



Official Minutes

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

Wednesday March 2, 2016

Work Session – 5:30pm
Regular Session – 6:30pm

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

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
John Rosenfeld
Matt Scherr
Jason Osborne

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 – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

Regular Session – 5:30pm

EXECUTIVE SESSION

The meeting was called to order by Mayor Hawkeye F. at 5:35pm.

Those present included: Mayor Hawkeye Flaherty and Town Council members, George Brodin, Matt Scherr, Earle Bidez, Johnie Rosenfeld, and Jason Osborne. Note Shelley Bellm was excused absent.

Staff present: Town Manager Willy Powell, Deputy Clerk Michelle Metteer, and Town Planner Janet Hawkinson.

For accommodation of a citizen, Citizen Comment was added prior to the Executive Session.

Mr. Michael Cacioppo, Business Briefs Newspaper, noted the Executive Session listed does not declare what the Exec Session is for. Hawkeye stated this was in regard to the Battle Mountain development.

1. **Executive Session: An executive session for the purpose of discussing specific legal questions with the attorney for the purposes of receiving legal advice under C.R.S. Section 24-6-402(4)(b), and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS Section 24-6-402(4)(e) – Powell/Sawyer**

Motion by Ozzy O., second by John R., to convene in executive session for the purpose of discussing specific legal questions with the attorney for the purposes of receiving legal advice under C.R.S. Section 24-6-402(4)(b), and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS Section 24-6-402(4)(e) Battle Mountain Resort. Motion passed 6-0. Note Shelley B. was absent excused.

It was noted that Shelley B. joined the Executive Session in progress at 5:45.

2. Call to Order – 6:30pm

The meeting was called back to order reconvening from the Executive Session by Mayor Hawkeye F. at 6:35pm.

As a result of the Executive Session:

No action was taken and direction to Staff was to continue negotiations with Battle Mountain Resorts/Crave Communities.

- Roll Call

Those present included: Mayor Hawkeye Flaherty and Town Council members, George Brodin, Matt Scherr, Earle Bidez, Johnie Rosenfeld, Jason Osborne and Shelley Bellm.

Staff present: Town Manager Willy Powell, Deputy Clerk Michelle Metteer, and Town Planner Janet Hawkinson.

- Pledge of Allegiance

3. Approval of Agenda

- Items to be Pulled or Added
 - Add staff presentation

Motion by Shelley B., second by Ozzy O., to approve the agenda as amended. Motion passed 7-0.

4. Approval of Minutes

- February 17, 2016

Shelley B. stated that she received an email which she will forward to the Town Manager regarding the fact that some people were not in support but were listed as supporting.

Ozzy O. stated he had made a detailed statement regarding housing prices in the community and requested this be included with more detail.

Motion by Shelley B., second by Ozzy O., to continue to the March 16 meeting the minutes of February 17, 2016 as presented. Motion passed 7-0.

5. Liquor License Authority

- Minturn Country Club Annual Renewal of a Hotel & Restaurant License; 131 Main St.; Joe Honnessy Owner/Pres – Brunvand

Public hearing opened and closed

No issues staff recommending approval

Motion by John R., second by Earle B., to approve the Minturn Country Club Annual Renewal of a Hotel & Restaurant License; 131 Main St.; Joe Honnessy Owner/Pres as presented. Motion passed 7-0.

6. Public comments on items, which are NOT on the agenda (5 minute time limit per person)

Mr. Michael Cacciopo, Business Briefs, noted he was running for State Representative for House District 26 and stated his qualifications. He also asked the Council to notify the press of special meetings. He noted that the Staff had posted the meeting in accordance with law but requested further notification action by staff.

No direction was given to modify our current posting standard.

Ms. Terry Armestead announced a meet the candidate at the Saloon on March 10 5:30-7:30.

Mr. Jeff Miller, 350 King Ranch Rd, stated the upcoming election in April is very important as the Battle Mountain Resort/Crave Communities Corp (BMR/CCC) actions will be determined by the new Council. He requested biography items be placed on the website. Mike S. stated there might be legal ramifications of having this on the Town website. It is important that we do not show bias.

7. Special Presentations

- Committee Report

Shelley B. reminded all that Minturn Scholarship applications are available on line and the application process closes March 31.

Hawkeye presented Town Clerk/Treasurer Jay B. with a card and gift card for his 18 years of service.

PUBLIC HEARINGS AND ACTION ITEMS

8. Discussion Item: Crave Communities Land Exchange Proposal Update – Powell

Hawkeye introduced the subject and noted we will have a staff presentation, a Crave Communities presentation, and then Public Comment. (Note: the meeting had over 125 guests for the discussion.)

