



OFFICIAL MINUTES
Town Council Regular Meeting 5:30 PM
Wednesday, April 03, 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/89570561457>

Zoom Call-In Information: 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 895 7056 1457

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 5:33pm.

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, and Kate Schifani. Note: the quorum stood at 6 members. Brian R. was re-elected but excused absent. Newly elected Tom Priest was in the audience until sworn in.

Staff present: Town Attorney Mike Sawyer (zoom), 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. Approval of Minutes - 03-20-2024
- B. Liquor License: 146 North Main St – Minturn Saloon annual renewal of a Hotel and Restaurant Liquor License, Connie Mazza, owner/manager
- C. Resolution 14- 2024 a Resolution approving the Holy Cross Energy Community Enhancement funds toward the costs associated with a temporary downtown bike parking facility

Motion by Gusty K., second by Kate S., to approve the Consent Agenda of April 2, 2024 as presented. Motion passed 6-0. Note: Brian R. was excused absent.

4. APPROVAL OF REGULAR AGENDA

Opportunity for amendments or deletions to the agenda.

Motion by Terry A., second by Gusty K., to approve the Agenda of April 2, 2024 as presented. Motion passed 5-0. Note: the quorum stood at 5 members. Terry A. did not run for re-election and was not present, Brian R. was re-elected but excused absent. Newly elected Tom Priest remained in the audience until sworn in.

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

Gusty K. updated on a NWCCOG QQ meeting he attended. He also thanked the community for the successful election.

Eric G. updated on the recent Climate Action Committee.

Terry A. wished all a successful term. She thanked specifically Michelle M. for her leadership and professionalism as our Town Manager.

Earle B. welcomed all to the new council.

8. STAFF REPORTS

- A. Manager's Report

Senate Local Government & Housing (SB24-174) Testimony

At the March 20 Council meeting the Council approved support for SB24-174 through my Manager's report request to provide testimony. I will be providing testimony in support of this legislation on behalf of Mayor Earle Bidez and the entire Town Council on Tuesday, April 2.

Mayors/Managers/Commissioners & Partners Update

June 26th is Bike to Workday and there will be a ribbon cutting for the ECO Trail in Minturn. Following the ribbon cutting will be a celebration at the Minturn Saloon. Be on the lookout for more information. Everyone is welcome to join! Emergency Alerts will now be available via the Reach Well app which translates into 130 different languages and is more user-friendly than the Everbridge option. Residents who are not already signed up under the Everbridge system, or who would like to switch to a more user-friendly system are encouraged to download the Reach Well app and sign up for Eagle County alerts.

NWCCOG – QQ Update

The Water Quality Control Commission currently has two openings on the Commission. This Commission has the ability to strongly affect Minturn wastewater rates. Their regulations have been lacking in finding a realistic grounding in solving water quality problems and we believe getting new Commissioners seated on this Commission who will be more pragmatic in approaching water quality needs is incredibly important. Currently the Commission has pushed through regulations that will require cooling towers for wastewater treatment plants at the cost of millions of dollars and only benefit the river a few days out of the year. QQ is looking at having conversations around this issue and considering taking a more political approach to address this issue. Shoshone Water Right (1902 appropriation date) is being purchased by the Colorado River District with the purpose of utilizing the right for the instream flow call. This is an exciting step toward keeping more water in the river and fewer transmountain diversions. One point to consider for Minturn to consider and how we manage our water and augmentation water use is the desire for the Colorado River District to administer this right to keep a minimum flow of 1408 cubic feet per second. This will likely result in more calls on the river. This is something Cristy Radabaugh will need to analyze to determine how it will affect Minturn's current water rights management.

Minturn Fitness Center Board Meeting

2023 was the first year the MFC saw revenues exceed expenses. This was 10 years in the making. The MFC Board at its most recent meeting approved both an annual contribution toward the capital improvements reserve as well as a payback schedule to both Ski and Snowboard Club Vail and the Town.

Community Survey

Staff is currently testing the final phases of the community survey draft before going live. We are hopeful the survey will go live by next week. The survey will be sent to the mobile phones of all registered voters in Minturn. Additionally, the survey will be available on the town website and hard copies for those without the internet can complete the paper survey and submit to town hall staff

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.

Bellm Bridge Feasibility Study RFP Interviews

The Town published an RFP for the Feasibility Study work on Bellm Bridge. The Bridge is either in need of repair or replacement and the Town looks to understand, through a Feasibility Study, which option is advisable. Interviews for three RFP submittals took place on Friday, March 29th . The Funds for the Feasibility Study will come out of the capital improvements line item in the budget.

