



OFFICIAL MINUTES

Town Council Regular Meeting | 5:30 PM

Wednesday, January 17, 2024

Town Hall / Council Chambers - 302 Pine St Minturn, CO

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate.

This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION:

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/83696184135>

Zoom Call-In Information: 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 836 9618 4135

Please note: All virtual participants are muted. In order to be called upon an unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

Public Comments: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

1. CALL TO ORDER

Mayor Earle B. called the meeting to order at 5:32pm.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Those present included: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, Town Council members, Lynn Feiger, Gusty Kanakis, Brian Rodine, and Kate Schifani. Note: Tom Sullivan has resigned from the Council and his seat is vacant.

3. APPROVAL OF CONSENT AGENDA

Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.

- A. Approval of 12-20-2023 Minutes
- B. Liquor License Renewal - 542 Main St LLC, DBA Sunrise annual renewal of a Hotel & Restaurant (City) Liquor License; 132 Main St, Douglas McAvity Owner/Manager
- C. Liquor License Renewal - Rocky Mountain Taco annual renewal of a Fermented Malt Beverage (City) Liquor license; 291 Main St, Chris McGinnis Owner/Manager
- D. Resolution 01 - Series 2024 A Resolution Approving the Posting Sites

Motion by Gusty K., second by Terry A., to approve the Consent Agenda of January 17, 2024 as presented. Motion passed 6-0.

4. APPROVAL OF REGULAR AGENDA

Opportunity for amendment or deletions to the agenda.

Motion by Kate S., second by Terry A., to approve the Agenda of January 17, 2024 as presented. Motion passed 6-0.

5. DECLARATION OF CONFLICTS OF INTEREST

6. PUBLIC COMMENT

Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.

Mr. Michael Boyd, 502 1/2 Eagle St, spoke regarding the HPC meeting last night and changes in Chapter 19 of the municipal code which they are reviewing. He feels these changes bypass the Planning Commission. He asked this be brought before the Planning Commission prior to approval.

Ms. Sarah Smith Hymes, candidate for District 2 Eagle County Commissioner. She outlined how a candidate gets on the ballot, petition or caucus.

7. COUNCIL COMMENTS & COMMITTEE REPORTS

Terry A. commended Public Works for the snow work.

Earle B. echoed Terry A. and noted if you remove snow from your sidewalk in to the street it must be done between 4am and 7am.

8. STAFF REPORTS

- A. Manager's Report

Water Treatment Facility Security Fence

A security fence will be installed at the Minturn water treatment facility this spring summer. The fence will border the eastern property line of the town and travel up the slope on the east side of the property only. CPW and CDPE required this design for wildlife movement to/from Cross Creek while still keeping out any vehicular traffic and pedestrians coming from the east.

Downtown Development Authority

With Jim Mann, municipal financial advisor, back on board, Minturn is moving forward again with our analysis of the Downtown Development Authority. One new factor for property valuations will be the recently adopted Historic Preservation Ordinance and how that seems to be affecting property values. This will impact the amount of funds a DDA could potentially secure, so Jim Mann will be adding this to his analysis. We hope to have a report in the coming months.

Minturn Tank Operations

Update – Jarod Limke, Jeff Spanel, Jim Mann, and I had a productive conversation with Sean Oliver, State Revolving Fund representative. Sean indicated Minturn CAN use the remaining funds from the concrete tank loan to install a PRV vault which would allow Minturn to efficiently operate both the steel bolted tank and the new concrete tank at maximum capacity. Minturn is now looking into the viability and costs associated for the rehabilitation of the steel-bolted tank. This route may also prove more cost-effective than installing a service line to the Medina property for a separate project. More to come.

12/20/2023 update - Tank #3 is now online and operational. I will be discussing tank loan options with the State Revolving Loan Fund representative to determine if leftover loan funds can be used to facilitate the functioning of the two tanks interchangeably. If funds can be used to improve the functioning of the system, Minturn may want to install a valve box on HWY 24. I will have more information after discussing this option with the SRF representative.

USGS Gauge on Cross Creek

Update – I had a productive discussion with Steve Anders, USGS program manager. Steve provided a little more history regarding the stream gauge and has supplied the contact information for the CWCB representative I can reach out to for discussing cost share options. I expect the CWCB may be interested in supporting this gauge financially.

