



## OFFICIAL MINUTES

### Town Council Regular Meeting 5:30PM

Wednesday, February 21, 2024

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

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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](http://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/82915766782>

**Zoom Call-In Information:** 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 829 1576 6782

**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 5:35pm.

#### 2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Council present Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, Town Council members, Eric Gotthelf, Gusty Kanakis, Kate Schifani, and Brian Rodine. Note: Lynn Feiger was excused absent.

Staff present: Town Attorneys Michael Sawyer, Town Planner Scot Hunn, Town Manager Michelle Metteer, and Town Clerk Jay Brunvand (zoom).

Earle B. updated that he will be adhering to council rules to include uninterrupted time for each council member to speak without interrupting each other. At the next meeting we will begin using a timer to ensure fairness.

### **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. 02-07-2024 Minutes
- B. Resolution 07- Series 2024 A Resolution Accepting Conveyance of Minturn North Tract C
- C. 806 Cemetery Road - New Maintenance and Storage Building

Terry A. requested to pull Item C for further review, this was moved to Discussion Item 11b.

Motion by Terry A., second by Gusty K., to approve the Consent Agenda of February 21, 2024 as amended. Motion passed 6-0. Note: Lynn Feiger was excused absent.

### **4. APPROVAL OF REGULAR AGENDA**

Opportunity for amendment or deletions to the agenda.

Motion by Kate S., second by Eric G., to approve the Agenda of February 21, 2024 as presented. Motion passed 6-0. Note: Lynn Feiger was excused absent.

### **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.

### **7. COUNCIL COMMENTS & COMMITTEE REPORTS**

Earle B. updated on a recent Eagle Transit Authority meeting and that Minturn will have 3 additional routes beginning in the summer. He also noted additional trips going west throughout the day. They are still working on the Fare Free program(s). He noted the March 5 Candidate forum for the council election to be held at 5:30. Citizens having questions can submit them in advance. The election on 4/2/24 and absentee ballot applications are available now.

### **8. STAFF REPORTS**

- A. Manager's Report

### Minturn Made the Super Bowl!

It's exciting to see Minturn make its way into a small portion of Microsoft's Copilot: Your Everyday AI Companion commercial. It received over 120 million views during the airing of the Super Bowl and has received an additional 16 million views on YouTube. Here is a link to the full commercial: <https://youtu.be/SaCVSubYpVc?si=kzvtvSQF3j8tupwA4>. Take note of the homes highlighted from Minturn. These are older homes, with color and "character."

### CDOT Administrative Meeting

I met with CDOT representatives to discuss matters related to Highway 24. CDOT supports permanent bulb outs for traffic calming, illuminated signage for speeds, overhead banners (pending town pays for the structural engineering to install and permit) and recommends Minturn obtain a transportation master plan moving forward. I will also be requesting a new speed study be conducted for the HWY 24 corridor. CDOT is also donating two illuminate speed feedback radar signs to Minturn. This is a value of almost \$8,000.

### Code Compliance and Building Permit Specialist Job Opening

Minturn is hiring! If you know of someone looking for an exciting position in government, they may be interested in the world of code compliance. Please direct them to the town's website for a complete description of the code compliance and building permit technician job description and list of benefits. Full list of details here: <https://www.minturn.org/home/news/job-opening-code-enforcementoutreachand-building-permit-specialist>

Michelle M. attended the Wildland Urban Interface meeting today that discussed building codes and wildfire issues.

## **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.

### **A. One Book One Valley Proclamation - Lori Ann Barns, Vail Public Library**

Ms. Lori Ann Barns, Vail Public Library, was present to review the One Book One Valley Proclamation. The Proclamation was read into the record as presented. Ms. Barns presented the Council with this year's book and book marks. A copy of the book will also be added to our Free Library. Earle B. read the proclamation.

