



SPECIAL MEETING OF THE • MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street • Minturn, CO 81645 • (970) 827-5645
January 30, 2008
Regular Session – 4:30PM

MAYOR - Gordon “Hawkeye” Flaherty
MAYOR PRO TEM – George Brodin

Interim Town Administrator – Gary Suiter
TOWN CLERK/TREAS - Jay Brunvand

COUNCIL MEMBERS:

Jerry Bumgarner
Bill Burnett
Tom Sullivan
Kelly Brinkerhoff
Shelley Bellm

Ginn Annexation Public Hearing Topics: Applicant Response, Staff Response and Council Deliberations

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 – 4:30 PM

1. Call to Order

- a. Roll Call
- b. Pledge of Allegiance

Mayor Pro Tem George B. called the meeting to order at 4:39P.M. Roll call: Those present included Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Tom Sullivan, Shelley Bellm, Kelly Brinkerhoff and Jerry Bumgarner (*Note: Bill B. absent/excused*).

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

EXECUTIVE SESSION

2. Minturn Town Council will convene into executive session: (2.5 Hours)

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

Motion by Jerry B, second by Shelley B, to convene into Executive Session Pursuant to Colorado Revised Statutes (CRS) §24-6-402 (4)(b) to consult with Town Attorneys Allen Christensen, Arthur “Boots” Ferguson and Anne Castle for the purpose of receiving legal advice on the Ginn PUD/Annexation; *all voted in favor (Note: Bill B. and Tom S. were absent/excused; Hawkeye arrived at 4:44PM).*

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

Direction to Staff and Attorneys continue to meet with the applicant and negotiate conditions of the annexation.

7:00 PM

STANDING ITEMS

4. Approval of Agenda (5 min).

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

Motion by Shelley B, second George B, to approve the January 16, 2008 Council Meeting Agenda as amended; *all voted in favor (Note: Bill Burnett and Tom S. were absent/excused).*

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

- January 16, 2008

Motion by Kelly B, second by Jerry B, to approve the, January 16, 2008 Council Meeting Minutes as presented; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

- Action Item Memo

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

Robert Martinez: 800 S. Main

I would like to address the unfairness that is taking place at the Minturn public snow dump, the same that took place 4 years ago. I have asked Jay if I was able to come in on weekends and nights and he said no, we don't operate during those times and we don't have staff to attend. I have photos of trucks dumping on the weekends and at nights. I am wondering if there is any favoritism and Jay stated he would get back to me regarding my inquiry. He assured me that I couldn't dump on the weekends or at night and not be treated like the other

people dumping at those times. My concerns of deal making were brought to the public works after I spoke to the administrative Staff and I don't think it should have been. I think my concerns should be made confidential. I was told I cannot haul to the snow dump after hours.

Gary S: I spoke to Robert and Jay in regards to this situation. It is common in small towns to have a "buddy system". My direction to Jay was to make sure that if someone does a favor for the Town and we do a favor for them in return that we need to get those in a formal contract. We have a choice to make it a money maker and man it or to get out of the snow dump business.

Darla Goodell - The turntable restaurant; 160 RR Ave:

I would like to address the concept of getting more of a bus system coming in and out of the Town of Minturn. I have lost business since my tenants cannot make it to their jobs with the current bus system. The Town is also losing a lot of business because of lack of bus service.

8. Discussion/action of Emergency Items, if necessary

DISCUSSION, HEARINGS AND ACTION ITEMS

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

Hawkeye introduced the discussion/action item and the applicants for the annexation hearing: Ginn Battle North LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLP He then opened the public hearing that has been continued from the January 3, 2008 Town Council Meeting. He explained that there were also three land use application and all information will be added as testimony to all applications to this public hearing, as well as the process of the public hearings.

The order of the public hearing is important. It begins with the Staff's presentation, the applicant's presentation, Public comment (verbal or written) the applicant's response to any testimony and then staff can provide response to any testimony. He then asked if any Council members had contact with the public about the annexation since the last public hearing held January 16, 2008.