12/20/2023 update - Minturn currently pays for the USGS gauge on Cross Creek. This comes at an annual cost of around \$16,000. This is a federal program and I have reached out to USGS to understand why Minturn incurs this cost. Unless there is a specific reason in one of Minturn's water rights decrees, I expect Minturn to drop this expense. The CWCB and Division 5 Engineer use this gauge to make the instream flow call on Cross Creek. I expect if they wish to continue making the instream flow call on Cross Creek, they will support the federal government in maintaining the costs of the gauge.

Michelle M. updated on the upcoming community survey. Earle B. and Lynn F. volunteered to help develop the survey. She noted that we will continue with our current Town Prosecutor. She is updating the Employee Handbook with Employers Council. Michelle M. noted that we will start looking at Congressional funding options for future needs. She is working on the Council Retreat,

Michelle M. is looking at late April or early May after the election on April 2. Michelle M. note only 67 residents have access to the Smart Water that would allow citizens to view their accounts online. She continues to look for the \$43k needed to join the full use of the software. She spoke of a conversation had regarding how we are looking at water conservation and how we can achieve our goals without having underwatering of landscaping issues.

Discussion ensued how the security fence will not be a full enclosure and thus will allow wildlife movement.

9. SPECIAL PRESENTATIONS

Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.

10. BUSINESS ITEMS

Items and/or Public Hearings listed under Business Items may be old or new and may require review or action by the Council.

A. Resolution 02 - Series 2024 A Resolution Appointing an Interim Council Member
Section 4.6 of the Town Charter requires “the remaining Council Members shall choose by majority vote, within thirty (30) days after such a vacancy occurs, a duly qualified person to fill the unexpired term so vacant.”

On December 12, 2023 the Town received a resignation from Council Member Tom Sullivan effective immediately. On direction given at the 12/20/23 Council Meeting, Staff has proceeded in the advertisement opening and solicitation of applicants.

- 1) The position and qualifications were posted in the Public Posting boxes.
- 2) This same posting was added to the Town Website.
- 3) An advertisement was placed in the Vail Daily for the position. The ad refers interested citizens to the website or the Town Clerk for further information.
- 4) The notice was email blasted several times too.
- 5) The deadline for Letters of Interest are due in the Clerk’s Office by end of business on January 11, 2024.
- 6) Council would then appoint based on the received Letters of Interest on January 17.
- 7) The appointment would be effective through the April 2024 election and, upon candidacy, could be included in the April election.

At tonight’s Council Meeting you will consider appointment of the Council Seat. Currently the Council stands at six members in order to appoint a candidate to the vacant seat you will need four votes minimum. Through the process, the town received one Letter of Interest and will consider only that individual. Since there is only one there will not be any balloting, the motion to appoint will be the determinant.

Motion by Gusty K., second by Kate S., to appoint Eric Gotthelf as interim Council Member. Motion passed 6-0.

Note: The Mayor swore in Eric G. and Eric G. assumed his seat at the dais.

B. Resolution 03 - Series 2024 A Resolution Approving An Intergovernmental Agreement Between the Town of Minturn and Eagle River Fire Protection District to Support Wildland Fire Mitigation

Michelle M. introduced Fire Chief Bauer and Hugh Fairfield-Smith who outlined the agreement Minturn has participated in the regional wildland fire mitigation efforts for the last several years. This is an ongoing effort requiring the support of all regional jurisdictions. With area fuels continuing to dry and climate fluctuating, the risks associated with wildland fires remain prevalent. Minturn relies on our local organizations like Eagle River Fire Protection District to lead the effort in addressing these issues and Minturn's supporting role through financial contributions, community education, and other means, plays a significant part toward the necessary preliminary emergency preparedness steps we can take.

“Eagle River Fire Protection District, by and through Eagle Valley Wildland shall use the Minturn Contribution only for the direct costs to support wildfire mitigation efforts in the Minturn Area, including salary costs for Eagle Valley Wildland staff. Eagle Valley Wildland will take on all contractual needs, management, and oversight of the projects performed in the Minturn Area during calendar year 2024.” – 2024 IGA

Discussion ensued how we can avoid fires and mitigate the concerns and how transmission lines can cause fires.