## **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 06 -Series 2024 A Resolution in Support of the Bolts Ditch Act**

Michelle M. presented as Town Council is aware, Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority purchased the Bolts Lake property in Minturn to construct and operate a 1,200 acre-foot water storage reservoir, which will be critical to providing sustainable water supplies for our region. In turn, Bolts Ditch and the Bolts Ditch Headgate will

be essential to fill Bolts Lake Reservoir. Town Council will consider a Resolution at its Feb. 21 meeting supporting the passage of the Bolts Ditch Act, which provides necessary federal authorization for the District and Authority to conduct maintenance work on Bolts Ditch and its headgate within the Holy Cross Wilderness. In 2022, Town Council passed a resolution requesting that federal legislation be introduced to amend the John D. Dingell, Jr. Conservation, Management, and Recreation Act (“Dingell Act”) to add the District and Authority as government entities, along with the Town of Minturn, that may use, maintain, and repair Bolts Ditch and its headgate. The Bolts Ditch Act was subsequently introduced on June 22, 2023, in the U.S. House of Representatives by Rep. Joe Neguse (H.R.4297) and the U.S. Senate by Sen. Michael Bennet (S.2156). On January 31, 2024, I testified in support of H.R.4297 before the House Subcommittee on Federal Lands of the Committee on Natural Resources. Town Manager Metteer joined me in Washington, D.C., to attend the hearing in unity. The Bolts Ditch Act is critical to the development of Bolts Lake Reservoir. When the Holy Cross Wilderness was originally designated in 1980, Bolts Ditch was mistakenly included within the wilderness boundary. While the Bolts Ditch diversion structure is only 450 feet within the Holy Cross boundary, the wilderness designation prevented the continued use, maintenance, and repair by any entity. In 2019, Minturn sought a narrow wilderness exemption to rehabilitate Bolts Ditch as part of its municipal water system. A provision was included in the Dingell Act directing the Secretary of Agriculture to issue a special use authorization exclusively to Minturn for non-motorized access and use for the purposes of the diversion of water and use, maintenance, and repair of Bolts Ditch and its headgate. The Bolts Ditch Act is a simple amendment to the Dingell Act explicitly granting the District and Authority the same access as Minturn. On behalf of the 50,000 local customers of the Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority who will benefit from Bolts Lake Reservoir, thank you for your consideration of a resolution supporting passage of the Bolts Ditch Act.

Terry A. asked of the status; they are moving forward and anticipate designs by late summer. Discussion ensued on wetlands status, and it was expressed the wetlands will be addressed once they are determined.

Motion by Gusty K., second by Brian R., to approve Resolution 06 -Series 2024 A Resolution in Support of the Bolts Ditch Act as presented. Motion passed 6-0. Note: Lynn Feiger was excused absent.

**B. Resolution 08-2024 Approving A Conditional Use Permit for a New Duplex at 362 Taylor St**

Scot H. presented.

Summary of Request: The Applicant requests a Conditional Use Permit review of a new, 5,411 square foot duplex (Unit A: 4 bedrooms, 2,900 square feet and Unit B: 3 bedrooms, 2,511 square feet) located at 362 Taylor Street in the Game Creek Residential Zone District. The Planning Commission acting as the Design Review Board have approved the design plans of the duplex. The Applicant has provided a relatively complete and thorough set of site, landscaping, and architectural plans allowing staff and the DRB to conduct a final plan level review of the project. Proposed Plans The plans show a three and a half level structure with a max height measured to

the midpoint of the roof of 27.833 feet above proposed grade. The height of the proposed structures appear to be within the maximum 28-foot allowable within the Game Creek Residential Zone District.

Staff and the Planning Commission suggest that the Final Plans for 362 Taylor Street comply with applicable provisions of Chapter 16 and the Town of Minturn Design Standards (Appendix 'B') of the Minturn Town Code. In the event the Town Council approves the Conditional Use Permit, the following conditions of approval are suggested by the Planning Commission.

- The Applicant shall address the comments provided by the Town Engineer in the letter dated February 9, 2024 prior to building permit issuance.
- The Applicant shall maintain the minimum required parking spaces for each duplex unit.