Shelley B: Someone asked about when we might vote on the annexation and I told them when negotiations are done. They also asked if it would pass and I told there is a 50:50 chance.

Kelly B: She has not had contact with the public since the last public hearings.

Jerry B: The local newspaper called and I told them to come to the meetings and see what is going on.

George B: Jim Kleckner asked me some questions and I told him to come and review the official records at the Town Center.

Hawkeye: I have spoken to two people. One person asked me that if the annexation fails does the Town have financial back up. Another person told me that we could not stop progress and that this development is going to happen so we need to make sure the developer makes Town wide improvements and make sure things are done right.

Tonight's Agenda:

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

- Response to Town Staff LEED Recommendations
- Employee Housing Locations
- PUD Guide Updates
- Updated Submittals

She then submitted new exhibits regarding public notices as well as a written response to the LEEDS recommendations, potential employee housing sites and PUD Guidelines.

LEED's Certification Plan; Applicants Response to Staff Recommendation Memo:

Mariana Boldu - VAg Architects; on behalf of the applicant:

The applicant is not able to accept the Staff recommendations and would like to explain to the Council why we believe the recommendations are not appropriate for the project.

The Applicant appreciates the Staff's review of the applicant's proposed green building plan, one that is an important asset to the Ginn project and a great direction for the Town to move towards.

- The LEED Certification process can take many years. The review process to the LEED Certification would result in holding TOC's and CO's on many units for an extended period of time and the applicant cannot agree to that
- Currently there are 200 LEED registered projects in Colorado and of those there are 45 LEED Certified projects in the entire state with only one being on the Western Slope
- It is unreasonable at this stage to commit to obtaining certain levels of LEED Certification
- There is no control over the evolution of the project therefore a commitment to a certain level of LEED Certification isn't reasonable
- Staff recommended that private single family homes are subject to LEED Certification. Imposing this on privately developed homes could be a barrier for the viability of the project. The applicant will commit to encourage green building practices through implementation of appropriate standards in the project's design review guidelines.
- LEED Home program is inclusive of the Energy star program standards and therefore requiring Energy Star is a duplication of efforts
- The applicant understands the Staff's desire to have a definitive commitment of the LEEDS Certification but the applicant also don't believe it is in either's interest to be rigid and potentially affect the long term viability of the project
- The applicant will design the project to and implement the root concepts of LEED Certifications through the project design review guidelines

- Ginn will pursue registration and certification in accordance with the commitments made in the applicants proposed LEED Plan
- The applicant is committed to raising the bar on green building and practices

George B: What does “pursing” the Certification mean?

Ms. Boldu: We will apply to the program and do anything in our power to obtain those certifications and it is difficult to commit to that when it is so far away in the project.

Kelly B: We asked the applicant to commit to Silver certification, how is that compared to what you are offering?

Ms. Boldu: We are committing to do all in our power to get certified, then it moves to silver, gold and then platinum certification.

Kelly B: I don’t see why the applicant cannot commit to the future of a minimal standard of Silver LEED Certification.

Brian Judge – VAg Architects and Planners: We have made a commitment to a broad certification towards various building types. I believe that on some of the projects the difference between normal and silver are attainable but a blanket statement across the board is not reasonable. It’s like building a car and setting 5 star crash test standard but when the test comes through and you achieve a 4 ½ stars. You don’t tear the car apart and start over, you accept your level of achievement that wasn’t far off. Silver LEED Certification would be applicable to some buildings in the project but not all of the. The applicant will strive to achieve LEED Certification levels with all the buildings in the project but cannot for sure commit to a specific level across the board. The applicant has stepped up and committed to a standard that no other applicant has done and is currently setting the bar for green practices.

Hawkeye: I want to know how the applicant will be committing to the LEED Certification standards

Boots: There is a condition Council will review and deem as an appropriate level and condition.

PUD Guide Changes:

Dominic Mauriello of Mauriello Planning Group; here on behalf of the applicant:

Stream setback retaining wall intent language:

- We added intent language that states what those walls are for. Such as golf paths, golf features, pedestrian access and landscape treatments. These walls will be developed in a sensitive manner that is responsive to the natural environment and will help improve the natural aesthetics of the area and reduce barriers for river access. It is not to act as a visual barrier to the river.