Michael S. asked if the Fire Chief recommended undergrounding powerlines in new developments and existing as able; yes, that is recommended but there are associated costs that must be considered that make it often unattainable.

Gusty K. asked about community chipping, Mr. Fairfield-Smith outlined how the program would work.

Discussion ensued on the costs involved in the mitigation needs as well as a wish list of priorities for fire mitigation.

Motion by Eric G., second by Gusty K., to approve Resolution 03 – Series 2024 approving an Intergovernmental Agreement with the Eagle River Fire Protection District to support Wildland Fire Mitigation as presented. Motion passed 7-0.

C. Resolution 04 - Series 2024 A Resolution Adopting the Eagle County Community Wildfire Protection Plan

The Community Wildfire Protection Plan serves “as a robust and comprehensive blueprint, thoroughly designed to safeguard our community against the escalating threat of wildfires. Formulated through a collective effort, this plan not only outlines strategic processes but also highlights the unwavering commitment we hold for the well-being of our community. At the heart of the CWPP is a deeply ingrained belief that within our community we possess the capacity to influence the outcomes of future wildfires. This plan, with its overarching theme, underscores the

collective strength and resilience of our community. It is not just a response to challenges, but a proactive initiative in shaping our shared future.” – CWPP 2023

Earle B. asked about some of the descriptions and noted a point that needed to be better defined, this will be done prior to signatures.

Motion by Gusty K., second by Kate S., to approve the adoption of the Eagle County Community Wildfire Protection Plan as presented. Motion passed 7-0.

11. DISCUSSION / DIRECTION ITEMS

A. Cross Creek Well Exploration Update

Michelle M. introduced Bill Berg, Martin and Wood who detailed the work done, findings, next steps and recommendations. Michelle M. noted we will have a discussion with the full water team where decisions will be asked. This meeting is presentation only.

This memorandum summarizes the Minturn Well Nos. 3 and 4 testing activities that were performed by Cascade Environmental (Cascade) from October 31, 2023 through November 16, 2023. The purpose of the Minturn Wells 3 and 4 testing program was to assess whether Minturn Well Nos. 3 and 4 could each reliably produce approximately 225 gallons per minute (gpm) and to gather some preliminary information regarding whether the wells would be classified as groundwater under the direct influence of surface water (GWUDI). Both Minturn Well Nos. 3 and 4 have two screened intervals: one shallow and one deep. Due to the concern over the wells being classified as GWUDI, the upper screened interval in each well was to be sealed off during the aquifer testing so that only the lower screened interval was producing groundwater. This was achieved by using an inflatable packer to isolate the lower screened interval. The remainder of this memorandum describes the aquifer testing activities that took place during the testing program.

Well No. 3 appears to be capable of a maximum pumping yield of approximately 100 gpm with groundwater contributions from both screens. The drawdown in Well No. 3 during testing suggests that the well yield limitation for Well No. 3 is a combination of both geology and well diameter. The combination of geology and well diameter limit the rate of groundwater production from a well. The largest pump that can be installed can only produce about 100 gpm, due to well diameter limitations on what size pump can fit down the well. Because of both the well drawdown, which suggests aquifer conductivity limitations, and well casing size, Well No. 3 will be limited to approximately 100 gpm. Well No. 4 may be capable of a maximum pumping yield of approximately 250 gpm with the groundwater contributions from both screens. However, this pumping rate was not tested due to GWUDI concerns. When the well is limited to only the lower screen, the estimated pumping yield was limited to approximately 100 gpm (during testing with the packer installed) because of the drawdown within the well approaching the pump intake. The packer limited water production to only the groundwater entering the well from the lower screen, which is the most likely non-GWUDI interval. The 100 gpm lower screen well yield limitation suggests that a significant portion of the Well No. 4 yield is from the upper screen. Because of concerns of surface water impacts from the upper screen, we conclude that Well No. 4's water production from the lower interval is limited to a well yield of approximately 100 gpm.

Additionally, the lower screen in Well No. 4 is compromised and will have to be replaced at some point in the future due to well cleaning limitations. 128 Section 11, Item A. Michelle Metteer Well No. 3 and Well No. 4 Testing December 29, 2023 Page 6 Martin and Wood Water Consultants, Inc. If the Town continues to be interested in utilizing wells for its water supply, it is estimated that at least two new wells would be required to meet the demand of up to 450 gpm. We inquired with Cascade about the estimated cost for a new alluvial well in the area near the existing wells. The estimated well construction cost was approximately \$75,000 to \$85,000, depending on the well casing size. Pumping and power considerations would be separate, but at this cost, multiple additional wells may still be an attractive option to Minturn. Further testing is needed to evaluate the GWUDI status of the groundwater.

Gusty K. clarified the well costs is per well; correct.

Lynn F. asked about the damaged screen. Mr. Berg noted due to the way you build a well, the existing well would need to be rebuilt, not repaired. It was clarified that there is concern of surface water contamination on both wells, especially at the upper screen of each well.

Terry A. discussed the maintenance of Well 4. Mr. Berg explained to determine if the wells would pass the surface water infiltration takes much more study time. Further discussion ensued as to the use of upper and lower screens and the potential yields.

Mr. Berg felt the safer path would be to use the lower screens and multiple more wells. It was noted that, based on the two current wells, we would be looking at a potential of 4-5 total wells. He stated the cost should be evaluated with a filtration plant. Michelle M. stated the rest of the team will be at the 2/7 meeting where a fully vetted discussion can be had. Michelle M. noted that the replacement of Well 4 should be accomplished sooner than later as we would not want to be without the water flow.

Gusty K. asked if you could go deeper in the wells; no, the wells are down to bedrock so are as deep as they can go. Mr. Berg state an alluvial well will produce much more water than a bedrock well at a far less expense.

B. Gilman Disconnection

The former town of Gilman was originally annexed into the town of Minturn in 2008 for the purposes of total environmental remediation and turning the site into employee housing as part of the greater Ginn Development Project. Since 2008, the project has gone through several iterations and no longer includes remediation of the Gilman, Rex Flats or Roster Pile 5 areas. Gilman, Roster Pile 5 and Rex Flats areas are all contaminated superfund site areas requiring enclosure by the property owner and no public access. It is common to receive trespassing calls for both Gilman and the Rex Flats areas. Currently, those calls are at the cost of the town. If disconnected, those calls would be the cost of the county. Additionally, any further environmental remediation of those areas will come with extensive costs associated and unable to be borne by the municipality.

Michael S. presented that because of the location of these areas and the point that the County is better equipped to deal with the Superfund overlays that disconnection of these parcels is recommended by Staff.

Michelle M. introduced Tim McGuire, Battle Mtn representative, responded that the disconnection is cleaner and makes sense to do such. It was noted that the Rex Flats contamination is very high and was never cleaned completely but the EPA feels it is sufficient due to the future “use” of the land. It was noted that digging into the contaminated areas would/could exacerbate the contaminations.

Mr. McGuire noted the recent Battle/Town agreement includes a disconnection of specified lands. These areas would be added to that list and would be approved by ordinance.

Direction was given to proceed with including the discussed Roaster Pile 5 and Rex Flats in the disconnection procedure.

12. FUTURE AGENDA ITEMS

A. Future Meeting Agenda Items

13. EXECUTIVE SESSION

An Executive Session for the purposes of receiving legal advice on specific legal questions pursuant to C.R.S. 24-6-402(4)(b) to discuss the Town’s water rights on Cross Creek, recent administrative decisions, and the status of water court case no. 2000CW3030.

Motion by Terry A., second by Gusty K., to convene in An Executive Session for the purposes of receiving legal advice on specific legal questions pursuant to C.R.S. 24-6-402(4)(b) to discuss the Town’s water rights on Cross Creek, recent administrative decisions, and the status of water court case no. 2000CW3030. Motion passed 7-0.

14. ADJOURN

Motion by Kate S., second by Eric G., to adjourn the meeting at 8:08pm.

Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

INFORMATIONAL ONLY ITEMS

Upcoming Council Meetings:

--February 7, 2023

--February 21, 2023