the meetings? What information has not been presented?

Rob S: Sure, I mean we basically just went over in the actions items that were addressed before.

Hawkeye: When are we going to get this information you just outlined that the applicant needs to submit?

Rob S: That is a question for the applicant.

Kelly B: Will the applicant need to obtain comments again from the referral agencies once they get the new traffic plan?

Rob S: No, that is up to the Council's if they would like more referral agencies to look at the revised plans.

Kelly B: We still have questions on how many employees will come and other aspects of the project. I have concerns about the applicant's assumptions.

Rob S: We can spend another presentation on the applicant's assumption. The applicant can also address those concerns. They will know their own numbers better than us. We feel good about this plan. Carter Burgess wouldn't feel comfortable without a safety net. With the numbers they have given us we believe the project proposal plausible.

Kelly B: I would like several referral agencies look at this again, there are many more aspects that will affect this that hasn't been looked at and addressed. Also, there is no information on long term impacts.

Rob S: It makes a difference if Council wants to see it all now.

Tom S: when Will we obtain the information?

Dominic Mauriello – On behalf of the Applicant: We will have the revised traffic plans probably at the next meeting. Usually they will be with the final plat.

George B: I would like to see more information regarding sound impacts from the traffic. We need this information before we come to an agreement.

Mr. Mauriello: We will address it. I remember this concern from our last traffic presentation.

Kelly B: There is a problem with how we are analyzing the Traffic. Experts are addressing everything and we need a specialist in traffic. We don't have that right now. We need them to negotiate the plans. I am not seeing a lot of detail.

Rob S: The reason we don't see a reason why we need another consultant on this is because carter and burgess is a traffic firm. If you are not happy with what we have done then we can address that.

Mr. Gill: We are using Ginn's assumptions and analyzing their data before we present our reviews. We are going off of their information because they have a better grasp of what the project entails. As for the road and Minturn's location we are in a boxed in area so widening the road is not feasible but alternative transportation is.

Tom S: Do you feel comfortable stating you can get the information to us by the next meeting?

Rob S: I think two meeting out is a safer bet. We will make recommendations once we get the information from the applicant.

Kelly B: Are the P and Z conditions going to be addressed?

Rob S: They will be addressed before the final development plan. If you want them before that then we can address it. If the applicant says they will follow the conditions then they will have it with the final plan.

Mr. Mauriello:

Introduction to the Battle Mountain Presentation:

House Keeping: Open space question from Shelley – 75% Of the space is open space. He presented a graph of the breakdown

- 45% - native areas 1,946 acres
- 24% ski terrain 1,560 acres
- 5.5% golf 243 acres
- 2.5% greenway and paths 108 acres
- 20% developed areas 859 acres
- 3% right of ways. 128 acres.

Wildlife Overview:

Lisa Sacata - 362 N. Chipmunk Circle, Silverthorne.

Ginn property in total is 5,400 Acres

The land is mainly undeveloped with the native lands succeeding since the mining days. Ginn has conducted a variety of surveys on its properties. A lot of them are required for this process. Ginn's approach to understanding wildlife concerns is to research and review existing database and empirical evidence of relevant species and see what is required by Federal Law. Ginn will use multi year, multi season research by biologists and ascertain the wildlife presence and use of the property. The MMC requires and Environmental Impact Report (EIR) as well as compliance with State and Federal law. No Colorado endangered species act. Federal ESA of 1973. Most have been addressed and others being prepared. There have been studies conducted and reports prepared to address wildlife values and issues. The Town Of Minturn's RMES Wildlife Assessment, EIR, Supplement to the EIR and Wildlife Mitigation and Enhancement Plan have all been addressed. Ginn will also address

the concerns of the United States Forest and Wildlife Service (USFWS) regarding habitat conservation plans and Environmental Impact Statement (EIS), the Canadian Lynx as well as other wildlife and mitigation measures to minimize any impacts the project may have.

Focal Wildlife Values and issues.