George B. presented for the Council as he and Earle B. are the BMR/CCC subcommittee Council representatives. He noted the Battle Mountain project was originally proposed as the economy was declining in 2008. In 2012 \$4.3m was released for Town use. Recently a proposal was brought forth to swap the original Battle Mountain site for USFS land which would be more easily developable and would include more attainable housing. George B. stated this is an opportunity for the Town that we should at least investigate. He noted development would include more people in Town, include growth in businesses, and would include redevelopment of Bolts Lake to allow approximately 340 acre feet of water storage. With growth traffic would increase as would noise from it. George B. noted he had received, as had the entire Council, letters from the citizens and assured the meeting that he had read them and that he is hearing their voice. George B. noted the attainable housing that is included in the project. He noted the county does not have sufficient housing for the entry level family.

Earle B. noted the attainable and workforce housing was very important. He stated that when he moved to Town he bought a house, he felt he could not do that now. He noted a survey that Janet H. had completed which showed that 54% of the units in Town are second homes, in a few short years this had increased 19% exemplifying the character of the Town is changing from the neighborhood community we cherish. He stated the middle class core is moving down valley. Earle B. outlined the process that has evolved with the discussions with BMR/CCC. He stated they had identified several concerns:

- Meadow Mtn and Grouse Creek should be removed from the plan.
- Environmental corridors should be protected.
- Attainable housing should account for 30% or so of the buildout. This is a real concern and is an important aspect to be mixed within the project not segregated to an isolated area.
- If in the future, the Council passes an Ordinance it can be called for a public vote by the citizens or the Council at that point. This would give the opportunity for the citizens to decide as well.
- Earle B. noted that the agreement being developed allows either party to pull out for a host of reasons.
- The developer will be required to provide the necessary infrastructure and the resulting development would allow the Town to improve the rest of the system to include Bolts Lake. The developer has agreed to help secure the USFS property and

buildings at Dowd Jct if it becomes available. The intent would be to annex this property into the Town.

Mike S. discussed the legal aspects of the proposed land exchange. He stated the importance of having enough information to make a decision and that if the developer proposes benefits that those benefits be provided and the developer is not able to back out of any agreements. Mike S. ensured that any potential agreement would allow the Town final approval and incremental assurance and approval. He stated if the land exchange does go forward it would be an approximate two year process with the USFS. A separate process would begin to consider the development as to density, amenities, access, zoning, etc. He stated prior approvals given or considered on the original Battle Mountain project would not extend to the new project. He explained an annexation is a legislative process and is subject to a voter referendum. It was noted that the citizens will have plenty of opportunity to comment, no decision on any letter of support will be made until after the April 5, 2016 election so that the Council making the decision will be seated for at least two-four years.

Mr. Loren Bassel, Crave Communities Corp, introduced himself and assured the audience they are working to propose a quality project and they are sensitive to the issues and concerns of the community. He stated they are committed to continuing an open dialog which will help to create a vibrant and robust community.

At this point the citizens were allowed to speak, comment, and ask questions.

- Mr. David Littleton, 515 Kings Ranch Rd, noted that the “loop” road they list as a forest road, is actually their private road. He stated the Kings Ranch would not allow access on that road. He stated this was brought forward several months ago and nothing has been addressed regarding this issue. He felt they are being bulldozed and blown off regarding this issue and felt this was “mistrustful”.
- Ms. Emily Martinez, 1010 Mountain Dr, stated there is also another private road in the area of Mountain Dr. that has not been addressed. She asked if the Town would receive a new water plant and how would that affect the water rights? Hawkeye stated questions would be answered at the next meeting when a full and correct answer could be given. She asked who would be doing the traffic studies and who would be paying for them? She felt it should be a neutral study. She recommended a study be done of the major employers on the wages paid and what is defined as affordable or attainable housing. She stated she was concerned with the water quality that would be in Bolts Lake.
- Mr. Nat Lacross, 322 Taylor St., was opposed to any letter of recommendation for the land swap.
- Mr. Woody Woodruff, 344 Eagle St., stated he was on the Planning Commission when the original BMR project was approved. He stated that many items already agreed to have not been addressed such as traffic, wildlife corridors, water treatment plant, and mine waste cleanup. He noted in the original project the developer would be the owner/manager and would maintain the project. This proposal brings in a developer to do the project(s) and home owner associations to manage; this is a different management proposal. He felt it was important that we have a citizen vote

prior to any letter being given or action being taken in the form of supporting the proposal. He stated it was the Council's job to carry out the desires of the citizens not their own desires. He felt the negotiations should be done before the letter is sent, he felt the original agreements should be made whole before we proceed, and he felt it was important that the majority of the citizens be in approval of the project before we proceed.