International City Manager Association (ICMA) Credential Application

I have completed all of the requirements and have now submitted my application for my ICMA Certified Manager credential. This is an opportunity to be recognized by the City Manager's leading organization for the knowledge and expertise I bring to the position of town manager. More information on this credential is included with this update.

Congressionally Directed Spending Applications Submitted

Applications for CDS funds have been submitted. As previously discussed, the Town applied for \$1,996,875 toward the Little Beach Park improvements outlined in the Little Beach Park Recreation Area Master Plan. Submissions were also provided for the completion of Phase II Main Street Sidewalk Project totaling \$1,088,000. Separately, and only through Congressman Neguse's office, the Town will be able to apply for funding toward the water treatment facility. These applications are very competitive, and Minturn has already been awarded funds in prior rounds, so we will be very fortunate if we are selected again.

Legal Matters – Rob Marsh

Rob Marsh continues to assist Minturn on a variety of legal matters. In addition to his recent work on the nuisance and fence codes, which will come before all of you at the April 17th Council meeting, Rob has been supporting us with the updates to our Chapter 8 of our code addressing matters related to the MUTCD (Manual on Uniform Traffic Control Devices) and jury trials. Those ordinances will also come before the Council at the April 17th meeting.

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. Swearing in of New Council Members

The election of April 3, 2024 was held and the candidates elected or re-elected were:

Mayor:

Earle Bidez

Council Member:

Eric Gotthelf

Gusty Kanakis

Tom Priest

Brian Rodine

Jay B. discussed the results of the election. He stated these are unofficial results and will remain that way until the Uniformed And Overseas Citizens Absentee Voting Act (UOCAVA) is complete. During the election Brian R. and Tom P. tied votes but were elected and can be sworn in to the Council. The tied votes will determine who received the 3rd 4yr term and who will receive the 2yr vacancy term. The UOCAVA ballots have an additional 8days to be received and then the election and the Canvas of the Election are completed on the 10day after the election. There were 3 UOCAVA ballots outstanding. If one or more is received it could break the tie. In the event the tie is not broken by the receipt of UOCAVA ballots, the tie will be broken as directed by state law with a game of chance (drawing of cards).

Jay B. swore in Mayor Earle B.

Earle B. swore in Eric G., Gusty K., and Tom Priest. Tom P. assumed his seat at the dais.

Note: Terry A. relinquished her council seat to Tom P. At this time the quorum stood at 6.

Note: Brian R. will be sworn in either in person or via zoom when first available. And the lot drawing to determine the 2 vs 4 year term between Tom P. and Brian R. will be held at the May 1 Council meeting.

Earle B. stated his choice for Mayor Pro Tem was Eric Gotthelf.

Motion by Gusty K., second by Kate S., to appoint Eric G., as Mayor Pro Tem. Motion passed 6-0. Note: Brian R. was excused absent.

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

Mike S. summarized the Ordinance.

As part of the Battle Mountain settlement agreement, the parties agreed: 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 recommend approving the disconnection ordinance.

Public Hearing Opened

No Public Comment

Public Hearing Closed

Motion by Gusty K., second by Kate S., to approve Ordinance 03 - Series 2023 (Second Reading) An Ordinance Disconnecting Rex Flats, Gilman and Roster Pile 5 from the Town of Minturn as presented. Motion passed 6-0. Note: Brian R. was re-elected but excused absent.

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

Michelle M. presented and noted the changes from First Reading.

The council reviewed this ordinance at their last meeting, March 20, 2024. One amendment was requested to be added - that the permit be eligible for extension for up to another 6 months, totaling that the permit may be good for 365 days. Also modified is the request from HPC’s review of the ordinance at their meeting of March 19, 2024 adding a clause that all sign posting placements be approved by staff.

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.

Michelle M. noted the Ordinance in the packet did not include the requested changes from First Reading and requested Council to table the Ordinance to April 17.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Kate S., second by Gusty K., to continue Ordinance 04 - Series 2024 (Second Reading) An Ordinance Amending Chapter 19 of the Historic Preservation Code to allow for Noticing of Demolition Prior to Permitting to the April 17, 2024 Council Meeting. Motion passed 6-0.

11. DISCUSSION / DIRECTION ITEMS

A. Battle North Restricted Parcels

Mike S. presented and introduced Lindsay Lyda, Battle Mtn attorney.