Boots: As I understand one portion of the river is squeezed between a contaminated area; Could you indicate what might happen during the remediation process?

Ken Washee: 1707 Cutty Sark Silverthorne, CO:

On the west side of the river, the tailings pile:

We have problems with soils contaminations so we plan to remove and replace the soils to above human standards. There will be interim interference with the visuals to the river but

not after remediation. For the waters we will create French drains and after the installation there won't be any visual affects.

Boots: I would like a reference to the visual aspects of the property and the view shed of the area including the mountains in the PUD Guideline.

Mr. Mauriello:

- Employee housing details have removed from PUD GUIDE and reference provided to employee housing.
- The applicant has changed the language of golf course "facilities" to "features"
- The applicant has identified the possible locations for employee housing, all 8 locations.
- The applicant believes they have enough land to meet the requirement that the applicant has proposed and committed to for on site employee housing.

Hawkeye: I think we need to bump up the commitment of employee housing. We need to address employees for people coming into the town because of the resort not just the Ginn employees. I commend the applicant for reaching the 50% mark for Ginn employees only but we need to address the people such as maids, butlers and so on. Vail requires 30% which is 10% lower than the county.

Mr. Mauriello: I think there is some confusion. Vail's 30% is per square footage. We are talking about 50% of the actual employees. The County is looking at something different. You are comparing apples to oranges. Also, the maid and other maintenance employees will be part of the Ginn employee work force. Because of the County's commercial mitigation process as an employee you have to provide certain amounts of housing for your employees.

Mr. Weber: A lot of the items that Hawkeye has noted are included in our proposal.

Kelly B: So we can require private homes to use Ginn employees/Ginn life styles?

Mr. Weber: I am not sure but I do believe a majority do use Ginn employees for services.

Kelly B: What about emergency services?

Mr. Weber: Emergency services employees are provided on call housing on site.

Kelly B: Are the emergency services included in the 50% proposed plan?

Mr. Judge: We provide the housing for the services while they are on call. Their actual employer is responsible for family and full time housing help.

Shelley B: Emergency service companies rotate there services of the crew members all over the valley and I don't think there would be any firefighters living full time on location.

Hawkeye: Has the applicant addressed a centralized trash location?

Mr. Mauriello: I believe the applicant has addressed that in their LEED proposal.

Hawkeye: Has the applicant addressed that for the employee housing?

Mr. Weber: I don't think we have addressed that as of yet but will look into it.

Kelly B: What about traffic concerns previously mentioned by the Council?

Mr. Mauriello: The applicant has committed to no traffic on Sundays.

Kelly B: What about the mass transit concerns?

Mr. Mauriello: The applicant will need require mass transit or they won't be able meet their trip budget and continually be fined.

Boots: Along with the construction traffic is the remediation traffic accounted for in the trip budget proposed by the applicant?

Mr. Mauriello: Yes

Hawkeye: Mr. Weber, did you ever catch up with Bill Andre from the Division of Wildlife?

Mr. Weber: I am still waiting to hear back from him. I do believe he has had a family emergency.

Boots: We have heard from Mr. Andre that the D.O.W. and the applicant were at about 95% in agreement from prior meetings and we will have to eventually come to a decision.

Kelly B: I would like to hear from Mr. Andre and what the applicant didn't agree with.

Mr. Weber: There are only two differences between the applicant and the D.O.W.: One is that we want to operate the lifts until April 1st and the D.O.W. wanted to stop operations on March 15th. The applicant has committed to monitor the Peregrine Falcon during the time differentiation of March 15th and April 1st and if there is any Peregrine Falcon activity the applicant will stop operations. The second difference between the applicant and the D.O.W. is the area of disruption, being west of the cliff bands and below the cliff bands.

Boots: The Council will be going through the updated conditions to the annexation originally drafted and approved by the Planning Commission. The Attorneys and Staff would like Council to review these conditions and change what the Council deems necessary.