Hawkeye stated the old agreement goes away and we start anew with this proposal. The Battle Mountain project goes to the USFS and land is given in trade. The annexation, the units, the PUD, etc all start over. Mr. Woodruff stated the work that was done needs to be considered and he felt the previous agreement should be the starting point.

- Ms. Jill Koellhoffer, 434 Taylor St., spoke in opposition of the project. She stated the Council was an elected board and elected by the citizens. She stated they were not representing the citizens or the community. She stressed the importance of the open space and the existing access to those spaces. She felt the traffic and infrastructure would be over taxed and could not sustain the development nor benefit the Town.
- Mr. John Osterberg, 1716 Main St, stated he had attended a recent BMR/CCC presentation at which they proposed to abandon the land they had purchased and trade it to the USFS for public land. He stated a land swap would give private ownership of public land and would make the currently private land which is highly polluted with mine tailings public forest.
- Ms. Ann Foster, 1143 Main St, lives on Martine Creek and does not want the land developed.
- Mr. Jim Witler, 400 Pine St, spoke in opposition and encouraged the Town to oppose the proposal.
- Mr. Larry Stone, 201 Main St, stated he had spent lots of time at businesses that no longer exist. He stated that when they opened their store they had to move their business out of Town in order to survive. When they purchased a house they had to purchase outside of Town. He stated he trusts the Council is being open and is listening. He stated the community is changing, it is always changing but what we value in the community is the community. If we do not encourage good growth we will lose what we cherish in the community.
- Ms. Terry Armestead, 1632 Main St., presented a petition that is signed by over 200 people who are in opposition to the land swap proposal. She encouraged BMR/CCC to continue to be inclusive and to have an open door. She asked why we should start the process until we can get more input and possible buy in or at least direction. She felt CDOT was in the business of moving traffic. There is a lot of angst that CDOT will respond with raising the speed limit to move traffic more efficiently.
- Ms. Linda Osterberg, 1716 Main St, stated she did not see how the numbers of second homeowners will change with this project. Rather we will have more traffic and reduced quality of life. Stated they have an existing project that is not making money and their job is to make money for their investors irrespective of the community's desire.
- Mr. Leo Vasquez, 1092 Mountain Dr, spoke in opposition. He stated the Bolts Lake area is polluted with mine tailings and would not make a good water source.

- Mr. David Clapp, 392 Taylor St, spoke in opposition.
- Mr. Gary Gillman, 1901 Main St, SteamMaster. He spoke in opposition to the project. He stated when he built his building he was told the land behind him was forest land and would never be developed. He stated the annexation was approved on a number of promises such as the Gilman cleanup and that has not been done. He does not want Minturn to look like Eagle Vail.
- Ms. Juli Babcock, 381 Main St, spoke in opposition to the project. She felt this was not about affordable housing.
- Mr. Riley Babcock, 381 Main St., thanked the Town for the scholarship that assisted his college career. He spoke in opposition to the project as it did not solve problems it created more. He felt the increased traffic would be a negative. He felt the environmental issues in the Bolts Lake area could end up costing more than anticipated for the citizens. He felt adding more houses does not necessarily mean more citizens. Rather it would exacerbate the issues of low incomes and high costs. He stated he felt BMR/CCC was not being transparent, the maps they are using encroach on private property, and the promises they are making are not attainable.
- Ms. Margo Beeler, Edwards CO, spoke in opposition and was concerned that trading public land is just not right. She stated USFS land is sacred land.
- Mr. Frank Lorenti, 1081 Main St., spoke in opposition. He stated he was the one that forced the referendum on the Battle Mountain project in 2008. We were promised the sky and given nothing. The proposal is being done by Lupert Adler, he is in the business of making money. The original project they found was not feasible so now they want a new plan. He stated the Town has stated if there is not community support then the Town would not approve the proposal. He stated it does not have community support. He stated there was an issue with Imminent Domain, if they don't have access to the land they will get it via ID.
- Ms. Sage Pierson, 151 Lions Ln, spoke in support. She felt the study work should proceed so that we have a complete proposal to consider. It is not set in stone but we should see what they are proposing.
- Ozzy O. read a letter from Mr. Andy Kaufman in support of the project and in support of further study of the proposal.
- Mr. Mason Davey, 432 Main St, spoke in opposition to the proposal. He is in support of development and felt the proposal might be worthy but it is not worthy of a USFS land swap. He felt they made a mistake buying the Battle Mountain land and now they want the public forest to pay the price.