Scot H. identified the necessary findings:

- That the proposed location of the use is in accordance with the purposes of this Charter, the Community Plan and the purposes of the zone in which the site is located.
- That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- That the proposed use will comply with each of the applicable provisions of this Chapter..

Mr. Karl Kruger, applicant, spoke. He discussed the duplex, density, grade of driveway, and how he has addressed the snow storage and parking. He noted the snow storage is based on 5% of the lot size, not 5% of the paved area.

Gusty K. noted he was not aware duplex units were a conditional use in that area. Scot H. stated a Conditional Use is required but will be reviewed as they review code updates.

Brian R. asked if the units could be sold and then reduced to a single unit; this would be allowed.

Terry A. discussed water use and needs. Mike S. noted the moratorium allows historical plus one SFE so this would be allowed. It was clarified that these are two units and will require two taps minimum.

Motion by Eric G., second by Terry A., to approve Resolution 08 – Series 2024 approving a Conditional Use Permit for a new duplex at 362 Taylor St as proposed with the following findings and conditions. Motion passed 6-0. Note: Lynn Feiger was excused absent.

Conditions:

- The Applicant shall address the comments provided by the Town Engineer in the letter dated February 9, 2024 prior to building permit issuance.
- The Applicant shall maintain the minimum required parking spaces for each duplex unit.

Necessary Findings of Fact:

- That the proposed location of the use is in accordance with the purposes of this Charter, the Community Plan and the purposes of the zone in which the site is located.
- That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- That the proposed use will comply with each of the applicable provision of this Chapter..

C. Ordinance 01 - Series 2024 (First Reading) Amending Provisions Contained in Chapter 13 (Utilities Code), Chapter 16 (Zoning Code), Chapter 17 (Subdivision Code), and Chapter 18 (Building Code) of the Minturn Municipal Code

Mike S. presented that as members of the Council will recall, the Town entered into a settlement agreement with Battle Mountain to resolve litigation that the Town had filed. The litigation arose from Town approvals granted between 2006 and 2008 to implement a ski resort development concept. Those approvals included both agreements as well as land use approvals for a large resort concept located in the Maloit Park, Bolts Lake and Battle Mountain areas.

The settlement agreement contemplates that the Town will consider approval of a much scaled down development concept. Specifically, the settlement agreement identifies a maximum density of 250 residential units, a destination spa and wellness facility, and up to 50,000 square feet of commercial development. In order to implement these settlement terms, the settlement agreement identifies various changes to the Town Code. The Ordinance presented for your consideration at the February 21 meeting (with proposed second reading on March 6) would implement the code changes identified in the settlement agreement. It is important to note that the settlement agreement did not guarantee that these code changes would be adopted. Rather, the settlement agreement creates a process by which the Town through its Planning and Zoning Commission and Town Council will consider applications for development approvals to implement the concept identified in the settlement agreement.

An important part of the settlement agreement is the requirement that Battle Mountain obtain water service for its proposed development from Eagle River Water and Sanitation District (“ERWSD”). Battle Mountain has an agreement that was executed at the time that the Bolts Lake reservoir site was sold to ERWSD that requires the District to provide water service. This likely will be in the form of a new water treatment plant taking water from the Eagle River and specifically providing it to the proposed Bolts Lake development. Section 4 of the ordinance includes utility code amendments specific to the Bolts Lake area that recognize that the Town will not provide water for this development and will not operate or maintain the water treatment plant providing such service period.

Section 5 of the ordinance implements additions to the Town's zoning code specific to the Bolts Lake development. This includes the addition of certain definitions specific to the Bolts Lake zone districts and the establishment of four new zone districts. The Bolts residential zone district is characterized by residential, non-commercial land uses. The Bolts mixed-use zone district includes higher density residential and certain low impact commercial business uses. The Bolts open space and recreation zone district is specific to non-developed areas within the Bolts Lake property. The

Bolt holding zone is a zone district that will be applied to properties the Town will receive but for which there has not been a formal planning process to establish eventual uses. The locations of these zone districts are included in a graphic in the ordinance.

The proposed land use table is included in section 16-10.5-70 and describes the types of land uses allowed in the various zone districts. One use type that requires some attention is the temporary processing area use which is designated as a use by right in the Bolts open space and recreational zone. This particular use contemplates that material excavated from the Bolts Lake reservoir will be transferred to certain parcels for processing and eventual coverage of the old tailings pile area to complete remediation of that site. Normally, material processing would be subject to a conditional use permit requirement to ensure that impacts are addressed. The developer is requesting that this be a use by right but subject to a covenant whereby the Town could include certain mitigation requirements. The covenant has not been drafted yet and will be subject to review and approval by the Town Council. Council should be mindful that in the first Intergovernmental agreement between the Town and ERWSD, the Town agreed not to apply its 1031 permitting authority to the placement of fill at the OTP. The second IGA with ERWSD does require the District to submit information related to “Nuisance. Descriptions of noise, glare, dust, fumes, vibration, and odor levels anticipated to be caused by the project,” air quality, visual quality, surface water quality, and ground water quality. The second IGA also requires approval of a “monitoring and mitigation plan” to avoid potential adverse impacts.

The dimensional use table can be found at 16-10.5-90. This table has been reviewed by planner Scot Hunn.

Clarifying discussion ensued as to how the ordinance handles the conditions within the settlement agreement, uses of the various properties, and allowable uses in the various proposed zones. Mike S. noted that no ordinances are added to the code until the end of the settlement agreement.

Section 6 of the ordinance involves changes to the subdivision code. The main provisions involve the use of exemption plats to create parcels within the Bolts Lake property that have a minimum size of five acres. The exemption plats are only subject to an administrative review. The plats will create parcels that can be conveyed to third parties. It is anticipated that the exemption plats will be used to create parcels that will be conveyed to the Town and also parcels that the developer may choose to convey to third parties interested in developing portions of the Bolts Lake area. The approximate locations for the initial exemption parcels will be presented by Battle Mountain during the hearing. In section 17-6-80 (7) A, we are still working with the Town engineer to determine which of the Town's final plat requirements will apply to the exemption plats. That issue will be clarified prior to final approval by the Town Council. Parcels created by exemption plat will have no development rights. Instead, before an exemption plat parcel can be developed, the owner will have to come through either the site plan review process or a formal subdivision process. That way, impacts can be addressed and formal review of the development concept for these exemption plat parcels can be obtained. The exemption plats will further note that water service will not be provided by the Town of Minturn.

Section 7 involves certain minor amendments to the building code. The code changes provide that impact fees are not addressed at time of an exemption plat but rather at the time of a further

subdivision or development application for set parcel. The Planning and Zoning Commission did make one recommendation of approval. It is contained in the dimensional use table. The original draft had maximum building heights for the Open Space and Recreation District and the Holding Zone. The recommendation is to make building heights and setback decisions at the time of a design review, CUP, or location and extent review. The only building currently contemplated in this zone district is the water treatment plant to be constructed by ERWSD. Before that can occur, ERWSD will have to undertake a location and extent review with the Town and these dimensional limitations can be imposed. If Council would like to revert to the prior dimensions, we can do that for second reading.

Issues presented that will be further discussed before 2<sup>nd</sup> reading:

- Recreational uses (clubs and other nonprofit organizations)
- Processing area as a use by right
- 35ft height limitation
- Conditional use of gas station

Public Hearing Opened

No Public Comment

Public Hearing Closed

Motion by Kate S., second by Gusty K., to approve Ordinance 01 - Series 2024 (First Reading) Amending Provisions Contained in Chapter 13 (Utilities Code), Chapter 16 (Zoning Code), Chapter 17 (Subdivision Code), and Chapter 18 (Building Code) of the Minturn Municipal Code as presented. Motion passed 6-0. Note: Lynn Feiger was excused absent.

## **11. DISCUSSION / DIRECTION ITEMS**

### **A. WaterSmart Meter Program**

As part of the 2019 Water Capital Improvement Plan approved by the Council, staff undertook the process of replacing the aging water meters on every structure in Town. Purposefully, WaterSmart Meters were installed to support Minturn's Strategic Plan strategy to "Practice fair, transparent and communicative local government." Within this strategy the Council further elaborates the initiative by indicating "The Town will seek to make ethical, informed, data-based decisions...".

The WaterSmart meter system not only supports the Town in the initiative toward improved data and decision-making but takes this initiative a step further by allowing the Minturn water users to be a part of that process and solution. The WaterSmart program puts water use information into the hands of the people who need it the most, the water users. By having this data, water users can begin to be a part of the consumption solution. Customers will be more aware of their water use and can see real-time information like leaks and over-consumption. This program has been a long time in the coming. As our climate dries and water consumption continues to become a more valuable resource, Minturn benefits by educating our businesses and residents on the value of water and the new to consume wisely. By allowing the Town to contribute \$43,409 toward the ability to obtain this data, the Town, residents, and businesses can all begin our journey toward becoming more WaterSmart.



WaterSmart: Intelligence Beyond the Meter Cost has been an issue during past requests for support of this program. Since the staff's last request, here are the steps that have been taken to address the cost issues:

1. Subsidized the USGS Cross Creek River Gage Annual Contract with the following:
  - a. \$10,000 contribution from the Colorado Water Conservation Board
  - b. (Potential) \$3,110.67 contribution from ERWSD
  - c. These two contributions cover Minturn's annual cost toward the gage
2. \$30,298.33 from the Minturn North Cash in Lieu revenues which are to be used toward the augmentation water contracts in 2024. See attached page from Minturn North Development Agreement requiring the payment of \$1,377,034 within 30 days of recording the Final Plat. The Final Plat is being recorded March 5, 2024.

The \$1,377,034 is the first cash in lieu fee payment from Minturn North and represents the payment for the first 34 SFEs. These funds can only be used for items like augmentation water contracts, water rights diligence, and a handful of other water-related matters, but an additional benefit to Minturn is that the revenue frees up monies in the Enterprise Funds which would have otherwise been used to cover such costs. Town treasurer Jay Brunvand will be creating a separate high-yield savings account (5.5% with 100% liquidity) to allow this influx of cash in lieu funds to slowly regenerate.

Discussion ensued on how this would help the citizens and would it be cost effective, some users don't have internet so would not be able to monitor their use, where the cost would come from in future years?

Direction given: proceed as proposed (5-1 Gusty K.)

**B. 806 Cemetery Road - New Maintenance and Storage Building**

This item was moved from the Consent Agenda for further consideration. Mike S. clarified that this was pulled from the Consent Agenda for further consideration and a motion from Council is required.

Terry A. stated that she asked to pull this up based on the wildlife concerns and issues where wildlife is being hurt by the Cemetery fence. She expressed concern about the calving season and if this would be affected by the construction season.

Brian R. asked if the fence concerns could be added as a condition of the shed. Mike S. stated the fence could not be linked to the shed DRB approval.

Michelle M. noted Colorado Department of Wildlife (CDW) is our advising agency on animal migration. It was recommended that they be asked for comments on how the migrations would affect the construction season in that area.

Motion Kate S. Brian R to table until CDW can weigh in and the Cemetery District can be contacted and informed. Motion passed 6-0. Note: Lynn F. was excused absent.

## **12. FUTURE AGENDA ITEMS**

### **A. Future Meeting Topics**

- Preparations for the Battle Mtn agreement completion
- Tiered water rates and what those would look like

## **13. ADJOURN**

Motion by Kate S., second by Eric G., to adjourn the meeting at 9:01pm.

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Earle Bidez, Mayor

ATTEST:

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Jay Brunvand, Town Clerk

## **INFORMATIONAL ONLY ITEMS**

Upcoming Meetings & Events:

- March 5, 2024 Candidate Forum
- March 6, 2024
- March 20, 2024
- April 2, 2024 Town Council/Mayor Election