



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

**Wednesday, September 19, 2007**

**Regular Session –5:30PM**

**MAYOR - Gordon “Hawkeye” Flaherty**

**Interim Town Administrator – Gary Suiter**

**MAYOR PRO TEM – George Brodin**

**TOWN CLERK/TREAS - Jay Brunvand**

**COUNCIL MEMBERS:**

Bill Burnett

Tom Sullivan

Kelly Brinkerhoff

Shelley Bellm

Jerry Bumgarner

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 – 5:30 PM**

**1. Call to Order**

- a. Roll Call
- b. Pledge of Allegiance

Mayor Hawkeye Flaherty called the meeting to order at 5:34 P.M. Roll call: Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Bill Burnett, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner

Staff present was, Interim Town Administrator Gary Suiter, Town Planner Chris Cerimele, Police Chief Lorenzo Martinez, Town Attorney Allen Christensen, Public Works Director Rod Cordova and Assistant to Town Manager Dylan Zastrow. *(Note: Jay Brunvand was absent/excused).*

## 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, Author “Boots” Ferguson and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation
- 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, Arthur “Boots” Ferguson and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation

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

No direction was given to the Town Staff or Town Attorney from the Executive Session.

**7:00 P.M.**

### **4. Approval of Agenda (5 min).**

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

Motion by George B, second by Bill B, to approve the September 19, 2007 Council Meeting Agenda as presented. *All Voted in Favor*

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

- September 5, 2007
- Review/Comment – Council Action Report

Shelley B: On Page 10, Tom stated the Town didn't want to be liable not reliable.

Also on Page 11 under item 15 – The question of; has she obtained her Business License was stated by me. Also on Page 12 a physician stated we should not allow development on a superfund site not allow development.

Hawkeye: On Page 13 it should read passenger cars not passenger cart.

Shelley B: Park parking question for Allen. Have we received new contracts from the Rail Road. Allen responded with no.

Motion by George B, second by Hawkeye, to approve the, September 5, 2007 Council Meeting Minutes as amended. *All Voted in Favor*

## **6. Liquor License (5 Min)**

### **Minturn Town Council will now convene as the Minturn Liquor Authority**

- Kirby Cosmos; 474 Main Street, Minturn Colorado. Mark Tamberino: Owner  
- Christensen/Martinez

Dylan: This is an annual Liquor License renewal for Kirby Cosmos. After speaking with Jay B. we concurred that we have no complaints or concerns with the renewal. Chief Martinez has included his report in the packet, which also states he does not have any concerns on the renewal. Staff recommendation is to renew the Liquor License for Kirby Cosmos located at 474 Main Street, Minturn Colorado under the applicant/owner Mark Tamberino.

Motion by Tom S, second by Bill B, to approve Kirby Cosmos Liquor License; 474 Main Street, Minturn Colorado. Mark Tamberino: Owner. *(Note: Council Member Bumgarner recused himself for conflict of interest).*

### **The Minturn Liquor License Authority will now re-convene as the Minturn Town Council**

## **7. Special Presentation/Individual Introductions/Citizen Recognition/Project Update**

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

Frank Lorenti: 1081 Main St. Minturn, CO.

In a previous meeting I attended there was Council direction to Staff to clean up the Town of Minturn and enforce the nuisance law. Since then I haven't seen anything done to address these concerns. I have also filed a complaint against Mr. Quintana regarding the nuisance law. He still hasn't cleaned up his property. I had asked Chris C. to keep me informed as to what is going on and the progress on the nuisance enforcement and Chris C. refused to do so. I walked around and took photos on many of the areas that haven't been addressed. What is being done about these nuisance violations? I am asking all State Officials to step in and help Minturn clean itself up. I addressed with Jay the barbed wire fence within the Town of Minturn's Town Limits recently. He stated that there has been one fence taken out at this point. Mr. Lorenti then showed the audience, Council and Staff a photo of a fence line right next to the Town Center and he asked if it was in Town. Council, no this is County land and we do not have the authority to require removal of the fence. Why aren't the Council Members enforcing the laws? He went on about the Town not being citizen friendly or business friendly. I want to be on the next agenda to address 3 things. The nuisance laws, sidewalks and fluoride in the water.

## **9. Discussion/action of Emergency Items, if necessary**

## **10. Town Administrator's Report (10 Min)**

Gary Suiter: The items in my report are self explanatory. I did ask action of the Town Council to address the Audit for next year. Staff recommends signing a contract with the same company as last years Audit. The price would increase for next year but not by much. I would like approval from Council to sign an Audit contract with Swan and Horst, preferably by motion. I have spoken to Jay regarding the Audit last year and reviewed their work and they seemed competent.

Motion by Hawkeye, second by George B, to direct the Interim Town Administrator to sign contract with Swan and Horst for the Town of Minturn 2008 Audit.

Gary S: Two other items that were not in my report I would like to inform the Council about are the Town's deal with Frank Medina regarding the Town's Water Tower. I am led to believe that it is the Town's obligation to move the rocks displaced when digging for the water towers placement. With Council approval I would like to move forward on this obligation and work with Mr. Medina to resolve the situation.

Tom S: We were going to store them for the river restoration project, phase two. Are we still planning on doing that?

Gary S: I don't want to move them twice so we can check optional areas out and if Council has suggestions as to where we could store them that would be great.

Tom S: There is an area on the south side of Town where we have stored some already.

Gary: I will come back to you and talk about it and the location you are suggesting. Also Jay B. has finished the preliminary budget for 2008 so please take a look at it before next meeting and we will go through it when the Town Council convenes on October 3, 2007.

George B: I want to say to the Town Staff great job with the last water outage. We had water available for the citizens, porta-johns for them to use, plenty of warning and great organization.

Gary S: The Staff convened and decided to take an Incident Command approach and it worked great. I thank the Staff, the Fire department and Ginn for all their hard work and contribution to making this run as smoothly as possible.

Shelley B: Did we know about the water outage the week before.

Gary S: Yes, I heard about a water leak the week before and when I came back the next week I heard there would be a Town wide water outage within 48 hours. So at that point the Town Staff mobilized and came up with the plan. We also debriefed the next day and communication was addressed in that meeting. We came up with some good things to work on.

Shelley B: Who is in charge if Rod C. is out of town?

Gary S: I was told Arnold.

Hawkeye: How is the Eagle County School District letter coming along?

Gary S: I have been in contact with them and they were going to be here for tonight's Council Meeting but it didn't work out so we have picked a later date for them to attend. The Interim will be here and his staff will attend as well. I can still have a letter written to him if you would like but I believe face to face is better.

Hawkeye: We need to get a list to them notifying them what issues we would like to address and to talk about.

Hawkeye: Where are we at with the Old Town Hall site restoration project?

Rob Singer: Carter-Burgess 707 17<sup>th</sup> St. Denver, CO

Top soil has been placed, the sidewalk has been fixed, the water service line has been installed and the sod will be placed on Tuesday.

Bill B: Are you installing a frost free system?

Rob S: We are putting in a double valve system.

Jerry B: I want to point out this will not be a snow dump site. Citizens have asked me about dumping snow on the lot and I assured them that there will not be snow stored on the lot.

Hawkeye: What is the update on the water loss identification and remediation?

Rob S: We are down to about 40% and still addressing identified areas. We are making progress.

## **11. Town Council Comments (10 Min)**

Hawkeye: I have a public service announcement – Spirit of the West Fest is this weekend September 22 at little beach park starting @ 1:00pm.

George B: At the last open space committee meeting we talked about getting a conservation easement purchase of the Gates Ranch but there was a recommendation to get another appraisal of the land prior to purchasing it because the surrounding land have been appraised at ½ the price.

Tom Henderson: Town of Redcliff- Open Space Committee representative.

I spoke to Cliff and Bob and we have not gotten Susanne's appraisal of Gates Ranch but we will get it soon and review the appraisal and numbers.

George B: Great, thanks for the update Tom.

Shelley B: CDOT is holding an educational series and the Safe Route to School program, it will be held in Rifle. Visit the website if you are interested in attending.

Sept 30<sup>th</sup> is Wild West Day to raise funds for all 8 elementary schools. All the money goes back into the school system.

George B: Do you think the CDOT money can go towards the side walk system?

Shelley B: It could, the Staff should look into it. I am a little reluctant to say yes or no.

Shelley B: Wine tasting at Balata's Restaurant on 9/27 at 8pm.

## DISCUSSION, HEARINGS AND ACTION ITEMS

## **12. Discussion/Action Item – Minturn Town Homes Update: Project Concerns – Cerimele (10 Min)**

Chris C: George, the attorney for C&B Development is here tonight to represent the company. Included in the packet is a letter from George addressing the Town's concerns with the Minturn Town Homes development. I am happy with what they have been doing to address our concerns and we have been meeting regularly to review their progress.

Excel Energy is not responding to the contractor regarding the transformer relocate so I will draft a letter to Excel Energy addressing our concerns and have it signed by the Mayor. It will indicate that the Town is displeased by their lack of cooperation.

George Gregory: Attorney for Minturn Development LLC. Chris C. has been aiding us the whole way and has been making sure we are addressing the concerns of the Town.

Tom S: What do you plan on doing with the retaining wall built on RR land?

Mr. Gregory: The retaining wall on RR property wasn't included with the concerns Chris expressed to me or the developer. Also, I have spoken to Union Pacific (UP) and they didn't see it as an issue.

Tom S: Can you get a letter from UP stating that they have spoken to the developer's attorney and they are aware of the retaining wall on their property and are ok with it and get it to the home owners association so down the road they aren't stuck with the bill?

Mr. Gregory: I doubt I would be able to get a written letter from UP but I can try. UP doesn't see the retaining wall as a problem.

Tom S: The shotcrete wall at the entrance of the Town is not acceptable. Wiley's verbal agreement isn't acceptable. You need more than a verbal agreement from a Town Planner that doesn't even work here anymore.

Mr. Gregory: That is a problem. A lot of people who were involved in these decisions are no longer here. I am here because I committed to Mr. Cerimele and therefore the community to address the issues of concern and I stand by my word. This is something Wiley agreed to. The wall isn't as big as you say it is and on the way into Town there are exposed rocks larger than this area and the same color and no one is demanding anything be done about it. We proposed to paint it but the home owners there aren't happy with that idea because they don't want the extra expense.

Tom: I personally don't think shotcrete at the entrance of the town is acceptable. I don't think it was approved, I don't think Wiley approved it either. If he did approve it you should have gotten it in writing and who the conversation was with. I mean who would approve a shotcrete wall in the entrance of their Town and when you compare that with a natural rock wall, well, you are stretching it. You need to cover the wall to make it acceptable and get it approved by design review.

George B: I agree with Tom on this issue.

Mr. Gregory: We have proposed to paint it as well as plant vegetation at the base of it that would creep up. There have been homeowners opposing this idea though.

Hawkeye: Is Council in agreement with Tom that we would like these letters from UP and the Home Owners Association?

Council: Yes

Hawkeye: Chris do we have proof that the shotcrete wall has been built to specifications that were approved? Do we have any written proof that this was agreed upon?

Chris C: I cannot state that there is or is not proof.

Hawkeye: Please follow through with it. Also have Staff review the file regarding the approval of the wall. We can then discuss the options at that point.

Mr. Gregory: Lets bypass that, we will paint and or vegetate it as soon as the Council would like.

Chris C: I do have the paint samples here and I wasn't going to make the decision on my own so I suggest we go to the design review board and that was rejected by the applicant.

Tom S: They have to face it with approved natural material or something that is approved by the design review board. You have to rock face it or tier it and plant vegetation.

Hawkeye: It is back to Staff for review and recommendation.

Tom S: The sidewalk in front of building C or what you have there is not satisfactory. We wanted it there for safety and it isn't safe if it is the same height as the driveway. It will also help with drainage on Taylor St. which was a problem last year. They made a commitment to put in a proper side walk and they need to follow through.

Chris C: It was a condition of approval that a sidewalk would be installed, it didn't specify specs or a raised sidewalk so it is up to Council to decide.

Jerry B: It states in the packet that it is to be a raised sidewalk.

Tom S: But then it states that in front of building C it will stay the same as it is.

Mr. Gregory: Alpine engineering has all of the surveys indicating the alterations we have done with the rock retaining wall, sidewalks, drainage system and the transformer.

To address Tom's observation, we call it a sidewalk. The building is at the level it is suppose to be at and it has been confirmed by the engineers. The reason it was designed and built at that level is because if you would have raised it, it would have created a dam and directed the drainage into the homes.

Tom S: If you would have designed your building properly, raised your driveways you wouldn't have run into this problem.

Mr. Gregory: You state we built either the building or street improperly, I am not here to argue with you, especially you Tom. You are sore over this project.....

Tom S: If you would have built it correctly and do what you said you would do....

Hawkeye: Let's not get into that, lets maintain the facts and continue this in an orderly manner.

Mr. Gregory: Mr. Cerimele has the drawings in his office and the construction will be built in accordance to that document. Excel has yet to respond to us so I asked Mr. Cerimele to write the letter to up the ante.

Tom S: Does your sidewalk run from your property pin up?

Mr. Gregory: I would have to look at the drawing. But I believe so.

Tom S: Ok. If it is not will it be?

Mr. Gregory: It has been indicated to me that it is.

Tom S: I don't think it is. And I think you have a duty to the Town to put in a proper sidewalk.

Kelly B: I agree, I think the sidewalk needs to be raised. We are trying to set a standard for that street and to have one of the sidewalks not conform. It is a condition to approval.

Mr. Gregory: So how do you address the water that is going to pool up and run back into the homeowner's house?

Kelly B: It is a drainage issue the applicant has to deal with.

Mr. Gregory: But we are into winter and we are talking about tearing up the street.

Tom S: You should have built it properly the first time.

Mr. Gregory: We have done much more for the Town to get this project done. If we can get things done in a reasonable manner then we will get it done. I believe what is there worked last winter.

Tom S: The building inspector indicated it didn't work last winter and there was a large build up of ice in front of those buildings and a bobcat was required to scrape the ice off, so I don't think it worked.

Hawkeye: Let's send it back to Staff. Chris see if there is any documentation supporting these issues and come back with a recommendation if you think this constitutes a sidewalk.

**13. 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 August 1 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 August, 2007.

Shelley B: People have asked me where the Town is at in the annexation process. I mention we are in the public hearing phase and encouraged them to attend the meetings.

Tom S: People have approached me and asked me where we are at in the process. I told them it has taken longer than expected and that we are in the public comment period.

Bill B: People I have run into at the Post Office have asked me why the process has been taking so long. I told them to come to the Council Meetings.

Kelly B: Ernie mentioned to me his concerns on the increase in traffic, mainly construction traffic. He suggested to me that construction workers should be bussed in and that we should build a parking structure in the north side of town for them to park.

Jerry B: I ran into about 2-3 people soliciting signatures on a petition they would like to present to the applicant. The petition isn't anything the Council is aware of at this point. I suggested that they should attend the meetings.

George B: I have had some general discussions on the process and where we are at in the annexation process.

Hawkeye: I got a letter from a business in Town concerned about employee housing. I submitted the letter to Chris C. for the record.

Also, a gentleman from Minturn asked him if the Ginn annexation could go to referendum. He told him that the process would allow for that to happen and then thanked him for his question.

Chris C: I have written comments submitted by the Mayor as well as others I will submit for the record and provide them to council next meeting.

Sarah Baker on behalf of the applicant: 1914 Beard Creek Tr.

#### **An Overview of Tonight's Agenda:**

- Record keeping
- Final traffic plans:
- EPA/Environmental Submittals and Status
- Summary of Public Benefits
- Closure of Applicants Presentation
- Public Testimony
- She then submitted exhibits to the record regarding these issues on their agenda.

Ownership of the property: The Tucker Claims: In 1997 he purchased stock in Battle Mountain. Court after court has denied him on all accounts and appeals of ownership. The only court he can submit to at this point that has not denied him is The U.S. Supreme Court.

I would like address a question/concern that Council Member Sullivan brought up last meeting. The applicant guaranteed 30 days ski access on Battle Mountain to residents of Minturn. He stated that the applicant could simply allow 15 days at the beginning of the season and 15 days at the end of the season to comply with this benefit. His concerns were valid and we have addressed it. We have changed the language in that section of the applicant's presentation. The applicant would like to state that there were no intentions to close out the main ski season during the winter. We have changed the language to state the area will be made available for a minimum of 10 days that are weekends, holidays or other days Eagle County School District is not in session and a minimum of 3 days per calendar month of the winter season.

**Traffic Plan:**

Dominic Mauriello of Mauriello Planning Group: On behalf of the applicant.

Final versions of the Traffic Mitigation Plan have been submitted on the request of Carter-Burgess with requested changes.

The Traffic Plans require upfront physical improvements to Main Street including:

- Repaving
- Replacement of sidewalks/crosswalks/ bulb-outs
- New curbs and gutters
- Placement of drainage
- More lighting

The proposed Traffic Plan addresses:

- Limiting the type of traffic coming through Town and type
- Required transit/shuttle use
- Adopting as part of annexation agreement with extensive enforcements mechanisms
- Helping correct problems with impact of the project and existing traffic problems in the Town

**Superfund site:**

Ken Waesche of Environmental Resources Management on behalf of the applicant:

Superfund site Remediation work scopes:

- Bolts Lake Character Area (Plan A): Cleanup for unrestricted use and proposed development:

George B: How much of the area is set for cleanup?

Mr. Waesche: All of Rex Flats and partial cleanup on the other proposed sites. We are not fully sure on the scope of the other proposed sites but we will address all areas of concern once we take a closer look at them. All of the excavation will be sent to the CTP area. We will also address the water contamination. We will put in drains and treat the water either with our own plant or contracted by an outside source. Remediation will be accompanied by:

- Excavation of soil exceeding Human Health Standards
- Areas include the old tailings pile area, Rex Flat's area Maloit Park area.
- The depth of soil removal will be about 3ft. and filled with clean soils

- Development features will be put into place on the top of clean soil such as; surface liners, a golf course and other features
- Ground water collection trenches
- Steam Bank Trenches
- Sludge Cell Cap
- Ground Water Treatment Systems and Reservoir Liners

Such remediation plans as well as other extensive measures included will be implemented to the areas of the Old Tailings Pile, Rex Flats, Highlands Area, Consolidated Tailings Pile and Maloit Park. The project closeout will compile of complete environmental monitoring reports and validation packages, complete as built design packages, secure final approvals of regulatory agencies and develop and implement revised operation, maintenance and monitoring programs for enhancements.

- Bolts Lake Character Area (Plan B): Cleanup to Human Health Standards in soils and Open Space use: The plan is essentially the same remediation plan without the development features placed on top of it. We would let it sit until the next phase. We would just leave it as Open Space though. We would also not be doing ground water treatment, we would just cap it. This would include:
  - Engineering and Construction Document Preparation
  - Site Preparation and Construction Facilities
  - Construction Item 1 – Excavation, Transport and Disposal of Impacted Boulders and Soils and Backfill via Haul Back From Bolts Lake
  - Construction Item 2 – CTP new Repository Construction and Operation
  - Environmental Testing and Reporting
  - Presentation of Key Assumptions of Impact
- North Gilman: Cleanup to Human Health Standards in soils and reuse:
  - Asbestos Testing, Identification and Abatement
  - Building Demolition
  - All material will be taken to CTP and other items that cannot go to the CTP will be transported to other facilities that can accommodate such items.
  - Waste Pile #8 Excavation and Removal
  - Excavation of Contaminated Soils and hot spots of an estimated 250 thousand yards of material

Bill B: How are you going to fill the main shaft?

Mr. Waesche: We haven't decided if we are going to fill the entire shaft as of yet. We will have to fill it at least 12-15 feet then cap it with concrete. It is a benefit to have the remainder of the 190 ft shaft there and open.

Tom S: When are we going to have the EPA approval?

Mr. Waesche: They are reviewing it but I don't know the final date.

Ms. Baker: We have a meeting with the EPA tomorrow, which is a part of a long series of meetings. But, the applicant is hoping it will be the first part of October. The EPA won't give us a specific date at this point. The EPA does though understand the urgency of this approval.

Tom S: If we are going to have this specific Council vote on it we are running out of time. There are only 9 meetings left.

Ms. Baker: The information submitted was admitted to the EPA in February they have had this for review for awhile and they are far into the process. The applicant is also concerned about the timing.

Mr. Mauriello:

### **Community Benefits:**

#### Environmental Benefits:

Clean up of the superfund sites. The Superfund Site would not be addressed if this private project wasn't here and willing to address it because the EPA no longer has the funds to address Superfund Sites. Also the project enables vast areas of open space, up to 4300 acres.

#### Town Control:

The town would have regulatory over the development of Battle Mountain. Minturn would have control over how it spends its revenue such as spending on sidewalks, parking things the PUD guides adjustments have addressed.

#### Economic Benefits:

Revenue for the Town of Minturn will start at \$3million during the first years and up to \$9.9 million years down the road. This will benefit the Town's annual revenue tremendously.

#### Other Benefits:

On and off site employee housing, Battle Mountain Community Partnership Pass, additional job opportunities, a new waste water treatment plant (regardless of approval or not) Town's ability to reclaim lost water rights during the 1990's and an ECO trail between Minturn and Redcliff.

Bill B: You talked about having a police station and fire station in Redcliff near Tennessee pass, would there also be employee housing?

Mr. Mauriello: We discussed having housing in that area as well as a fire department and emergency station on site but those plans haven't been nailed down as of yet. The location would be around the bottom of shrine pass.

Ms. Baker: The reason it is not included is because the first year proposed annexation doesn't include this area. This is a future annexation site. This could be annexed a year and a day after the first annexation is accepted, then these facilities would be addressed.

Sara: She then presented more exhibits into the official public records.

This is the closure of the applicant's presentation for rezoning the district map and a summary will be presented at the next Council meeting and for the public.

Tom S: I thought we were going to get a revised PUD guide.

Ms. Baker: We are working on it with Mr. Ferguson and it has taken longer than expected given the circumstances. We would like to address it at our applicant response phase of the public hearing.

Tom S: What about the GID?

Ms. Baker: This was a condition that we address the merits of the GID required by the Planning Commission and it will be addressed.

Tom S: Are you planning on having the final development plan when we vote on the annexation?

Ms. Baker: We initially thought that was the plan on request of the Town Attorneys and Town Staff but we tabled the final development plan back in January of 2007. The Council will be voting on the annexation, preliminary development plan (PDP), amendment to zone district map and preliminary plat. After approval of those by the Council we would then move to the final development plan. We have already submitted all the applications for that but we would just have to reinstate those applications.

Tom S: So the applicant does realize that would be heard by another Council?

Ms. Baker: The applicant does recognize that.

Kelly B: Is the Carter-Burgess traffic plan postponed.

Ms. Baker: Yes.

Kelly B: We still have tons of questions regarding the traffic issue. We haven't even discussed what we would like to change on the 3 plans. We also might want an outside contractor to address the traffic concerns. Also, the wildlife mitigation plan needs to be addressed. I don't see anything about this being final. We also need more information regarding employee housing and have a presentation on the employee housing proposal. How did the 40% of employee housing come about? Where did that number come from? Who is included with this 40%? The GID is very important to the long term plan and we need more information.

Ms. Baker: We are aware that there is still a lot to do before moving onto the next phase. We will give the final proposal, Council and Staff will address their concerns with the proposal and then the applicant will come back with an altered proposal addressing the concerns of the Council and Staff.

Jerry: Regarding the design review of Bolts Lake, we have yet to receive the revised document.

Ms. Baker: We will provide that for you in the revised PUD guide.

Hawkeye: Can the Wildlife Mitigation fund only be spent on effects on wildlife or can we address studies on fish and other items.

Bill Andre of the Division of Wildlife:

It is usually designed for the species that are addressed in the presentation, the ones in the immediate area that have been identified?

Tom S: Who decides that?

Mr. Andre: The final decision is the Council's and we will present plans to the Council regarding the Wildlife Mitigation Fund.

Hawkeye: Where would we get funds to address whirling disease? Also where would we find money to ensure the tailings are not leaching into the Eagle River?

Mr. Andre: You could use the fund to address whirling disease but you could not use the fund to address the leaching of the tailings into Eagle River.

Hawkeye: He opened up the public comment portion of the nights meeting and reminded the audience that each person had 5 minutes to talk and that if they needed more than 5 minutes he suggested they put them in writing. Please don't repeat a statement another audience member has already stated please just state that you agree.

Jack Elliot: Redcliff 854 County Rd Rifle, CO

I am in development just like the applicant. We own Bell's camp which is next to the Ginn property being proposed for annexation. I wasn't happy to see Ginn when they first came in. To my surprise Ginn has become a great neighbor and I am here to support them. They have worked with us and have been great neighbors.

Monnie Elliot. Downing St. Denver, CO.

Jack is my brother and I can attest to how many generations of our family have lived in or owned land in Redcliff. I too am in support in the Ginn annexation. Mainly for environmental reasons but also because I believe they are and will continue to be a good neighbor. I don't think the Council needs to make sure the Town keeps its character the citizens do. The Council needs to address infrastructure and financial issues at this point. You need to get everything you can from the table.

Peter Hart: 1260 Crystal Bluffs Carbondale, CO

I disagree that it shouldn't be up to the Council to maintain the character of the community. It is up to the Council and the community jointly to ensure the character of the Town remains. Don't take the Vail approach, the character won't stand. I also want to thank you for your attention to detail in this process and how critical you are on the applicant's presentations. But, there are a lot of questions that need to be answered still.

Ramon Montoya: Mayor of Redcliff.

I want to commend the Council and Town Staff for taking on this tremendous task. We would like to thank the people of Ginn for addressing the concerns and meeting with the Town of Redcliff. They have helped us with pine beetle mitigation in the area. I personally have issues with project because this area is an area I used to hike in. But I think it's the best for the Town of Redcliff and Minturn. I believe we can all cooperate to make sure everyone comes out good in the end. Again, we would like the opportunity to annex the second annexation of 1,000 acres. This would help the community get back its water rights claims. Ginn would need the blessing of the Town of Minturn to do this. This is also private property and they have a right to develop to a certain extent. I think Minturn or Redcliff needs to decide what happens on that land not Eagle County. She then thanked the Council and Planning Commission for their hard work on this and looking out for the community members.

Pete Vance: 251 main St. Minturn, CO

I would like the applicant/developer to use alternative energy methods in this development. I haven't seen the developer or Council address cleaning up the world. This type of green development is happening all over the United States and it should happen here. I don't think they need to build a golf course as well I don't think we need to have another ski resort. There is alternative biomass economic incentives like a train or hot springs. Also, expansion of the amphitheater. I also don't want to see 1,700 homes. More like 200 costing \$12 million that would cut on pollution and traffic and allow for them to obtain the revenue they seek. .

Eric Cregon: 143 Monument St. Redcliff, CO

I like the annexation and agree that it should be approved. But, I think the second 1,000 acre annexation should be reconsidered to have Redcliff annex the area into their Town. Redcliff needs more say in what is going to go on here.

Tom Henderson: 517 water st. Mayor Pro-tem Redcliff, CO

I commend the Planning Commission for their review and conditions addressing the effects on Redcliff. I urge Council to follow through with those conditions and consider the impact

this project will have on Redcliff. We have been very happy with Ginn to this point. They have listened to our concerns and cannot address them until Minturn annexes them in. We are in favor for the annexation and would like the ability for Redcliff to annex the 1,000 acres on the second annexation. We commend everyone involved including the Minturn Staff.

Michael Wasmer: 201 Main St. Minturn, CO

I would like to speak in favor of the project and commend the process. I don't think this should go to referendum because people will vote that aren't up to date on the issue. I would suggest we get an outside committee to address green building practices to educate the people as well. I am in favor for low lighting in specific places in the development.

Darrell Wegurt: 1716 #2 Main St. Minturn, CO

I have been following the annexation process and applicant proposal. Everything I have dug up is what the applicant is presenting. All the information is coinciding. I know there have been many opportunities come to this Town and they have been let go buy. I don't want the Town to let this go buy. Minturn has sacrificed for the character of the Town but we need to

Rob Davis: 187 Main St. Minturn, CO

I agree that Redcliff should have the opportunity to address the second annexation. I am conflicted about the project because I feel that the Minturn Council and Myself are still a little uneducated and if we approve the preliminary there is not going back. I want to be educated. Here is a list of what I want to learn about. Transportation issues, Main street could lose its character. Fire/emergency areas on the Ginn property.

What should be done on the property? You have rights to develop 35 acre lots but what are the impacts of developing those areas? What about an area 10 fold, what are the impacts? I want a flow chart to citizens and PUD information so the community can ask questions. We are going to need schools in the area, child care and housing assistance. How will those issues be addressed? The community hasn't seen every thing that the Council has seen and I would like them to have the opportunity to do so.

Rachael Fried: Chair of ECO Trails Community Citizens Representative.

We are happy that one of the Planning Commission's conditions is to build a trail on the property. We would like to see a continuous trail from Dowd Junction to Redcliff with no separations. It would be a piece meal if the trail plan is taken as is. This will also address traffic issues. This trail needs to be built in phase one of the construction to avoid recreation and busy traffic from construction interaction. We have made suggestions of trail routes but the citizens of Minturn and Redcliff need to build a committee to work with the Ginn engineers to develop a plan.

Ruth Borne: 39 Pinnacle Redcliff, CO

She chose to speak at the next public comment session.

Hawkeye then closed the public comments for the evening and the public hearing.

Motion by Shelley B, and second by George B, to continue the public hearing on Petitions for Annexation for Battle Mountain Annexation Parcels No. 1-9 for the annexation of territory to the Town of Minturn, Colorado for the purposes of determining and finding whether the areas proposed to be annexed as the Battle Mountain Annexation Parcels No. 1-9

comply with the applicable requirements of the Municipal Annexation Act of 1965, as amended, and is considered eligible for annexation to the October 3, 2007 Council Meeting.  
*All Voted in Favor*

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

Motion by Shelley B, second by George B, to continue the public hearing on file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain to the October 3, 2007 Council Meeting. *All Voted in Favor*

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

Motion by Shelley B , second by 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 October 3, 2007 Town Council Meeting. *All Voted in Favor*

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

Motion by Shelley B, second by 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 October 3, 2007 Council Meeting. *All voted in Favor*

**17. Discussion/Action Item – Ordinance 16 – Series 2007 (Second Reading) – An Ordinance Amending Chapter 16 of the Minturn Municipal Code as it pertains to Variance Revisions – Christensen (15 Min)**

Hawkeye introduced Ordinance 16 Series – 2007 for second reading.

Jerry B: Are there changes from the first reading.

Allen C: There has been quite a bit of changes from the original code but, I did a word search and made about four changes which all addressed changing the word community to master.

Hawkeye: I have a question on page 110. Why would we have a public hearing on a concept plan and not a PUD concept plan?

Allen C: We did not make changes to that section of the code.

Chris C: The only thing is that there needs to be a concept plan submitted for a PUD.

Hawkeye: On appeals of decisions on interpretations of the zoning administrator, if we are going to have an appeal how is it going to be done if we don't have a public hearing? And who is the appeal made to?

Allen C: Some of the most substantial changes I made were to the appeal provisions. In the past the Planning Director could make administrative interpretations that bound the Town and Citizens without a public hearing and they were not able to be appealed. I just added an appeal provision. For example the carwash just went through an administrative rubber stamp without public comment.

Hawkeye: Is this important that we get this done tonight?

Allen C: Absolutely. You have a variance provision in there that requires a hearing officer. We don't have a hearing officer. You have had two applicants withdrawal their applications because there is no process set in place.

Hawkeye: We need to make sure that the chart matches up with the body of the Ordinance and I don't believe it does.

Allen C: What it is saying is that you don't get a public hearing under an administrative decision, the appeal, which is set forth in the code, has extensive public hearing provisions. I wrote up 3 pages of public hearing provisions for appeals.

Motion by Kelly B, second by George B, to approve Ordinance 16 – Series 2007 (Second Reading) – An Ordinance Amending Chapter 16 of the Minturn Municipal Code as it pertains to Variance Revisions.

**18. Discussion/Action Item – Ordinance 17 – Series 2007 (Second Reading) – An Ordinance allowing the Mayor of the Town Of Minturn to sign an Inter Governmental Agreement (IGA) with Eagle County for Animal Control Services. – Christensen (15 Min)**

Motion by George B, second by Kelly B, to approve Ordinance 17 – Series 2007 (Second Reading) – An Ordinance allowing the Mayor of the Town Of Minturn to sign an Inter Governmental Agreement (IGA) with Eagle County for Animal Control Services.

**19 Discussion/Action Item – Ordinance 18 – Series 2007 (Second Reading) – An Ordinance Amending Chapter 10 of the Minturn Municipal Code by Repealing and Reenacting Section 10-104 as it pertains to Public Indecency Creation of a new Section Prohibiting Indecent Exposure Providing Penalties for the Violations. – Christensen (15 Min)**

Kelly B: The new section 10-107, which is replacing another section seems like it is repeating a section currently in the code.

Allen C: I was following State Statute on this. This section deals with private property.

Kelly B: Does this one state a public place?

Allen C: Not this section.

Shelley B: I still have the question of breast feeding.

Allen C: Your concern has been addressed and it is not in violation of this code. The police department is aware of the concern as well. If something like that came to court it would get thrown out.

Motion by Shelley B, second by Jerry B, to approve Ordinance 18 – Series 2007 (Second Reading) – An Ordinance Amending Chapter 10 of the Minturn Municipal Code by Repealing and Reenacting Section 10-104 as it pertains to Public Indecency Creation of a new Section Prohibiting Indecent Exposure Providing Penalties for the Violations.

**20. Discussion/Action Item – Ordinance 19 – Series 2007 (Second Reading) – An Ordinance Amending Chapter 2 of the Minturn Municipal Code by Repealing and Re-enacting Section 2-24 as it pertains to powers and duties of the Town Administrator – Christensen (15 Min).**

Motion by Kelly B, second by George B, to approve Ordinance 19 – Series 2007 (Second

Reading) – An Ordinance Amending Chapter 2 of the Minturn Municipal Code by Repealing and Re-enacting Section 2-24 as it pertains to powers and duties of the Town Administrator.

**21. Discussion/Action Item – Agreement for Municipal Code Services – Suiter (15 Min)**

Gary S: I wanted to bring this agreement to Council because it was not budgeted and the Town needs to re-codify the code book and add changes that have been passed by Council. Total cost would be \$6,300. This is up to par with our last agreement.

Motion by George B, second by Jerry B, to approve agreement with Colorado Code Publishing for re-codification of the Minturn Municipal Code Book.

**FUTURE AGENDA ITEMS**

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

- Ginn Petitions for Annexation – Continued from: 9/19/07 – 10/3/07
- 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 9/19/07 – 10/3/07
- 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 9/19/07 – 10/3/07
- 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 9/19/07 – 10/3/07
- CU 07-06; Tom Sullivan is requesting Conditional Use approval for approximately 1,900 square feet of commercial space in the mixed-use zone of the Old Town Character Area – October 3, 2007

**23. Set Future Meeting Dates**

- a) Council Meetings
  - October 3
  - October 17
  - November 7
- b) Planning & Zoning Commission Meetings
  - September 26
  - October 10
  - October 17
- c) Other
  - Spirit of the West Fest - Little Beach Park September 22, 2007
  - Special Joint Meeting: Town Council and ERWSD September 26, 2007
  - Special Joint Meeting: Town Council Representatives and Staff with USFS October 9, 2007

## 24. Adjournment

Motion by Jerry, second George , to adjourn the September 19, 2007 Town Council Meeting at 10:39pm. *All voted in Favor*

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Hawkeye Flaherty, Mayor

ATTEST:

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Jay Brunvand, Town Clerk