Hawkeye called a 10min recess.

- Ms. Lynn Feiger, 344 Eagle St, suggested BMR/CCC give the Town some money to study the proposal properly like we did for the first annexation.
- Ms. Marybeth Heider, 740 Main, spoke in opposition. She stated Hwy 24 cannot be widened. She asked why it is Vail, or Minturn's job to handle the low income housing. She said growth in good jobs is more important than affordable housing.
- Ms. Tracy Long, 551 Main, spoke in opposition. She stated the Town is solvent we need to protect nature and the quality of life we currently have.

- Mr. Rob Davis, 1796 Main St, spoke in opposition, he stated there has always been an ebb and flow in our businesses in Town but we don't have to sell our Town to get it. He is against developing any land that is currently USFS. He stated the original Battle Mtn was approved, was voted on, and they should build there. He said Plan "B" is not an option and was opposed to any letter of support. He spoke of Sustainable Development.
- Mr. Lorenzo Martinez, 989 Main St, is opposed to the swap and feels this is our national heritage. He reviewed comments that were made by the Council in the recent past and felt affordable housing is not attainable without a fair wage. He felt it was wrong that we are asked to trust the developer and that they only speak the truth.

Council Comments:

John R. appreciated the comments and the letters received. A community is an engaged citizenry. He stated he is a member of the community and respects its needs. The work the Council is doing is to attempt to make the best deal possible.

Matt S. noted the importance of the citizens coming out and presenting their thoughts. He hopes this passion and energy can be included in the Community Plan as we go forward.

Ozzy O. felt the Town Council is following the public process. He feels he is out in the community and takes the concerns back to Council and his work. He stated he rents but he loves the Town. Homeownership is not a qualifier for community pride. He feels the dialog with the community and the developer is very good.

Shelley B. noted many of the more vocal citizens have pushed the Council to a better place. She was on the Board for the first annexation and it took months and months. She stated the Council is listening and hopes the citizens are listening. She stated the density is not guaranteed for the developer. She stated the process started in June and BMR/CCC is not doing enough work. They did a survey that only 15% of the participants were Minturn citizens. Now there is a new survey for the citizens if you are on Facebook. She stated north properties of Cross Creek, Grouse Creek, and Meadow Mtn are off limits in her opinion. She stated unless BMR/CCC own the property the Town cannot accept an application; the Council should only accept an application after any land swap. It is not Minturn's responsibility to solve the counties affordable housing problem; it a county wide concern. Bolts Lake existed but was breached because of a leak in the dam. It is not polluted, it has been certified clean, and it is not and never has been part of the Super Fund Site. She feels BMR/CCC is not listening to the community and they are trying to swap acre for acre. She stated she would not support any letter of support at this time.

Earle B. encouraged all to support the local businesses.

Hawkeye stated this is a USFS process and they told Minturn if we didn't support it they would have more trouble getting approval and it would take longer. He stated that USFS swap would take land and give land. If the Battle Mtn land is swapped it would more than likely be a USFS condition that it be de-annexed. The land they swap for would only be in the Town if we annex it, just because the land swap occurs does not put it in the Town.

Hawkeye noted that they have approval of 1700 units in the existing Battle Mtn annexation. We are very close to the legal challenges on the Battle Mtn being over and they will be allowed to develop. He stated the USFS operation plan has already started to shut down much of the Grouse Creek area.

Motion by Ozzy second by Shelley to deny sending the letter. Mike S., as a point of order, stated that the agenda item is a discussion item and could not be raised as a motion. As such it was withdrawn.

Mr. Woody Woodruff, 344 Eagle St, stated Battle Mountain is a Preliminary PUD not Final. If they change the housing or layout they have to get final approval. Mike S. stated the PUD as approved created certain land use rights however, yes, it would need final approval.

Mr. John Osterberg, 1716 Main St, asked why we would need to give final PUD because they have not cleaned up any of the mine tailings.

Hawkeye stated that the Board discussed the subject of the letter and decided it should be given to the next council in that we have only one more meeting.

Note: Shelley B. excused herself from the meeting at 10:55pm.

Hawkeye noted the council rules require a motion to continue after 11pm.

Motion by Ozzy O., second by Hawkeye, to move the remaining agenda items to the March 16, 2016 council meeting. Motion failed 1-5. (Note: Ozzy yea)

Motion by Earle B., second by Ozzy O. to continue the meeting. Motion passed 6-0. Note: Shelley B. was excused absent.

9. Discussion/Action Item: Consideration of Ordinance #01 – Series 2016 (Second Reading) An Ordinance approving the Grouse Creek Final Subdivision Platt – Hawkinson

Earle B. recused himself due to a conflict of interest.

Hawkeye opened the public hearing, no comment, closed public comment

Janet H. stated the changes discussed on first reading have been included.

Motion by Ozzy O., second by George B., to approve Ordinance #01 – Series 2016 (Second Reading) An Ordinance approving the Grouse Creek Final Subdivision Platt as presented. Motion passed 5-0. Note Shelley B. was excused absent and Earle B. had recused himself due to a conflict of interest.

10. Discussion/Action Item: Consideration of Ordinance #02 – Series 2016 (Second Reading) An Ordinance approving the Grouse Creek Subdivision Rezoning – Hawkinson

Janet H. reported there were no changes since first reading.

Public hearing opened, no comment, public hearing closed.

Motion by John R., second by Ozzy O., to approve Ordinance #02 – Series 2016 (Second Reading) An Ordinance approving the Grouse Creek Subdivision Rezoning as presented. Motion passed 5-0. Note Shelley B. was excused absent and Earle B. had recused himself due to a conflict of interest.

Earle B. resumed his seat.

11. Discussion/Action Item: Consideration of Resolution 07 – Series 2016 a Resolution approving Variance Request 16-01 at 386/392 Taylor St. – Hawkinson

Janet H. outlined the application and the conditions which warrant the recommended approval. Discussion ensued as to how the property setback will be measured in the future. Janet H. pointed that this is a variance for a practical difficulty caused by the neighboring properties retaining wall and is not a hardship.

Public Hearing was opened.

David Clapp, applicant, presented his case. This is a variance request for his property. He does realize this does not correct the issues all along Taylor St. and only corrects his issue.

Mike S. stated he felt we should table this issue in order to better memorialize the resolution as pertained to the measuring of the setback to make it more clear for future interpretation.

Public Hearing was closed.

Motion by Earle B., second by Johnie R., to continue Resolution 07 – Series 2016 a Resolution approving Variance Request 16-01 at 386/392 Taylor St. to the March 16, 2016 Council Meeting as presented. Motion passed 6-0. Note Shelley B. was excused absent.

COUNCIL AND STAFF REPORTS

12. Town Planner

- Planner Report

13. Town Manager

- Manager's Report

Bolts Ditch Lobbying and Legislation

Bolts Ditch legislation has been introduced into the House and Senate. The House Natural Resources hearing was held Feb. 25. Representative Polis's testimony is attached.

TAP Engineering

Discussions with Stolfus Engineering for scope of work, schedule and costs are ongoing. Jeff and Willy met with Stolfus on Feb. 25 to discuss the revised scope. Stolfus is to deliver the revised scope, schedule and pricing the week of Feb. 29.

We received from the state the fully executed TAP grant contract. This means we can begin the engineering project once we have the executed professional services contract with Stolfus.

Stolfus would like to tie Minturn's planning with the CDOT repaving planning so the projects are fully integrated. Under this schedule we would have preliminary planning by June, 2016. This is will mean a full-on planning, public engagement and Council/PZ effort during the next several months.

100 Block Engineering

Jeff Spanel, Janet and I met Grand Junction on February 10th to resolve issues and finalize plans for the 100 block engineering. We believe we were successful in working out our issues. We have not received comments back from our discussions and we are pressing hard to have them produced.

On Tuesday, March 1, Jeff Spanel, Janet and Willy will discuss sending the project out for bid, absent of CDOT's comments. The items we are discussing would not result in and substantial changes to the plans and we would have unit costs for any of the changes. We will brief you at the meeting.

- Action Report

14. Town Council Comments

Hawkeye noted his appreciation for all the citizen input during the BMR/CCC discussion.

Matt S. highlighted the very successful Skijoring event and thanked those involved.

15. Town Attorney

FUTURE AGENDA ITEMS

16. Next Meeting – March 16, 2016

- Holy Cross Powder Hounds – Powell 03/16/16
- Res 7-2016

17. Future Meetings:

- Work Session – Review of Job Descriptions - Powell

- Work Session on housing – Hawkinson
- Clear Vision areas on Town street corners - Hawkinson

18. Set Future Meeting Dates

a) Council Meetings:

- March 16, 2016
- April 6, 2016
- April 20, 2016

b) Planning & Zoning Commission Meetings:

19. Other Dates:

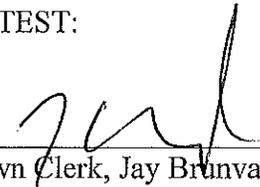
20. Adjournment

Motion by Earle B., second by John R., to adjourn at 11:50.



Mayor

ATTEST:



Town Clerk, Jay Brunvand