As part of the Settlement Agreement with Battle Mountain, the Town will receive various parcels in fee title, easements for use over certain parcels which Battle Mountain will continue to own, and restrictive covenants over certain parcels to be owned by Battle Mountain prohibiting certain land use activities. Additionally, Battle Mountain will reserve certain easements for its future use over parcels that the Town will acquire in fee title. The Settlement Agreement divides the land currently owned by Battle Mountain into three categories: Battle Retained Parcels, Town Parcels and Restricted Parcels. The Battle Retained Parcels are lands that Battle Mountain will continue to own which will be subject to future development. The Town Parcels are lands that will be dedicated to Minturn in fee title. The Restricted Parcels are lands that will be owned by Battle Mountain or a successor in interest but be subject to use limitations in the form of recorded covenants. With regard to the Town Parcels and the Restricted Parcels, the Settlement Agreement provides in Section 2(a):

(i) Town Parcels. Parcels which Battle North will convey to the Town (“**Town Parcels**”), subject to certain Reserved Easements (defined in Section 7(a)) for Battle North’s benefit. The Town Parcels intended to be created are, as conceptually depicted and labeled in the Concept Plan: (A) the Highlands Area; (B) the Reservoir South Area (excluding the Processing Area); (C) the Rec Center Parcels; and (D) the Highway 24 Parcels.

(ii) Restricted Parcels. Parcels which Battle North will own but, subject to certain Reserved Uses (defined in Section 7(b)(i)) for Battle North’s benefit, will be encumbered by Recording certain instruments (“**Restricted Parcel(s)**”) imposing one or more of the following (collectively, and as applicable, “**Restriction(s)**”): (A) a Perpetual Easement (defined in Section 7(b)(i)) granting to the Town the right to undertake a specific scope of uses, on terms the Parties mutually determine appropriate; (B) a Restrictive Covenant (defined in Section 7(b)(ii)) that limits the uses that may be undertaken within such Restricted Parcel, on terms the Parties mutually determine appropriate; and/or (C) with respect to any or all Restricted Parcels requested by the Town at its election, a Purchase Option (defined in Section 7(b)(iii)) granting to the Town an option to purchase such Restricted Parcel(s). The Restrictions will run with title to the Restricted Parcels and will be enforceable by and for the benefit of the Town. Unless Battle North and the Town otherwise mutually agree in writing prior to the Closing Date, the Restricted Parcels intended to be created are, as conceptually depicted and labeled in the Concept Plan: (v) the OTP Area; (w) the Processing Area (being a portion of the Reservoir South Area); (x) the CTP Area (y) the Trestle Area; and (z) the Maloit Wetlands Area.

A map showing the various parcels is attached. For Reference the Town Parcels are: Parcels 1 and 2 – the Highlands Area, Parcel 5 – Reservoir South Area, Parcels 6 and 8 – the Highway 24 Parcels, and Parcel 11 – the Rec Center Parcel. The Restricted Parcels are: Parcel 3 – the OTP, Parcel 4 – the Processing Area, Parcel 10 – the CTP, and Parcel 12 – the Maloit Wetlands Area. The Trestle Area is not a separate parcel but rather a portion of Parcel 9 – which is a Battle Reserved Parcel. As part of the process laid out in the Settlement Agreement, the Town needs to give input on several issues. Polly Jessen of Kaplan Kirsch & Rockwell has created a chart summarizing various input required under the Settlement Agreement (attached). Issues to consider are:

A. Whether the Town wants to take property in fee title at the time of Closing or have an option to acquire the property in fee in the future. The Settlement Agreement provides:

(iii) Town’s Right to Convert. By delivery of written notice to Battle prior to expiration of the Diligence Period (defined at Section 5), the Town will have the right to convert one or more of the Town Parcels into a Restricted Parcel and to convert one or more of the Restricted Parcels into a Town Parcel.

The Town proposes to have options to purchase the OTP, the Processing Area, Maloit Park wetlands, and possibly the CTP.

B. What uses the Town intends to make of both the Town Parcels and the Restricted Parcels. Uses may range from development to passive recreation. For example, the Town proposes to obtain an easement over the CTP for Nordic skiing and trail use. Council should consider future public uses to be made of parcels the Town will not acquire in fee.

C. What restrictions on land use activities for the Restricted Parcels the Town would like to have in place guaranteed by a restrictive covenant. Remember that the Restricted Parcels are subject to Town Zoning – mostly zoned Open Space. Changes to the zoning would require Town approval. So the covenant restrictions should be for items beyond the zoning requirements. An example is the restriction on the use of the Processing Parcel for uses other than work on Bolts Lake Reservoir.

D. What permanent easements will both encumber and benefit the Town Parcels. The Settlement Agreement provides:

(i) Perpetual Easements. It is anticipated that each Restricted Parcel will be encumbered by a perpetual easement agreement (“Perpetual Easement Agreement(s)”) pursuant to which Battle North will grant to the Town a perpetual non-exclusive easement (“Perpetual Easement(s)”) over, across and within such Restricted Parcel, or specified area therein, for the Town’s benefit in order to provide a specific scope of access and/or utility purposes, use, and/or benefit. For the Highlands Parcel, Battle North will grant at Closing to the Town an easement for access and utility purposes across the OTP Area to the Highlands Area at a location and in a size mutually agreeable to the parties. For parcels other than the Highlands Area, such scope may include active or passive non-motorized recreational uses, the provision of legal and physical access to and from other Town Parcels or a public road, and similar matters. The Perpetual Easement Agreements will expressly reserve to Battle North, as grantor, and incorporate Battle North’s general right to use the Restricted Parcels for purposes that do not unreasonably conflict with or impair the Town’s use and enjoyment of the Perpetual Easement(s), including but not limited to construction, ownership, operation, maintenance, repair and replacement of existing and to-be-constructed utilities, roads, pedestrian crossings, sidewalks, bike paths, the Water Distribution System and similar Infrastructure Improvements required or desirable in connection with development of the Battle Retained Parcels (the “Reserved Uses”). The infrastructure types, locations and engineering requirements (except the Water Treatment System) of such Reserved Uses and Infrastructure Improvements will be subject, and the final “as-built” locations of the Reserved Uses will be established pursuant, to Town review and approval in connection with approval of preliminary and final plats for development within the Battle Retained Parcels.

Battle Mountain has proposed two easements across the OTP to provide access and utility service to the Highlands Parcels (graphic attached). Battle Mountain has indicated that it may not need easements over the Highlands Parcels, the Reservoir South Area, and the Rec Center Parcel. Tim McGuire from Battle Mountain can provide more information at the Council meeting. Staff is looking for direction on the above items so that we can negotiate Closing document with Battle Mountain.

Lynn F. asked about the steepness of the proposed access roads; the existing road is in good shape, the new road proposal would take much more work.

Tim McGuire, Battle Mtn, noted that the material to cover the OTP sites will be pulled from the existing Bolts Lake, it is not contaminated. This would deepen the lake and supply the cap materials. He noted this plan has been vetted and approved by the EPA.

Gusty K. asked re the proposed Highlands easements for clarification.

Discussion ensued as to the superfund site and EPA. Ms. Jessen, Battle Mtn. noted that once we take title and if we desire to change the existing use, those uses can be submitted to EPA and a plan to mitigate any disturbances.

Lynn F. asked if we need to name uses now or later; Ms. Jessen stated if we know what we want, we should do it now. The example Lynn F. used was municipal storage areas.

Mr. McGuire noted the EPA lists what you can NOT do on the land, not what you CAN do. They discussed the Comfort Letter received from the EPA. This gives us an idea of future value for the land the Town would receive.

Tom P. asked if this was a decision or a request for direction such as restriction.

Mike S. noted we are looking for direction as follows:

- Confirm parcels are priority to council
- Discuss rights the town would be obtaining in the restricted parcels
- Any covenant restrictions that need to be put in place on the lands

Lynn F. expressed concern that we restrict vertical development in order to protect the various caps.

The Council reviewed each parcel on the list and concerns were discussed.

B. Committee & Board Assignments

Minturn has made great strides in working collaboratively with surrounding municipalities and organizations for both the benefit of Minturn and the region. These assignments are critical in continuing the town's relationships and partnerships to further Minturn's goals. Council members are expected to all be representing Minturn in capacities that are in addition to Council meetings. All Council members will be expected to

Michelle M. reviewed the list of represented organizations and the requirements associated with each committee. She noted the council appointments for the upcoming year.

12. FUTURE AGENDA ITEMS

- Review/amend the definition of an SFE
- Amend the Nuisance Code to include wildlife
- Dogs and leash law

13. ADJOURN

Motion by Eric G., second by Gusty K., to adjourn the meeting at 8:07__pm.

Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

INFORMATIONAL ONLY ITEMS

Upcoming Events & Council Meetings:

- April 17, 2024 - Council Meeting
- May 1, 2024 - Council Meeting