Council will review these conditions and make changes and the applicant has a chance to respond to Council and Staff as well.

Condition Changes:

Outside Agencies:

- #2. Hawkeye: Has the applicant had any contact with the schools?

Mr. Weber: there is no negotiation and the applicant will pay the fee

- #5. Kelly B: It refers to the 1st phase regarding emergency services and police services. On our timeline that we have been given it doesn't relate to phases so I would like more detail about the time line in relation to phases of the project

- Hawkeye: I think the employee housing plan still needs to be reviewed; the percentage needs to be increased

- Kelly B: I would also like to see more information on emergency services housing

Hawkeye: At what point does the employee housing begin?

Mr. Weber: It begins at the 100th CO of the project and there has to be 50% from then on checked annually.

Boots: I would like to change some of the language at the beginning of condition #5 regarding outside agencies.

- #8. Shelley B: What does it mean by financial assistance for the remaining 50%?

Boots: I think it was dealing with low rent loans or financial assistance. Was financial assistance given a better definition?

Mr. Mauriello: It was addressed as pretty general.

Boots: We might want tighten up the definition.

Traffic:

- #1. Boots: We need to address the dates to each plan presented in order to reference them
Hawkeye: Has the applicant addressed to cost to the street improvements to Main St. in 2009?

Mr. Weber: Yes the applicant has.

Boots: We don't need the number in there but some language stating they will complete the improvements the applicant has committed to.

Kelly B: I would like to see the detail on the mass transit, employee transportation and intercept area included prior to the final PUD.

Boots: We will add that in the beginning of traffic condition #1.

- #2. Hawkeye: Does this cover an overlay in the highway?

Mr. Weber: There is an overlay proposed and planned at the end of the project as stated in the PUD Plan

Boots: Clarification needs to state that there would be repairs to any damage done to highway 24 during the project.

Kelly B: I think we need to create a phasing plan for the repairs and infrastructure improvements in the Town of Minturn and not just on the Ginn property.

Council, Staff, Attorneys and the Applicant proceeded to review the conditions for annexation and revise them with clarification, further details and what Council deemed as necessary as conditions to the project. The conditions for annexation review will continue at the next regular meeting of the Minturn Town Council.

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 February 6, 2008 Council Meeting; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

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

Hawkeye: Introduced the next public hearing - PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain, the applicants are Ginn Battle North, LLC, Ginn Battle South LLC and Ginn LA Battle One LTD, LLLP.
He then opened the public hearing.

Arthur "Boots" Ferguson: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.

Chris C: He had nothing to add.

Hawkeye: Does anyone have questions for clarification?

Motion by Kelly 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 February 6, 2008 Council Meeting; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

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

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

Arthur “Boots” Ferguson: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.

Chris C: He had nothing to add.

Hawkeye: Does anyone have questions for clarification?

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 February 6, 2008 Town Council Meeting; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

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

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

Arthur “Boots” Ferguson: The public record on the petition for annexation of the battle mountain annexation parcels 1-9 is here by incorporated into this public hearing file.

Chris C: He had nothing to add to the public hearing on PUD PP 06-01 (File #3).

Hawkeye: Does anyone have questions for clarification?

Motion by Kelly 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 February 6, 2008 Council Meeting; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

FUTURE AGENDA ITEMS

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

- Ginn Petitions for Annexation – Continued from: 1/30/08 – 2/6/08
- Public Hearing will be held for the following file PUD PDP 06-01 (File #1) Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report-PUD Preliminary Development Plan-Battle Mountain – Continue from: 1/30/08 – 2/6/08
- 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: 1/30/08 – 2/6/08
- 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: 1/30/08 – 2/6/08

14. Set Future Meeting Dates

- a) Council Meetings
 - February 6
 - February 13
 - March 5

- b) Planning & Zoning Commission Meetings
 - January 23
 - February 27
 - March 12

- c) Other

15. Adjournment

Motion by Kelly B, second Shelley B, to adjourn the January 30, 2008 Town Council Meeting at 10:04P.M.; *all voted in favor (Note: Bill B. and Tom S. were absent/excused).*

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk