



## OFFICIAL MINUTES

### Town Council Regular Meeting 5:30PM

Wednesday, March 20, 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/88248180776>

**Zoom Call-In Information:** 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 882 4818 0776

**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 Lynn Feiger, Eric Gotthelf, Gusty Kanakis, Brian Rodine, and Kate Schifani (zoom).

Staff present: Town Attorney Richard Peterson-Cremer (zoom), Town Planner Scot Hunn, Town Planner Madison Harris, Town Manager Michelle Metteer, and Town Clerk Jay Brunvand (zoom).

### **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. 03-06-2024 Minutes
- B. West Vail Pass Project - CDOT Communication

Motion by Eric G., second by Gusty K., to approve the Consent Agenda of March 20, 2024 as presented. Motion passed 7-0.

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

Opportunity for amendment or deletions to the agenda.

Motion by Gusty K., second by Brian R., to approve the Agenda of March 20, 2024 as presented. Motion passed 7-0.

### **5. DECLARATION OF CONFLICTS OF INTEREST**

- Lynn F. has a conflict with item 10B Ordinance 02 – Series 2024 and will recuse herself.
- Terry A. has a conflict with the appointment of the Planning Commission Members and will recuse herself.

### **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**

- A. Eagle Valley Transit Authority Update

Earle B. updated the VTA approval of new morning and evening round trips in the Minturn and surrounding areas and full rate-free transit. He encouraged all to take the bus and leave the car at home. Earle B. plans to take the bus all day on May 19 to emphasize the ease and efficiency of the bus system.

Earle B. noted and congratulated Terry A. on her contributions as a council member since 2016. A brief recess was called to celebrate with cake. Terry A. is not running in the upcoming April 2 election and will be stepping down from the Council.

Brian R. commented on CDOT and how we need to be careful when we do our speed study to ensure a higher speed is not a reason to keep speed limits where they are. He spoke on the ever-increasing use of e-bikes.

Discussion ensued on the reopening of Pooh Corner daycare.

## **8. STAFF REPORTS**

### **A. Manager's Report**

#### Minturn Municipal Code – Code Updates

Minturn staff is working with attorney Rob Marsh toward updating the MMC sections that pertain to nuisance and fencing. We are hopeful these updates will further support not only the health and safety of humans but also the local wildlife – specifically as it pertains to fencing. We are also updating the code of several court matters like driving without a license and addressing the need to have all jury trials take place at the Eagle County courthouse.

#### Main Street Pedestrian Project - Phase II Update

Progress continues for the spring 2025 construction start date of the Minturn Phase II sidewalk project. The survey team has already identified many residents who have encroached into the HWY 24 right-of-way. We continue to ask for cooperation from residents along this corridor to move all personal items onto private property. Thank you so much and we look forward to adding more sidewalks and increasing multimodal safety along HWY 24. She met with CDOT today and they will allow us to have wider parking and narrower drive lanes (12ft vs 11ft drive lanes).

#### Minturn Community Survey

The Minturn Community Survey will be going live later this month. Be on the lookout for a text from the Town with a link to the survey. Hard copies of the survey will also be available at town hall, or you can request a mailed copy by calling Cindy Krieg at 970-445-2415. Texts with the survey will go out to all registered voters in Minturn who can then take the survey directly on their phone. For those not registered to vote in Minturn, like second homeowners, there will also be a link to the survey from the town's website.

#### Water Tank #2 Rehabilitation Progress

The water team continues to work toward the approval process for rehabilitation of tank #2. We have identified the potential use of the master meter pit for housing the pressure reducing vault. This option would eliminate the need for additional environmental studies, save costs and hopefully shorten the approval time. More to come.

#### Minturn Forward Survey

The Town of Minturn is conducting a brief, online survey (paper copies available at town hall information table as needed) requesting feedback from Minturn residents and business owners. The Town is updating its land use, development, and subdivision regulations (Chapters 16 and 17 of the Minturn Municipal Code) and moving the Town forward after the recent adoption of the 2023 Minturn Community Plan which is intended to guide the Town's land use and development decision making over the next 10-15 years. This public process is critical to the success of the Chapter 16 update and an anonymous survey provides a great opportunity for not just property owners, but renters, who may otherwise feel intimidated to provide feedback publicly, to voice their opinion. The Planning Commission is tasked with the long-term future built-out vision of the town and everyone giving their feedback will help to ensure the public's opinions are known.

## Water Moratorium

Staff continues to address the water moratorium as potential developers and investors submit interest to the town. As a reminder, the 2020 and 2023 water moratoriums are in effect and as it relates to Section 3 of the 2020 Moratorium, taps will be distributed on a first come first serve basis.

Michelle M. noted a lot of our police tickets are issued to local residents driving too fast, not stopping at stop signs, and going the wrong way on one-way streets in town. She also discussed the bill passing through the state. SB-124 will require a housing plan for each town in order to best keep housing a local issue, not state mandated. Council directed this as important and supported her efforts in this matter.

Michelle M. noted that adding bulb-outs to increase safety might cause our storm drains to be less effective. She will report back with potential cost impacts and options.

## **B. Planning Report - Minturn Forward Update**

Stakeholder Outreach and Code Assessment – Fall 2023 The first steps in updating Chapter 16 – Zoning, and Chapter 17 – Subdivision, of the Minturn Municipal Code involved stakeholder outreach in September 2023, followed by the completion of a code assessment. Stakeholder outreach centered on conducting interviews with local land and business owners, architects and developers who regularly do work within the Town. The purpose of the interviews was to ask questions about the current Code and processes (i.e. the Design Review process for a new project). The results from those interviews revealed an overwhelming desire and request to simplify the Code, provide better graphics and explanations of how to interpret the Code, and to streamline certain review processes. The results were shared with the Planning Commission in public meetings and recordings of those interviews were posted on the Town’s website. Stakeholder interviews were followed by a code assessment that was completed by the Town’s consultant, Matt Farrar, from Western Slope Consulting. The code assessment (attached) was completed in December 2023 and revealed and re-affirmed inconsistencies in the Code as well as areas of misalignment with the recently adopted 2023 Community Plan. Importantly, the code assessment also included several recommendations - in alignment with the adopted goals and objectives of the 2023 Community Plan as well as with previous direction from Council – for the Town’s consideration as we move forward with updating the Code.

## Exploration of Different Styles of Codes – January – February 2024

Following the code assessment, and prior to starting the code re-write process, the Town Planning staff and Mr. Farrar spent most of January and February 2024 presenting information to and hosting discussions with the Planning Commission related to different types or formats for land use regulations. Form Based Codes, Hybrid Codes (a combination of a Form Based Code and a more traditional code), and Traditional Codes were discussed. For reference, the Town’s current land use regulations are considered “traditional” in their content (regulation of uses and building placement), layout and format, whereas Form Based Codes include more graphical representations and written descriptions of desired building forms, architecture, and the design of public spaces (the “form”) rather than focusing on allowable land uses. The Planning Commission is

recommending that the Town stick with a more traditional layout and format, but to integrate better graphics and illustrations along with better definitions and statements of purpose and intent so the end user of the Code clearly understands the regulatory intent of a particular code section while ensuring that interpretation of regulations (i.e. how to measure building heights or calculate lot coverage) is straightforward and user friendly. Open Houses and Survey – March 2024 in March, the Town is hosting three open houses (March 11th, 14th and 21st) at Town Hall from 5:30pm-7:30pm to introduce the community to the Minturn Forward project and to gather feedback on peoples’ views toward certain areas of town - perhaps their own neighborhoods. The survey and open houses focus on the Future Land Use Map (FLUM) adopted as part of the 2023 Community Plan, as well as several key goals or objectives of the 2023 Community Plan, and then ask a short series of questions about which land uses residents feel are appropriate in certain areas of Town, what characteristics make certain areas of Town unique, and what aspects of Town people like or would like to see change. As of this writing, the Town has received 71 survey responses – a great response rate. The Town gathered feedback from and answered questions for 10 residents at Open House No. 1 on March 11th. Eighteen people attended Open House No. 2 on March 14th. The last Open House for this portion of the project will be hosted Thursday, March 21st. The survey will remain open until Friday, March 22, 2024.

Next Steps – April to June 2024 Staff look forward to hosting one more open house, compiling and discussing public input gathered from the survey and open houses with the Planning in April. During that time, staff will also be working on code updates to sections of the Code having to do with procedures, application submittal requirements, as well as other sections of the Code that need updating to ensure compliance with State and Federal law (i.e., the Town’s sign code). Following a review of the public input gathered in March from the survey and open houses related to existing and future land use and zoning, staff’s goal is to start bringing forth proposals to the Planning Commission for new or consolidated zoning along with updates to development standards and permitted uses. This work is anticipated to start in May and June. Additional open houses will be hosted to ensure that the community is aware of any new proposals for zoning, permitted uses, or development standards that could affect private property rights. The Minturn Forward Code Update Project is a strategic priority for the Town and is identified in the 2023 Minturn Community Plan and the Town’s 2023-2025 Strategic Plan. Completion of the project is a major focus of the Planning Department for 2024.

Scot H. stood for discussion and questions.

Gusty K. asked about the mixed use being identified in the 100 Block when we spent so much time developing code to make it more commercial.

Brian R. noted it would be great to have guidelines that would then entice the architects to be creative vs cookie cutter.

Kate S. stated she felt less people wanting the allowance for more personal preferences than wild colors.

**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 13 - Series 2024 Appointing Planning Commission Members**

Note: Terry A. recused herself due to a conflict of interest and left the dais.

The qualified applicants that submitted Planning Commission applications were:

- Michael Boyd - 504 Eagle Street
- Darell Wegert - 1718 S. Main Street
- Jeff Armistead - 1632 Main Street
- Tracy Andersen - 1016 Mountain Drive

Madison H. outlined the process to solicit applications and the process that will be utilized to appoint three applicants. The first two with four votes will be seated as Commissioners, the third highest vote getter will be awarded the Alternate Commissioner seat.

Each candidate was allowed time to introduce themselves, why they would like to serve, and a Round Robin interview by the Council with questions including Battle Mtn lands, code changes, and preferences. Tracy Anderson was not able to attend but was still eligible for appointment.

Note: ballots are used to create a written record, the vote is a public vote, and the ballots are available for review in the Clerk's office.

The first round of balloting resulted as follows:

- Michael Boyd = 6
- Darell Wegert = 5
- Jeff Armistead = 6
- Tracy Anderson = 1

Mayor Bidez swore in the appointed Commissioners, and they will assume their seats at the March 27, 2024 Planning Commission meeting.

Motion by Eric G., second by Gusty K., to approve Resolution 13 – Series 2024 as presented appointing Michael Boyd and Jeff Armistead as Commission Members and Darell Wegert as Alternate Commission Member as presented. Motion passed 6-0. Note: Terry A. stood recused.

Note: Terry A. resumed her seat at the dais.

**B. Ordinance 02 - Series 2024 (Second Reading) An Ordinance approving the Rezoning of Lot 3A South Minturn Addition Subdivision from Commercial to Residential**

Note: Lynn F. recused herself and stepped down from the dais due to a Conflict of Interest.

The Applicants, Mr. John A. “Woody” Woodruff, and Ms. Lynn Feiger, propose to rezone a portion of their property, Lot 3, South Minturn Addition Subdivision, located at 998 Main Street, from South Town Character Area Commercial Zone District to South Town Character Area Residential Zone District. Concurrent with this rezoning request, the Applicants are working with the Town to process a minor subdivision application – dividing Lot 3 into two lots, Lot 3A and Lot 3B – for the purpose of facilitating this rezoning request and to facilitate continued residential use on future Lot 3A while allowing for the eventual redevelopment of Lot 3B for commercial purposes, pursuant to the Town’s goals and policies. Therefore, this report and staff’s findings reference and apply to rezoning of “Lot 3A.” The Town of Minturn Planning Commission considered this rezoning request at their regular meeting of February 28, 2024, and unanimously forwarded a recommendation for approval to the Town Council based on findings that the request meets the Town’s requirements, standards, and policies.

Staff and the Planning Commission are recommending approval of the proposed rezoning request for Lot 3A, South Minturn Addition, located at 998 Main Street, to change the zoning from South Town Character Area Commercial Zone District to South Town Character Area Residential Zone District, based on the analysis provided in this report and staff’s findings that the request and application meet the Town’s submittal requirements, criteria, and findings to amend the Official Zone District Map. Therefore, Ordinance No. 2, Series 2024 - to amend the Official Zone District Map to rezone Lot 3A from the South Town Character Area Commercial Zone District to Residential Zone District - is being presented to the Town Council for consideration on second reading at the Council’s regularly scheduled meeting of Wednesday, March 20, 2024.

It was noted there are no changes from First Reading.

Public Hearing Opened  
No Public Comment  
Public Hearing Closed

Motion by Gusty K., second by Terry A., to approve Ordinance 02 - Series 2024 (Second Reading) An Ordinance approving the Rezoning of Lot 3A South Minturn Addition Subdivision from Commercial to Residential as presented. Motion passed 6-0. (Note: Lynn F. stood recused.)

Note: Lynn F. resumed her set at the dais.

- C. Ordinance 03 - Series 2023 (First Reading) An Ordinance Disconnecting Rex Flats, Gilman and Roster Pile 5 from the Town of Minturn

As part of the Battle Mountain settlement agreement, the parties agreed:

(e) Disconnection of Gilman Property. In connection with the contemplated Settlement, the Town has proposed, and Battle South has agreed to effect disconnection of the Gilman Property. Accordingly, Battle South will submit to Town Council an

application for disconnection of the Gilman Property by ordinance pursuant to C.R.S. §§ 31-12-501, *et seq.* The disconnection becoming legally effective will fully release Battle, the Town and the Gilman Property from any further rights, obligations and liabilities under or with respect to the Prior Agreements and the PUD Preliminary Plan relating to the Gilman Property.

As was previously discussed with Council, the Town's consultation with Battle Mountain concluded that in addition to Gilman, the disconnection should include the "roster pile" areas along the Eagle River together with Rex Flats. These properties are all contaminated, included in the superfund site, and not easily developable in the future.

Battle Mountain has submitted a complete application for disconnection of the above referenced lands in accordance with Town Code §16-1-70(b)(2). C.R.S. § 31-12-501 provides that a disconnection is appropriate when in the "best interests of the municipality". Under the Town Code, the "best interests of the municipality" includes:

- a. Resolution of any current, pending, or threatened legal actions.
- b. Resolution of any commitments, claims, or obligations required by any agreement, or terms of an agreement relating to the property proposed for disconnection.
- c. The impact of disconnection upon the Town's ability to maintain infrastructure and rights-of-way that were dedicated to a public entity.
- d. That disconnection will not create an enclave as defined by C.R.S. § 31-12-106, or sever the contiguity of the Town's boundaries without adequately providing for access and the provision of utilities and services to areas that will remain within the Town.

The proposed disconnection meets these requirements. The disconnection is in furtherance of resolving the Battle Mountain litigation. The disconnection will not hamper the Town's ability to maintain infrastructure. The disconnection will not create an enclave as the Mountain Property will still be connected to the Town's boundaries. Most importantly, the disconnection will remove heavily contaminated land from the Town's boundaries.

Staff recommended approval of the disconnection ordinance.

Lynn F. asked if the County had any concerns? Tim McGuire noted they will be meeting with the county but this is not an issue that would cause the process to be stopped or reversed. Michelle M. noted a previous discussion with Council where the benefits of the disconnect for the town were fully vetted.

Public Hearing Opened  
No Public Comment  
Public Hearing Closed



Motion by Terry A., second by Gusty K., to approve Ordinance 03 - Series 2023 (First Reading) An Ordinance Disconnecting Rex Flats, Gilman and Roster Pile 5 from the Town of Minturn as presented. Motion passed 7-0

- D.** Ordinance 04 - Series 2024 (First Reading) An Ordinance Amending Chapter 19 of the Historic Preservation Code to allow for Noticing of Demolition Prior to Permitting.

Madison H. outlined the concerns and why this change is requested and needed.

The way the Town Code is currently written, it doesn't contemplate partial permit applications, it just says "permit application" which means the whole complete application needs to be submitted to the Town before Section 19-9-10 is triggered and the two week stay notifying people that an application for alteration, relocation, or demolition has been submitted starts. The described flaw hasn't been exposed up until now as most times this section comes into play it's been for minor building permits (ex. A re-roof) that don't need a lot of information for submission of the application so it hasn't been an undue hardship for people to make a complete application. Where this flaw has been exposed is that the complete demolition application requires proof that water, sewer, gas, electric, etc. have all been disconnected, as well as an asbestos report and a permit from CDPHE to mitigate any asbestos. If an applicant submits a complete demolition permit application, triggers the two week stay, and gets nominated and then designated, then that house has been sitting there without power which could negatively impact this now Historically Designated property. As a response to this, staff has attached a draft ordinance that is being presented to HPC on March 19th and Council March 20th. Due to input from Dr. Lindsey Flewelling, staff has taken inspiration from Boulder, but fashioned a more streamlined process. This ordinance is intended to create a separate permit form that people can apply for describing what they are doing and kick-starting that two week stay without having to provide a complete application for demolition or other permit forms such as Design Review Board. Also attached is the form that Boulder uses that staff anticipates amending and making our own as referenced in the ordinance.

Madison H. noted their was an additional HPC comment to ensure the application sign is visibly placed.

Brian R. recommended the timeline be extended to ensure all approvals have time to be entertained. Terry A. expressed concern that extending the process more would cause slow development. Discussion ensued on this matter. It was noted this would apply to all structures that are not designated historical that are 75yrs or older.

Direction was to keep the 100 days and allow staff to extend additional time if necessary.

Public Hearing Opened  
No Public Comment  
Public Hearing Closed

Discussion ensued that for all the concerns expressed which brought about the Commission, in almost 2yrs we have had very few properties nominated and none recently. The process of review was discussed when an eligible building comes in for a building or demo permit.

Motion by Terry A., second by Gusty K., to approve Ordinance 04 - Series 2024 (First Reading) An Ordinance Amending Chapter 19 of the Historic Preservation Code to allow for Noticing of Demolition Prior to Permitting as amended to allow staff the ability to extend the process up to 365 days as necessary. Motion passed 7-0.

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

## **12. FUTURE AGENDA ITEMS**

Lynn F. discussed the limitations the water moratorium has placed on the town and how the River View Cemetery uses an undo large amount of water. She asked that we ask the town water engineer to review the impact of the Cemetery reducing by half their use. It was noted that the cemetery uses non-potable water diverted from the Eagle River but impacts the town's overall consumptive water right use. Gusty K. was in support and further to extend study of the impacts of the newly approved allocations. Discussion ensued on this. Michelle M. summarized the discussion of the benefits of outdoor area sprinklers and irrigation by an amount and what number of taps that might or might not free up and then to further ensure our water rights and our water plant can sustain this use change. Directions were for Michelle M. to discuss with the water engineer.

## **13. ADJOURN**

Motion by Terry A., second by Gusty K., to adjourn the meeting at 8:03pm.

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Earle Bidez, Mayor

ATTEST:

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Jay Brunvand, Town Clerk

## **INFORMATIONAL ONLY ITEMS**

Upcoming Events & Council Meetings:

- April 2, 2024 - Town Election
- April 3, 2024 - Council Meeting
- April 20, 2024 - Council Meeting