Ginn addressed a variety of plant and animal species but they focused their project design mainly referrals by agency comments and federal requirements. These are Elk, Peregrine Falcons and Canada Lynx. But the needs of other species will be met as well

Elk: Elk are not State or Federally listed but are a great asset. 4753 acres of the property have been identified as movement corridors. Surveys indicate Elk activity in portions of the property but there haven't been any identified calving areas.

Peregrine Falcon: It has been de-listed Federally protected in 1999 but still is listed as a concern for the State. The located areas identified are the cliff bands in the Holy Cross Character Area which provides nesting habitat. Bolts Lake Character Area provides foraging habitat. A pair in the area has been documented since 1997. Last known nest was in 2005.

Canada Lynx: This animal is federally listed as a threatened species. Historically it has been located in the surrounding area. Winter tracking surveys have not detected any lynx in the area. The eastern property allows for some winter foraging and possibly movement corridors. Aside from these 3 animals of concern there are numerous other animals, plants, fish and habitats of concern that will be addressed in the studies. The project design has been made to minimize impacts of the project on habitats and animals. Unavoidable areas Ginn will mitigate for proposed activities.

Kelly B: What is the status of submissions to the State and Federal Government? When do you think you will have an agreement with them? I know one of the conditions with the Planning Commission is to have an MOA with the department of wildlife.

Bennett Raily – On behalf of the applicant - 6573 S. Heritage Place, East Centennial Colorado: My understanding of the Planning Commission's requirements is that we entered into an agreement with fish and wildlife on areas of concern and we agree they need to be protected. We will take that information and address it in an MOA and will present in 4 weeks.

Tom S: How will you decide which ones to protect?

Mr. Raily: The Council is the deciding entity. In areas of disagreement we can work together to protect as much as possible and if the Council has conditions we can address it and make it a condition of approval.

Hawkeye: Do the Peregrine Falcon offspring return to the nesting sites when they become adults.-

Rick Thompson – Boulder Colorado - On behalf of the applicant:.

The babies generally become attached to an area and will return. If they have lived in the area they will find a pair and stay. They are long lived birds and sometimes leave.

Jerry B: To my knowledge it is difficult to identify their nests (though it's not really a nest) and nesting areas, even so it might be hard to identify. So they may be in different locations and haven't been identified within the cliff band areas.

Mr. Thompson: It can be difficult depending on the time you look. During the incubation time it is easy to identify because of the constant movement from hunting and feeding.

Kelly B: I think it would help if the applicant was a little bit more prepared with the presentation.

Ms. Baker: We did have another presentation but given the time we decided to not present it and we can possibly present it at the next meeting depending on the Council's decision.

Hawkeye: I think you should plan on coming back to present the material we did not address tonight.

Ms. Baker: We will present to the Council the information of concern by the Sept 5th Public Hearing. We will also bring the information regarding the revised PUG guidelines, a Bolts Lake design guideline and revised community membership pass program

Kelly B: Before you present the revised PUD guide I think you should consult to Carter Burgess first.

Ms. Baker: We have gotten comments from Carter Burgess and we can go back and review with them.

Tom S: Is that the information regarding the revised guide we got last time.

Ms. Baker: Yes, that is the information given to Council from Mr. Ferguson and we will be presenting another revised PUD guideline.

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 September 5, 2007 Council Meeting. *All Voted in Favor*

15. Discussion/Action Item – A 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

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 to his report.

Ms. Baker: Nothing to add but asked that the testimony for annexation of battle mountain be added to the record of this public hearing file. Also, that this public hearing be continued.

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 September 5, 2007 Council Meeting. *All Voted in Favor*

16 Discussion/Action Item - A 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.

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: Nothing to add but asked that the testimony for annexation of battle mountain be added to the record of this public hearing file. Also, that this public hearing be continued.

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 September 5, 2007 Town Council Meeting. *All Voted in Favor*

17. Discussion/Action Item - A 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

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: Nothing to add but asked that the testimony for annexation of battle mountain be added to the record of this public hearing file. Also, that this public hearing be continued.

Motion by Shelley B, second by George 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 September 5, 2007 Council Meeting. *All voted in Favor*

18. Discussion/Action Item – Resolution NO. 12 – Series 2007 A Resolution Appointing Town Planning Commissioners. - Christensen (5 Min)

Motion by Shelley B, second by Hawkeye, to continue the Town Council Meeting past 10:30. *All voted in Favor*

Hawkeye: We are searching for a replacement for The Planning Commission. The two applicants present have handed in their applications, they are in the Council packet. We will allow the applicants to say a few things and present their case.

Michael Boyd: 502 ½ Eagle Street.

He would like the Council to consider him for the position on the Planning Commission, he would see it as a job. He has no agenda and would follow the job description to the tee.

Tim Osborne: 1030 Main Street

He would like Council to consider him for the position on the Planning Commission. He has lived here for 10 years. He knows the plumbing codes and wants to participate in the Town.

Hawkeye: We have all reviewed the applicants and we should proceed with a secret ballot. Council proceeded with the silent ballot and the results came in as Tim Osborne being appointed as the new Minturn Planning Commissioner.

Motion by Hawkeye, second by George B, to approve Resolution 12 - Series 2007 appointing Tim Osborne as a Town Of Minturn Planning Commissioner

19. Discussion/Action Item - Ordinance 14 - Series 2007 (Second Reading) An Ordinance allowing the Town Mayor to sign a contract with Strategic Fence and Wall Company to remove the barbed wire on the Town's Property - Christensen (5 Min)

Motion by Shelley B, second by Kelly B, to approve Ordinance 14 - Series 2007 (Second Reading) An Ordinance allowing the Town Mayor to sign a contract with Strategic Fence and Wall Company to remove the barbed wire on the Town's Property. *All voted in Favor*

Motion by Tom S, second by Bill B, to reconvene into executive session for the same matters as the first executive session. *All voted in Favor*

20. Discussion/Action or Direction to Town Manager and Town Attorneys from the Executive Session.

Add to the August 15, 2007 Town Council Agenda for the Council to set a date for a Council member retreat.

Also to reject the settlement offer and continue with the Boyd Appeal. And, Council appointed Tom S. and Jerry B. as Council representatives for the United States Forest Service Land Acquisition and George B. as an alternative.

FUTURE AGENDA ITEMS

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

- Ginn Petitions for Annexation – Continued from: 8/1/07 to 9/5/07 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 8/1/07 to 9/5/07
- 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 8/1/07 to 9/5/07
- 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 8/1/07 to 9/5/07
- Possible Water Tank location on Grant Street for the interest of the Town businesses during a water outage - Carter and Burgess August 15, 2007
- CU 07-03; Tory Enterprises (Budget Trucks) is requesting Conditional Use Approval for a motor vehicle parking lot at North Main Street - August 15, 2007
- Update Minturn Town Homes - August 15, 2007
- Update on the Rail Road – Bellm/Christensen

- Special Joint Meeting: Town of Minturn and Eagle River Water and Sanitation District - August 22, 2007 @ 10:00am
- Follow up discussion on Chapter 13 revision questions and directions
- Public Hearing on AZDM 07-02; USFS Property Rezoning (Meadow Mountain Area) - Indefinitely
- Public Hearing on AZDM 07-01; USFS Property Rezoning (Cross Creek Area) - Indefinitely
- Consideration of authorizations to proceed with the condemnation action to acquire from the Vail Corporation a 5.146 acre parcel - Indefinitely

21. Set Future Meeting Dates

- a) Council Meetings
 - August 15
 - September 5
 - September 19
- b) Planning & Zoning Commission Meetings
 - August 8
 - August 22
 - September 12
- c) Other
 - Special Joint Meeting: Town Council and ERWSD - 8/22/07

22. Adjournment

Motion by George B, second by Shelley B, to adjourn the August 1, 2007 Town Council Meeting at 11:12pm. *All voted in Favor*

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk