



AGENDA

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 and times of agenda items listed are approximate and intended as a guideline for the Town Council.

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday December 16, 2020

**Meeting to be held via Zoom Conferencing and call-in.
Public welcome to join meeting using the following methods:**

<https://us02web.zoom.us/j/83498043954>

Or Telephone:

US: +1 301 715 8592 or +1 651 372 8299

Webinar ID: 834 9804 3954

Regular Session – 5:30pm

MAYOR – John Widerman

MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead

George Brodin

Brian Eggleton

Eric Gotthelf

Gusty Kanakis

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Regular Session – 5:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

2. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

3. Approval of Consent Agenda (5Min)

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- December 2, 2020 Meeting Minutes Pg 4
- 542 Main St llc, dba Sunrise annual renewal of a Hotel & Restaurant (City) Liquor license; 132 Main St; Doug McAvity, Owner/Manager Pg 10
- Rocky Mountain Taco annual renewal of a Beer and Wine (City) Liquor license; 291 Main St; Chris McGinnis, Owner/Manager Pg 14

4. Approval of Agenda

- Items to be Pulled or Added
- Declaration of Conflicts of Interest

5. Special Presentations

- Council Comments/Committee Reports

PUBLIC HEARINGS AND/OR ACTION ITEMS

- 6. Public Hearing/Action Item:** Resolution 30 – Series 2020 A Resolution providing direction regarding water tank planning and construction – Metteer Pg 18
- 7. Public Hearing/Action Item:** Resolution 31 – Series 2020 A Resolution approving the termination of the 2016 Memorandum of Understanding Relating to the Battle Mountain Project – Metteer Pg 25

DISCUSSION/DIRECTION ITEMS

- 8. Discussion/Direction Item:** Local Business water bill relief program Pg 50

COUNCIL INFORMATION / UPDATES

9. Staff Updates (5 Min)

- Manager’s Report Pg 52
- Future Agenda Items Pg 54

MISCELLANEOUS ITEMS

10. Future Meeting Dates

a) Council Meetings:

- January 6, 2021
- January 20, 2021
- February 3, 2021

11. Other Dates:

- December 25, 2020 – Christmas Day (Office Closed)
- January 1, 2021 – New Year’s Day (Office Closed)
- January 18, 2021 – Martin Luther King Day (Office Closed)

12. Adjournment



OFFICIAL MINUTES

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MEETING OF THE MINTURN TOWN COUNCIL

Minturn Town Center 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday December 2, 2020

**Meeting to be held via Zoom Conferencing and call-in.
Public welcome to join meeting using the following methods:**

<https://us02web.zoom.us/j/83523532589>

Or join by phone:

US: +1 651 372 8299 or +1 301 715 8592

Webinar ID: 835 2353 2589

Regular Session – 5:30pm

**MAYOR – John Widerman
MAYOR PRO TEM – Earle Bidez**

COUNCIL MEMBERS:

Terry Armistead
George Brodin
Brian Eggleton
Eric Gotthelf
Gusty Kanakis

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

Regular Session – 5:30pm

1. Call to Order

- Roll Call

The meeting was called to order by Mayor John Widerman at 5:31pm using the ZOOM on-line meeting format.

Those present include: Mayor John Widerman, Mayor Pro Tem Earle Bidez and Town Council members Terry Armistead, George Brodin, Eric Gotthelf, Brian Eggleton, and Gusty Kanakis.

Staff present: Town Manager Michelle Metteer, Town Planner Madison Harris, and Town Treasurer/Town Clerk Jay Brunvand.

- Pledge of Allegiance

2. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

3. Approval of Consent Agenda (5Min)

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- November 18, 2020 Meeting Minutes
- Planner's Update
- FM Saloon Inc annual renewal of a Hotel & Restaurant (City) Liquor license; 146 N. Main St; Steve Campbell, President/Manager

Motion by George B., second by Terry A., to approve the Consent Agenda of December 2, 2020 as presented. Motion passed 7-0.

4. Approval of Agenda

- Items to be Pulled or Added
- Declaration of Conflicts of Interest

Motion by Gusty K., second by George B., to approve the Agenda of December 2, 2020 as presented. Motion passed 7-0

5. Special Presentations

- Council Comments/Committee Reports

Brian E. reported the Radio Free Minturn fund raiser is upcoming and encouraged all to donate and updated on the goings on at the station. He also noted the mini mile and the bike park are closed for the winter. Terry A. added the damage caused to the trails and parks when ridden when wet/muddy/snowy. This is also to protect the elk in the area. Brian E. stated Radio Free Minturn is part of the Colorado Gives Day fund drive.

George B. attended a grant writing class.

John W. noted Minturn Matters is the third Tuesday of the month, December 15th is the next session and it is ZOOM format. He noted the closure of Minturn Road on December 7th for the pedestrian bridge work at the USFS Bridge. He noted that COVID is making an aggressive round. Michelle M. noted Eagle County is currently in the Orange bracket. She encouraged all to follow the Five Rules of Containment. She stated the state is looking at the Five Star plan developed by Mesa County and a decision should be forthcoming by December 18th.

PUBLIC HEARINGS AND/OR ACTION ITEMS

6. **Public Hearing/Action Item:** Ordinance 12 – Series 2020 (Second Reading) An Ordinance Creating a Supplemental Appropriation to the 2020 Town of Minturn Budget – Brunvand

Jay B. outlined the Ordinance and highlighted the salient points as well as changes from First Reading.

Public Hearing opened
No Public comment
Public Hearing closed

Motion by Earle B., second by Terry A., to approve Ordinance 12 – Series 2020 (Second Reading) An ordinance amending the 2020 budget as set forth in the following Exhibit “A”, to appropriate additional General Fund revenues in the amount of \$540,868.00, and appropriating additional General Fund expenditures in the amount of \$387,321.00, and appropriating additional Enterprise Fund expenditures in the amount of \$260,000.00, and appropriating additional Capital Fund expenditures in the amount of \$12,612.00 as presented. Motion passed 7-0

7. **Public Hearing/Action Item:** Ordinance 13 – Series 2020 (Second Reading) An Ordinance Setting the 2021 General Property Tax Mill Levy for the Town of Minturn – Brunvand

Jay B. outlined the Ordinance and highlighted the salient points. He noted specifically the final assessed valuation had not been received from Eagle County until after the packet was published and reported the assessed valuation had declined slightly. This resulted in no change in the mill levy rate of 17.934 but the revenue generated is now \$547,512.00, a decrease of \$3,810.00. This represents a small increase of \$3,875.00 over 2020.

Public Hearing opened
No Public comment
Public Hearing closed

Motion by Eric G., second by Brian E., to approve Ordinance 13 – Series 2020 (Second Reading) an ordinance levying general property taxes for the year 2021, to meet general operating costs of government for the Town of Minturn, Colorado for the 2021 budget year as amended to reflect the revised Assessed Valuation. Motion passed 7-0.

8. Public Hearing/Action Item: Ordinance 14 – Series 2020 (Second Reading) An Ordinance Adopting the Fee Schedules for Fiscal Year 2021 for the Town of Minturn – Brunvand

Jay B. outlined the Ordinance and highlighted the salient points. There were no changes from First Reading.

Public Hearing opened
No Public comment
Public Hearing closed

Motion by Gusty K., second by Brian E., to approve Ordinance 14 – Series 2021 (Second Reading) An Ordinance Adopting the Fee Schedules for Fiscal Year 2021 for the Town of Minturn as presented. Motion passed 7-0.

9. Public Hearing/Action Item: Ordinance 15 – Series 2020 (Second Reading) An Ordinance Adopting and Recognizing the Town of Minturn’s 2021 Revenues and Expenses by Fund – Brunvand

Jay B. outlined the Ordinance and highlighted the salient points and changes from First Reading.

Public Hearing opened
No Public comment
Public Hearing closed

Eric G. noted that expenses are lower than and asked clarification of why some exp is higher

Motion by Brian E., second by Earle B., to approve Ordinance No. 15 – series 2020 (Second Reading) an Ordinance appropriating revenues, appropriating expenditures, approving transfers and adopting the Town of Minturn budget for the period beginning on the first day of January, 2021 and ending on the last day of December, 2021 as presented. Motion passed 7-0.

COUNCIL INFORMATION / UPDATES

10. Staff Updates (5 Min)

- Manager’s Report

USFS Shooting Range Discussion – January 12th

As a reminder, the stakeholder group meeting is scheduled for January 12th at 5:30 pm via zoom. Representatives from all user groups of the Two Elk recreation area are being asked to participate. The USFS procedural memo is attached for reference.

Join Zoom Meeting:

<https://us02web.zoom.us/j/88089522476?pwd=dVNjV0V5b2F2aVQyZUErcEZUYk14Zz09>

Meeting ID: 880 8952 2476 | Passcode: 524764

Dial by your location

+1 301 715 8592 US (Germantown)

+1 651 372 8299 US (St. Paul)

Meeting ID: 880 8952 2476

Find your local number: <https://us02web.zoom.us/j/88089522476?pwd=KXsrRHhX>

RETT Tax / Mountaintop Sale

The “mountaintop portion” of the Battle Mountain property, encompassing 3,732.716 acres, recently sold for \$18,250,000. Approximately 80% of the land sold was within the Minturn town boundaries equating to a realized RETT revenue of \$146,000.

Town Tree Lighting - Cancelled

The Town Tree Lighting ceremony originally scheduled for December 4th has been cancelled. (The tree will still be lit). The Christmas tree bonfire will not be held either. She reviewed the recycle options for when you dispose of your trees after the season.

Giving Tree

Minturn town hall is unable to support the annual giving tree this year. We’re not yet sure if the Minturn Community Fund will make separate plans for this annual program which has been in place since before I started working for the town. We hope to have it back at the town hall in 2021!

Terry A. noted the Salvation Army will still be doing their seasonal drop off centers.

Mini Mile & Minturn Bike Park Seasonal Closures

The Mini Mile and the Minturn Bike Park are officially closed for the season.

Maloit Park Ice Rink

Warm temperatures have inhibited the ability to fill the rink with water. We’re now hopeful for a Dec 2nd fill date. We look forward to the public enjoying this amenity.

Michelle M. noted that they are taking volunteers at the Minturn Fitness Center. There is minimal training and encouraged anyone to schedule on-line or to contact Chris Bowers at the MFC at 970-790-5090.

- Future Agenda Items

CIP Plan review for December 16 and water rate discussion. Discussion also on a possible water rate discount in the event we face a second closure of the economy.

MISCELLANEOUS ITEMS

11. Future Meeting Dates

- a) Council Meetings:
- December 2, 2020
 - December 16, 2020
 - January 6, 2021
 - January 20, 2021

12. Other Dates:

- December 25, 2020 – Christmas Day (Office Closed)
- January 1, 2021 – New Year’s Day (Office Closed)

13. Adjournment

Motion by Terry A., second by Earle B., to adjourn the meeting at 6:12pm. Motion passed 7-0.

John Widerman, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Council

From: Jay Brunvand

Date: December 9, 2020

Agenda Item: Annual renewal of Hotel and Restaurant Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Hotel and Restaurant Liquor License for the 542 Main St, dba Sunrise located at 132 Main St.

INTRODUCTION:

This establishment has an existing H&R License and this is the annual renewal.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$125.00.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

SUNRISE
PO BOX 1285
Minturn CO 81645

Fees Due		
Renewal Fee		500.00
Storage Permit	\$100 X _____	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X _____	\$
Related Facility - Campus Liquor Complex	\$160.00 per facility	\$
Amount Due/Paid		\$

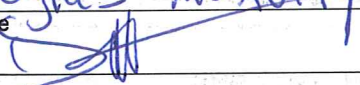
Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name 542 MAIN STREET LLC			Doing Business As Name (DBA) SUNRISE	
Liquor License # 03-09182	License Type Hotel & Restaurant	Sales Tax License # 35294481	Expiration Date 02/13/2021	Due Date 12/30/2020
Business Address 132 MAIN STREET Minturn CO 81645				Phone Number 9708275353
Mailing Address PO BOX 1285 Minturn CO 81645			Email	
Operating Manager Douglas McAvity	Date of Birth 07/14/1983	Home Address 271 main st A Minturn CO 81645		Phone Number 970 945 8349
1. Do you have legal possession of the premises at the street address above? Yes No Are the premises owned or rented? Owned <u>Rented*</u> *If rented, expiration date of lease <u>10/20/2022</u>				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. Yes <u>No</u>				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <u>No</u>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <u>No</u>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <u>No</u>				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <u>No</u>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <u>No</u>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes <u>No</u>				

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business		Title
Douglas McAuity		owner
Signature		Date
		11/17/2020
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For		Date
Signature	Title	Attest



TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-4049
treasurer@minturn.org

**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

To: Mike Sawyer, Attorney
Scott Peterson, ECSO/Minturn
CC:
Date: 12/9/20 9:55 AM
RE: Liquor License

Attached please find a copy of a Hotel and Restaurant Liquor License renewal application for 542 Main St, dba Sunrise, Doug Mcavity, owner/manager, located at 132 Main St. I have reviewed the application and conducted an onsite inspection which resulted in no issues. I am forwarding it on to you for further review and your report. I will be recommending approval on the Consent Agenda to Council at the December 16, 2020 Council Meeting.

Please let me know if you have any questions or concerns, which I may be able to answer.

Thanks, jay



To: Mayor and Council

From: Jay Brunvand

Date: December 9, 2020

Agenda Item: Annual renewal of Hotel and Restaurant Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Beer and Wine Liquor License for the Rocky Mountain Taco llc located at 291 Main St.

INTRODUCTION:

This establishment has an existing B&W License and this is the annual renewal.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$125.00.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

096227

Refund \$75 2183

DR 8400 (07/24/19)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division
Submit to Local Licensing Authority

RECEIVED

ROCKY MOUNTAIN TACOS LLC
P.O. BOX 172
Avon CO 81620

NOV 30 2020

LIQUOR ENF. DIVISION

Fees Due	
Renewal Fee	351.25
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$ 75.00
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	351.25 \$ 426.25

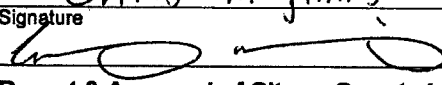
Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name ROCKY MOUNTAIN TACOS LLC		Doing Business As Name (DBA) ROCKY MOUNTAIN TACOS LLC		
Liquor License # 03-13037	License Type Beer & Wine (city)	Sales Tax License # 30860025	Expiration Date 02/24/2021	Due Date 01/10/2021
Business Address 291 MAIN STREET Minturn CO 81645				Phone Number 9704014443
Mailing Address P.O. BOX 172 Avon CO 81620			Email Rockymountaintacos@gmail.com	
Operating Manager Chris McGinnis	Date of Birth 7/9/81	Home Address P.O. Box 1402 minturn Co 81645		Phone Number 970-401-4443
1. Do you have legal possession of the premises at the street address above? Yes No Are the premises owned or rented? Owned <u>Rented*</u> *If rented, expiration date of lease 1/14/2025				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <u>Yes</u> No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <u>No</u>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <u>No</u>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <u>Yes</u> No				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <u>No</u>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <u>No</u>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes <u>No</u>				

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business	Title	
Chris McGinnis	owner	
Signature	Date	
	11/22/20	
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For	Date	
Signature	Title	Attest

#4. Change in finance.

1. Business loan for Vehicle Ford Transit 2020 #41951
Current Balance \$12,323.27

2. Business loan for Vehicle Ford transit 2020 #5198
Current Balance \$13,703.90

3. SBA PPP 8446 Loan Forgiveness Program.
Current Balance \$13,438.35



To: Mayor and Town Council
From: Michelle Metteer, Town Manager
Ryan Gordon, SGM
Date: December 16, 2020
Agenda Item: Minturn Water Capital Improvement Plan - Update

REQUEST:

Review and consider updates to the 2019 Minturn Water Capital Improvement Plan (choose Option 1 or Option 2)

INTRODUCTION:

The capital improvement needs facing the Town’s water system have been a long time in the coming, but Minturn was resistant to institute a long-term capital improvements plan for the replacement of this infrastructure or establish an adequate reserve in the Enterprise Fund for coverage of such costs as both of these measures would have required significant increases in the monthly water bills of residents.

In the early 2000’s the Town thought it had found an answer to these finance and infrastructure issues when a third-party developer indicated they would cover the costs to repair/replace the failing water system in exchange for Annexation and a 1700-unit development (this is a simplification). This memo will not go into the details of that Agreement, however after another decade went by, which included an economic recession, there was still no development and no improvements to the water system infrastructure.

The Town’s growing inability to meet Colorado Department of Public Health and Environment regulations for the operating of a domestic water system, combined with the failing infrastructure, pushed the issue to the forefront which is when the Town and Council decided to tackle the repair and replacement of the water system independently.

In the summer and fall of 2019, a lengthy public process was conducted for determining the action steps necessary to repair and replace the Town’s water infrastructure system. From those conversations, public input was provided and decisions were made to allow for 450 units of growth (SFE’s) as a way to help offset rate-payer costs to repair and replace the water system – this is referenced as Option 2 in the 2019 Water CIP. (The No-Growth Scenario reviewed in the original options was the most expensive option for the rate-payers and provided no system redundancy and thus not approved).

ANALYSIS:

The Town is now one year into a ten-year Capital Improvement Plan. In the first year of the Plan, much of the “low hanging fruit items” were completed while planning began for the larger infrastructure needs, mainly the water tank.

As scenarios on the ground evolve and construction costs increase, staff will plan for an annual review of the Water CIP by Council for the purposes of modifying the plan to best meet evolutions in the field.

Currently, staff seeks direction from Council on potential modification(s) to the CIP. After conducting a Tank Site Analysis and review in the field, options for a new water tank have evolved and before the next step in the process of planning and constructing can take place, Council must provide direction.

Two tank options are included for your consideration. The first option follows the original CIP which provides for one main Town tank and one Maloit Park tank. The second option provided still includes two tanks, however this option envisions two main Town tanks side by side (located on town-owned property by the water treatment plant) which would allow for increased system redundancy and the inclusion of the Maloit Park water storage needs. For these two tanks to serve the Maloit Park area, a pumping system would be required and is included in the cost for consideration. Ryan Gordon, SGM will participate in the Council meeting and be available for questions.

In addition to the tank discussion, George Brodin will provide a brief power point presentation and Gusty Kanakis will seek Council feedback regarding the implementation of the proposed new well field.

COMMUNITY INPUT:

Ongoing and significant

BUDGET / STAFF IMPACT:

Significant

STRATEGIC PLAN ALIGNMENT:

The Water Capital Improvement Plan aligns with the Strategic Plan in the following way(s):

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION:

- Provide direction to staff for moving forward with either option one or option two for the new water tanks.

ATTACHMENTS:

- SGM email dated December 8, 2020 updating the cost analysis of the CIP
- Scenario/Option 1 CIP update
- Scenario/Option 2 CIP update

**TOWN OF MINTURN, COLORADO
RESOLUTION 30 – SERIES 2020**

**A RESOLUTION TO PROVIDE DIRECTION REGARDING
WATER TANK PLANNING & CONSTRUCTION AS
OUTLINED IN THE CAPITAL IMPROVEMENTS PLAN FOR
THE MINTURN WATER PLANT AND SYSTEM WITHIN THE
TOWN OF MINTURN, COLORADO**

WHEREAS, The Town Council recognizes the need and desire to more effectively manage and maintain our water plant, system and infrastructure; and,

WHEREAS, The Town Council has previously contracted with SGM, INC to create an in-depth Capital Improvements Plan for the Minturn Water Plant and system; and,

WHEREAS, the Town of Minturn Town Council and Staff have reviewed and support the submitted Capital Improvements Plan; and,

WHEREAS, the Town of Minturn Staff have proposed two alternatives for water tank placement as outlined in the attached Exhibit A documentation.

NOW, THEREFOE, BE IT RESOLVED by the Minturn Town Council of the Town of Minturn, that:

SECTION 1: The Minturn Town Council supports and directs approval and adopting of Scenario #__ as detailed in Exhibit A attached to this Resolution,

SECTION 2: The Minturn Town Council hereby authorizes The Town Mayor or his designee to execute any and all necessary to implement the proposed Capital Improvements Plan,

SECTION 3: This resolution to be in full force and effect from and after its passage and approval.

INTRODUCED, READ, APPROVED, AND ADOPTED THIS 16th DAY OF DECEMBER, 2020.

John Widerman, Mayor

Attests:

Jay Brunvand, Town Clerk/Treasurer

From: [Ryan Gordon](#)
To: [Michelle Metteer](#)
Subject: CIP update
Date: Tuesday, December 8, 2020 8:40:09 AM
Attachments: [CIP Option 2.pdf](#)
[CIP Option 1.pdf](#)

Michelle

Attached are two CIP lists. Option 1 considers constructing a tank in Maloit Park area and Option 2 considers a pumping system to Maloit.

Costs have changed and I have listed why the costs have been different than the CIP from Sept 2019. I've been trying to get input from local Contractors on workload and labor costs with some success. What I have gathered is at least for 2021, demand is really high. I have talked with a couple of folks on the Front Range and demand there is through the roof. Where this might affect Minturn is that those who would mostly likely bid on the large Town projects (Tank and WTP) might now be willing to travel to Minturn. Hard to say what is in store for all of us mid-2021 and beyond. I have not priced in any weird labor/cost issues as of yet.

1. Water Plant. Costs have
 - a. Estimated dewatering costs have increased. Based on what we found during the Well 4 pipeline project where we found substantial groundwater ~4 feet deep, we would anticipate to encounter groundwater for the plant. We would need to dewater the site to dig and install the footers for the building.
 - b. The emergency back-up generator cost has increased to accommodate the potential Maloit Park pumping system.
 - c. I spoke with one of the membrane reps, and the costs have inched upwards.
 - d. The amount (and cost) of the yard piping has increased. Yard piping is piping outside of the WTP building to connect the new water tanks to the new WTP – the original CIP had the tank at the existing location above Town and additional yard piping was not necessary.
 - e. In speaking to John Volk recently, he believed that the electrical service coming to the plant would need to be upgraded.
 - f. **NOTE:** included in the water plant costs is an aerial crossing over Cross Creek to pump waste from the membranes to Maloit Park and into the sanitary collection system.
2. Tanks at WTP – Note that the original CIP has us replacing the tank where it is above Town.
 - a. Added cost of yard piping from the existing WTP to the tanks; and from the tanks to connect to the existing water transmission main. Note item 1.d above. There is a section of yard piping that will be required to connect the new WTP to the tanks as well.
 - b. Walls – We will need walls in some form or fashion.
 - c. Access road/platform – while we had costs to improve the access road at the existing tank, I still am carrying some costs here. It is less than the existing tank so that is good!
 - d. We have reached out to 2 tank companies to get their opinion of costs but have not heard. Looking at both a steel and concrete tank for costing.
3. Water meter replacement. I think there are 510 meters in Town. So if we paid \$90k for 200 (@\$450 each), we have 310 left for \$139,500. That is the detail on how I got to the number.

4. Interconnection between Maloit and the Town. This project is generally obsolete now that we are building the tanks near the WTP and they are source for both the Town and Maloit. Essentially, we have a single zone as all water passes through the new tanks. However, there is a strong argument to be made that we should replace the pipe to Maloit that is currenting going beneath Cross Creek. The pipe was installed in 1976 so it has some age to it. This project kinda morphs from an 'interconnection' project to a pipe replacement project similar to the Belm Bridge project.
 - a. As I mentioned above in 1.f, the aerial crossing structure will also be used to hang another pipe between the tanks and Maloit. In my opinion, when we build the WTP, along with the aerial crossing, we should also build this pipe.
5. Bellm Bridge. Updated the costs to reflect hanging the pipe on the bridge. We need to do an analysis of the bridge to make sure it can handle the additional weight and there is space between the girders/under the bridge so it does not interfere with the river. Could also cantilever the pipe on the side of the bridge.

Let me know if you want to talk about this or need me to make edits.

Ryan Gordon, PE

Senior Engineer I



118 W Sixth St, Suite 200
Glenwood Springs, CO 81601
970.384.9034 / 970.618.3804 cell

www.sgm-inc.com



TOWN OF MINTURN WATER CAPITAL IMPROVEMENT PROJECTS			
Option 1 - CIP with Maloit Park Tank			
Projects	Category	Description	Cost
1 TO 3 YEAR TIME HORIZON			
Construct a new Minturn Tank	Tank	Replace existing Minturn Tank with two tanks with a total volume of 600,000 gallon tank located next to WTP. Tanks will serve both Town. Includes the piping from the existing WTP and piping from the tanks to the transmission pipe	\$ 1,890,000
Construct new Maloit Park Tank	Tank	Construct a new 250,000 gallon concrete water tank on the existing tank site. Project would include the demolition of the existing tank.	\$ 900,000
Connect Well 4 to existing clearwell	Treatment	Construct approximately 900 feet of 4" pipe from Well 4 to the existing clearwell.	
Systematic Waterline Replacement Program	Pipeline	Systematic replacement of the Town's waterlines	\$ 2,500,000
Invest/Install leak detection system	O&M	Implement a leak detection system	
Develop a Town GIS system	O&M	Create a comprehensive GIS mapping system of the Town's water and public infrastructure	
Water Meter Replacment Program	O&M	Replace water meters throughout Town. There are ~740 water meters. First 200 meters purchased by Town for \$90,000 in 2020. Cost represents remaining meter purchase cost	\$ 139,500
3 TO 5 YEAR TIME HORIZON			
Construct new membrane plant at existing plant site designed to treat Cross Creek and Eagle River water	Treatment	Install membranes in a new pre-engineered building at the existing WTP site. New components will include booster/feed pumps, membranes, clean-in-place chemical system and compressed air system. The existing clearwell and distribution pumps will remain in service.	\$ 4,540,000
Construct pretreatment system to pretreat Eagle River water	Treatment	Build concete basins and chemical feed systems to address Eagle River water quality issues.	\$ 429,000
Repairs and Modifications to the clearwell	Treatment	Make repairs to the existing clearwell and modifications to piping and controls.	
Raw Water Intake Improvements	Treatment	Install finer screening	\$ 25,000
New Well Field and pipeline to connect wells to WTP	Water Supply	Drill 3 new wells at the decreed location of the Eagle River Wells. Includes property acqisition, drilling wells, constructing well building, well pumps and pipeline to the existing WTP site.	\$ 5,220,000
5 TO 10 YEAR TIME HORIZON			
Connect Maloit Park Service Area to Town Service Area	Pipeline	Hang approximately 175 LF of 8" waterline on the Cross Creek Aerial Crossing and construct approximately 200 LF of 8" pipe to connect Maloit Park to WTP	\$ 310,000
Replace waterline in Eagle River at Bellm Bridge	Pipeline	Construct approximately 150-200 feet of 12" waterline across the Eagle River at Bellm Bridge. Assume that the pipe can be hung on the existing bridge	\$ 320,000
			\$ 16,273,500
10 TO 20 YEAR HORIZON			
Loop Taylor Street	Pipeline	Construct approximately 425 feet of 8" pipe from the new 12" Dowd Junction waterline to the existing 8" water line in Taylor St in 4th St.	\$ 130,000
			\$ 130,000
			\$ 16,403,500

TOWN OF MINTURN WATER CAPITAL IMPROVEMENT PROJECTS			
Option 2 - CIP with pumping system to Maloit Park			
Projects	Category	Description	Cost
1 TO 3 YEAR TIME HORIZON			
Construct a new Minturn Tank	Tank	Replace existing Minturn Tank with two tanks with a total volume of 650,000 gallon tank located next to WTP. Tanks will serve both Town and Maloit Park. Includes the piping from the existing WTP and piping from the tanks to the transmission pipe	\$ 2,010,000
Construct new Maloit Park Tank	Tank	Construct a new 250,000 gallon concrete water tank on the existing tank site. Project would include the demolition of the existing tank.	
Construct Maloit Park Pumping Station	Tank	Construct pumping facility to provide water to Maloit Park. Project includes fire pumps, domestic water pumps and control system. Will be located in the WTP building	\$ 320,000
Connect Well 4 to existing clearwell	Treatment	Construct approximately 900 feet of 4" pipe from Well 4 to the existing clearwell	
Systematic Waterline Replacement Program	Pipeline	Systematic replacement of the Town's waterlines	\$ 2,500,000
Invest/Install leak detection system	O&M	Implement a leak detection system	
Develop a Town GIS system	O&M	Create a comprehensive GIS mapping system of the Town's water and public infrastructure	
Water Meter Replacement Program	O&M	Replace water meters throughout Town. There are ~740 water meters. First 200 meters purchased by Town for \$90,000 in 2020. Cost represents remaining meter purchase cost	\$ 139,500
3 TO 5 YEAR TIME HORIZON			
Construct new membrane plant at existing plant site designed to treat Cross Creek and Eagle River water	Treatment	Install membranes in a new pre-engineered building at the existing WTP site. New components will include booster/feed pumps, membranes, clean-in-place chemical system and compressed air system. The existing clearwell and distribution pumps will remain in service.	\$ 4,540,000
Construct pretreatment system to pretreat Eagle River water	Treatment	Build concrete basins and chemical feed systems to address Eagle River water quality issues.	\$ 429,000
Repairs and Modifications to the clearwell	Treatment	Make repairs to the existing clearwell and modifications to piping and controls.	
Raw Water Intake Improvements	Treatment	Install finer screening	\$ 25,000
New Well Field and pipeline to connect wells to WTP	Water Supply	Drill 3 new wells at the decreed location of the Eagle River Wells. Includes property acquisition, drilling wells, constructing well building, well pumps and pipeline to the existing WTP site.	\$ 5,220,000
5 TO 10 YEAR TIME HORIZON			
Connect Maloit Park Service Area to Town Service Area	Pipeline	Hang approximately 175 LF of 8" waterline on the Cross Creek Aerial Crossing and construct approximately 200 LF of 8" pipe to connect Maloit Park to WTP	\$ 310,000
Replace waterline in Eagle River at Bellm Bridge	Pipeline	Construct approximately 150-200 feet of 12" waterline across the Eagle River at Bellm Bridge. Assume that the pipe can be hung on the existing bridge	\$ 320,000
			\$ 15,813,500
10 TO 20 YEAR HORIZON			
Loop Taylor Street	Pipeline	Construct approximately 425 feet of 8" pipe from the new 12" Dowd Junction waterline to the existing 8" water line in Taylor St in 4th St.	\$ 130,000
			\$ 130,000
			\$ 15,943,500

December 11, 2020

TO: MAYOR AND MINTURN TOWN COUNCIL

FROM: TOWN ATTORNEY

RE: TERMINATION OF MEMORANDUM OF UNDERSTANDING RELATING
TO BATTLE MOUNTAIN PROJECT

In October 2016, the Town Council approved Resolution No. 27 – Series 2016 authorizing the Mayor to sign a Memorandum of Understanding with Battle Mountain (“MOU”). At the time, Battle Mountain had requested that the parties map out a strategy for advancing land use approvals for both the Mountaintop and the Bolts Lake area. The MOU contains action items and a proposed timeline for carrying out the MOU’s objective. While some of the actions items were accomplished – in particular related to the Mountaintop Area – others stalled. As a result, four years have passed since the MOU was enacted and circumstances have changed such that the concepts upon which the MOU were created are no longer accurate or current. To that end, the staff recommends terminating the MOU to pave the way for a new process for the Town to review applications submitted by Battle Mountain and to fund the Town’s review of those applications.

Pursuant to the terms of the MOU, “This MOU may be terminated by either party, in its sole discretion, by giving the other party written notice 30 days in advance.” To that end, a resolution is presented directing the Town Manager to send notice of termination to Battle Mountain.

Two items related to the MOU warrant some consideration. First, section 4 of the MOU contemplated cost sharing of Town review costs for Battle Mountain’s land use applications. Some of the Town’s Funds were expended to that effect related to the Mountaintop proposals. However, the Town no longer has \$200,000 remaining from the Town’s Funds and does not believe it is appropriate to use the remaining funds for review of land use proposals. The 2012 Agreement Regarding Escrows and Funding provide that a “Future Funding Agreement” between Battle Mountain and the Town will be enacted. That agreement needs to be vetted by the Town and adopted before extensive work on Battle Mountain applications can occur. Second, the MOU does contain language ratifying the use of the Town’s Funds by Minturn up through 2016. By terminating the MOU, this provision will be lost. Town Staff understands that securing language ratifying the use of the Town’s Funds in the Future Funding Agreement is a requirement of moving forward.

**TOWN OF MINTURN
RESOLUTION 31 – SERIES**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF MINTURN, COLORADO, TERMINATING A
MEMORANDUM OF UNDERSTANDING RELATING TO
BATTLE MOUNTAIN PROJECT.**

WHEREAS, the Town of Minturn (“Minturn” or the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Minturn Home Rule Charter (the “Charter”); and

WHEREAS, The Town adopted Resolution No. 27 – Series 2016 A Resolution Authorizing the Mayor of the Town of Minturn to Sign a Memo of Understanding with Battle Mountain Corporation; and

WHEREAS, In the intervening four years the circumstances underlying the rationale for the Memorandum of Understanding (“MOU”) have changed; and

WHEREAS, The Town desires to give notice to terminate the MOU; and

NOW, THEREFORE, IT IS RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO, THAT:

Section 1. The above recitals are hereby incorporated as findings by the Town Council of the Town of Minturn.

Section 2. The Town Council of the Town of Minturn hereby directs the Town Manager to give notice pursuant to Section 6 of the MOU to terminate the MOU within 30 days.

INTRODUCED, READ, APPROVED, ADOPTED, AND RESOLVED THIS 16TH DAY OF DECEMBER 2020.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO
RESOLUTION NO. 27 – SERIES 2016

A RESOLUTION AUTHORIZING THE MAYOR OF THE TOWN OF MINTURN TO SIGN A MEMO OF UNDERSTANDING WITH BATTLE MOUNTIAN CORPORATION.

WHEREAS, the Town of Minturn desires to approve a Memo of Understanding with Battle Mountain Corp. as set forth in Exhibit A.

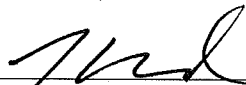
NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE MAYOR OR HIS DESIGNEE IS AUTHORIZED TO SIGN ON BEHALF OF THE TOWN OF MINTURN ANY AND ALL NEGOTIATED DOCUMENTS REQUIRED TO EXECUTE SAID AGREEMENT.

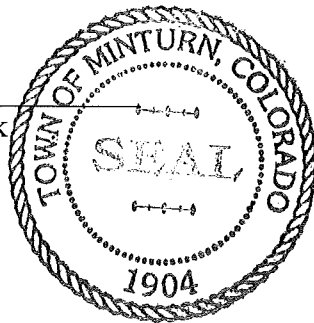
INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 19TH DAY OF OCTOBER, 2016.

TOWN OF MINTURN

By: 
Mathew Scherr, Mayor

ATTEST:


Jay Brunvand, Town Clerk



**MEMORANDUM OF UNDERSTANDING
RELATING TO BATTLE MOUNTAIN PROJECT**

This Memorandum of Understanding Relating to Battle Mountain Project (this “**MOU**”) is made and entered into this [9] date of October, 2016 (“**Effective Date**”) by and among Battle One Developer, LLLP, a Georgia limited liability limited partnership, Battle Two Developer, LLLP, a Georgia limited liability limited partnership (together with their respective successors and assigns, “**Battle**”), and the Town of Minturn, Colorado, a home rule municipal corporation (“**Town**”).

RECITALS

This MOU is made with respect to the following facts:

A. Battle, through certain affiliates, manages and is the owner of certain real property (the “**Project**”) that is the subject, *inter alia*, to the following matters as previously approved by the Town (collectively, the “**Existing Entitlements**”), acting by and through its governing body (“**Town Council**”):

(1) as approved by Town Council pursuant to Ordinance 10-Series 2008, that certain Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement dated February 27, 2008 (the “**Annexation Agreement**”).

(2) together with related matters as approved by Town Council pursuant to Resolution No. 18-2008, that certain Planned Unit Development Preliminary Plan and Battle Mountain PUD Guide (the “**PUD Preliminary Plan**”) which addresses the uses, density and intensity of use, and other development parameters for the following planning areas within the Project: the Willow Creek Character Area; the Rock Creek Character Area; the Holy Cross Character Area; the Bolts Lake Character Area; and the Gilman Character Area.

(3) together with related matters as approved by Town Council pursuant to Resolution No. 19-2008 (collectively, the “**Preliminary Plats**”):

(a) with respect to the Willow Creek Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 1 – “Willow Creek” Resubdivision of a part of Battle Mountain Exemption (“**Willow Creek Preliminary Plat**”)

(b) with respect to the Rock Creek Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 2 – “Rock Creek” Resubdivision of a part of Battle Mountain Exemption (“**Rock Creek Preliminary Plat**”);

(c) with respect to the Holy Cross Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 3 – “Holy Cross” Resubdivision of a part of Battle Mountain Exemption (“**Holy Cross Preliminary Plat**”).

(d) with respect to the Bolts Lake Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 4 – “Bolts Lake Village” a Resubdivision of a part of Battle Mountain Exemption (“**Bolts Lake Village Preliminary Plat**”); and

(e) with respect to the Gilman Character Area, that certain Preliminary Plat, Battle Mountain PUD Filing No. 5 – “Gilman Village” a Resubdivision of a part of Battle Mountain Exemption (“**Gilman Village Preliminary Plat**”); and

B. Pursuant to that certain 2012 Agreement Regarding Escrows and Funding (“**Funding Agreement**”), the Town and Battle (individually, a “**Party**” and, collectively, the “**Parties**”) previously have contemplated the need to negotiate in good faith to amend the Annexation Agreement.

C. Responsive to the foregoing, Battle has prepared various information related to alternative development strategies for the Project which was used in public meetings hosted by the Town.

D. Battle has further prepared the following proposed modified development plan concepts for portions of the Project which the Parties anticipate will be the basis of formal applications to the Town as contemplated in this MOU:

(1) the Bolts Lake Village concept that is attached at Appendix A hereto (the “**Bolts Lake Concept**”); and

(2) large lot development concepts for the Willow Creek, Rock Creek and Holy Cross Character Areas that is attached at Appendix B hereto (the “**Mountain Concept**”).

E. In order to further investigate and potentially implement the matters discussed conceptually in Appendix C, the Parties wish to process applications for the Amendments as defined in Paragraph 1 below and, in general conformance with the bullet point outline set forth in Appendix D hereto.

F. Subject to approval of applicable land use entitlements, enactment or modification of applicable agreements, and successful resolution of certain pending litigation matters, the Parties will investigate and potentially implement a framework for development of the Project in phases, including a rational and economically feasible plan for the provision of public improvements and payment of fees to mitigate the impacts of development; and create the opportunity for near-term development of the Bolts Lake Village area and the Mountain area that will be responsive to and respectful of community input and community needs.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this MOU and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Amendments.** The Parties will in good faith undertake to coordinate and efficiently process applications in an efficient, cost-effective and timely manner for the following matters (collectively, the “**Amendments**”):

(a) **Initial Phase.** As further outlined in Appendix D hereto, the Town (in consultation with Battle) will process regulation amendments in accordance with Minturn Municipal Code Sec. 16-21-410 *et. seq.* (collectively, “**Code Amendments**”) to the Minturn Municipal Code (“**Code**”):

(i) By October 31, 2016, Battle will endeavor to provide the Town with draft ordinances facilitating the amendments to Chapters 16 and 17 of the Code described below. The Town will work diligently on providing comments to Battle on the draft ordinances with the goal of having draft ordinances acceptable to Battle and Town Staff by November 16, 2016.

a. In order to enable the Mountain Concept, adding to Chapters 16 and 17 of the Code, as applicable, provisions that allow for the following within the Willow Creek, Rock Creek and Holy Cross Character Areas:

(1) a process to enable administrative review and approval of subdivision exemption plats to create not more than 10 legally conveyable parcels, each having a minimum land area of three hundred fifty (350) acres (“**Exemption Plat Process**”);

(2) a separate process to enable Planning and Zoning Commission review and approval (with right of review by Town Council) of subdivision plats to create legally conveyable parcels, each having a minimum land area of thirty five (35) per parcel (“**35 Acre Process**”); and

(3) clarification that parcels created pursuant to the Exemption Plat Process and parcels created pursuant to the 35 Acre Process are not required to obtain an approved final development plan under, *inter alia*, Town Code Sections 16-10-20 and 16-15-200.

b. In order to facilitate the Bolts Lake Concept, adding to Chapters 16 and 17 of the Code provisions that allow for the creation of legally conveyable phasing blocks as part of the approval of a PUD Preliminary Development Plan and associated development agreement (“**Phasing Block Process**”).

(ii) The Town will endeavor to have public notice requirements completed so that the Code Amendments can be considered by Planning Commission by the Commission’s second meeting in December, 2016 or first meeting in January 2017.

(iii) The Town will schedule a public hearing before the Town Council on the Code Amendments following a final recommendation being made by the Planning Commission.

(b) Second Phase. In order to better inform the Town and the public of the types of development, intensity of development, locations of development and other matters pertaining to the Bolts Lake Concept, Battle will endeavor to submit to the Town an application for a Planned Unit Development Concept Plan (the “**Bolts Lake Concept Plan**”), in accordance with Town Code Sections 16-15-90 to 16-15-120, not earlier than six (6) weeks following Town Council’s final action on the Code Amendments pursuant to Section 1(a)(iii) above.

(i) The Town will endeavor to have public notice requirements completed so that the Bolts Lake Concept Plan can be reviewed by Planning Commission by the Commission’s second meeting in the month following the date on which Battle submits its application for the Bolts Lake Concept Plan pursuant to Section 1(b) above.

(ii) The Town will have public notice requirements completed so that the Bolts Lake Concept Plan can be reviewed by the Town Council following the Planning Commission’s review and recommendation.

(c) Third Phase. In order to facilitate the consideration of the Mountain Concept and the Bolts Lake Concept and such other and related matters as the Parties determine necessary and appropriate in connection therewith, including but not limited to facilitating development of the Project in phases pursuant to a rational and economically feasible plan for the provision of public improvements and payment of fees to mitigate the impacts of development within the Project:

(i) Concurrent with review of the Bolts Lake Concept Plan, the Parties will schedule a series of meetings to discuss topics related to amendment of the Annexation Agreement, the PUD Preliminary Plan and, if deemed necessary or desirable, the Preliminary Plats and such other ancillary agreements among the Parties related to the Project as may require amendment (collectively, “**Entitlements Amendments**”). The Parties will endeavor to complete the discussions about amendments of the Annexation Agreement by March 15, 2017.

(ii) The initial discussions related to amendments to the Annexation Agreement shall focus on those amendments required to facilitate the Mountain Concept. Battle will endeavor to provide the Town with a proposed draft amendment to the Annexation Agreement as outlined in Appendix D facilitating the Mountain Concept by December 15 2016. The Town will work diligently on providing comments to Battle on the draft amendment with the goal of having final draft amendment acceptable to Battle and Town Staff by January 31, 2017. The Town will endeavor to schedule consideration of the amendment on the Town Council’s first meeting in March, 2017.

(iii) Battle will endeavor to provide the Town with a draft amendment to the Annexation Agreement facilitating the Bolts Lake Concept by March 31, 2017. The Town will work diligently on providing comments to Battle on the draft Bolts Lake amendment. The draft amendment of the Annexation Agreement related to Bolts Lake

can only be finalized and considered in conjunction with an application, review and final approval to amend the existing PUD Preliminary Plan.

(d) **Fourth Phase.** In order to facilitate the implementation of the Bolts Lake Concept, as such Concept Plan may be reviewed and modified by the Town and Battle after the process referenced in Section 1(b), Battle may submit applications to amend the PUD Preliminary Plan and the Annexation Agreement (and in accordance with Town Code Sec. 16-15-130, 16-15-140, 16-15-160, 16-15-170, and 16-15-230) consistent with the Bolts Lake Concept Plan and the discussions with Town staff about the Annexation Agreement. It is anticipated that the time for the Town to process the applications to amend the PUD Preliminary Plan and the Annexation Agreement will be between 60 and 90 days. The Town will endeavor to have public notice requirements completed so that the applications for amendment of the PUD Preliminary Plan and the Annexation Agreement can be considered by Planning Commission by the Commission's first meeting in the third month following Battle's submittal of such applications. The Town will schedule a public hearing before the Town Council on the PUD Preliminary Plan and the amendment to the Annexation Agreement following a final recommendation being made by the Planning Commission.

2. **Cooperation.** In connection with processing the Amendments, Battle and the Town will in good faith have regularly scheduled meetings, not less than bi-monthly, to coordinate regarding the progress of the Amendments in accordance with the timing milestones stated in Paragraph 1.

3. **Nature and Purpose of the Bolts Lake Concept.** The Bolts Lake Concept and Entitlements Amendments are not intended to identify with certainty the specific location and configuration of individual Phasing Block street and lot layout, lot sizes, lot locations, product types, floor area ratios, parking areas, open space and park layout, recreation areas, building and architectural design standards and other site design matters that will be considered as part of a final development plan for individual Phasing Blocks. The Bolts Lake Concept Plan and PUD Preliminary Plan amendment will meet the requirements of the Town Code and provide an adequate description and design of the following: zoning character areas with approximate densities and types of units, collector roads layouts, core utility layouts for water distribution and sewer collector, non-motorized access routes within the Bolts Lake area and connections with the Town, locations of domestic water storage, and design of and desired uses surrounding Bolts Lake.

4. **Costs and Expenses.** The Funding Agreement sets forth the obligations of the parties related to the costs and expenses incurred in connection with negotiation and execution of this Memorandum and the matters addressed herein. In addition to the monthly payments made by Battle to cover the Town's administrative costs, the Town agrees to use an amount not to exceed \$200,000 of the Town's Funds (as defined in section 6 of the Funding Agreement) earmarked for Legal and Consulting Costs for the purpose of paying legal and consulting costs incurred by the Town in reviewing and processing the items described in this MOU. After the sum of \$200,000 of the Town's Funds has been spent or committed by the Town for purposes of paying legal and consulting costs incurred by the Town in reviewing and processing the items described in this MOU, the terms of the Funding Agreement shall control. Except as expressly described in this MOU, the Funding Agreement shall not be interpreted to be amended in any way.

5. **Ratification of Use of Funds.** The Town hereby ratifies Battle's use of the Developer's Funds (as described in paragraph 5 of the Funding Agreement) to date as disclosed on Appendix D and Battle hereby ratifies the Town's use of the Town's Funds (as described in paragraphs 6 and 14 of the Funding Agreement) to date as disclosed on Appendix E.

6. **Term; Termination.** This MOU may be terminated by either party, in its sole discretion, by giving the other party written notice 30 days in advance.

7. **Aspirational Nature of Agreement.** This MOU is aspirational in nature. The dates described herein constitute target dates to initiate or accomplish tasks. Said dates are not enforceable deadlines. Furthermore, the Parties acknowledge that the items described herein are subject to public approval processes and governing law. Nothing herein shall constitute a waiver of any public right or legally required process. Nothing herein shall be construed as a statement of support by the Town of Minturn or its Town Council nor shall it constitute a guarantee that any proposed Code provision, agreement, or land use entitlement will be granted. The intent of this MOU is to establish a process for the consideration of the items discussed herein in the context of governing law.

8. **No Amendment of Any Other Agreement.** This MOU does not constitute and shall not be interpreted as an amendment to any other agreement between the Town and Battle (or its predecessors).

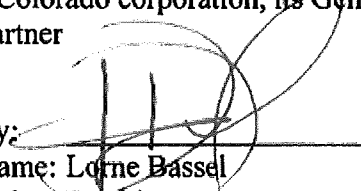
[Signature Page Follows This Page]

IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date.

BATTLE:

Battle One Developer, LLLP,
a Georgia limited liability limited
partnership

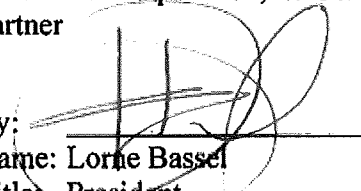
By: Bassel Battle Investment, Corp.,
a Colorado corporation, its General
Partner

By: 
Name: Lorne Bassel
Title: President

Open for acceptance until October 21, 2016

Battle Two Developer, LLLP,
a Georgia limited liability limited
partnership

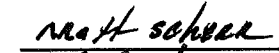

By: Bassel Battle Investment, Corp.,
a Colorado corporation, its General
Partner

By: 
Name: Lorne Bassel
Title: President

Open for acceptance until October 21, 2016

TOWN:

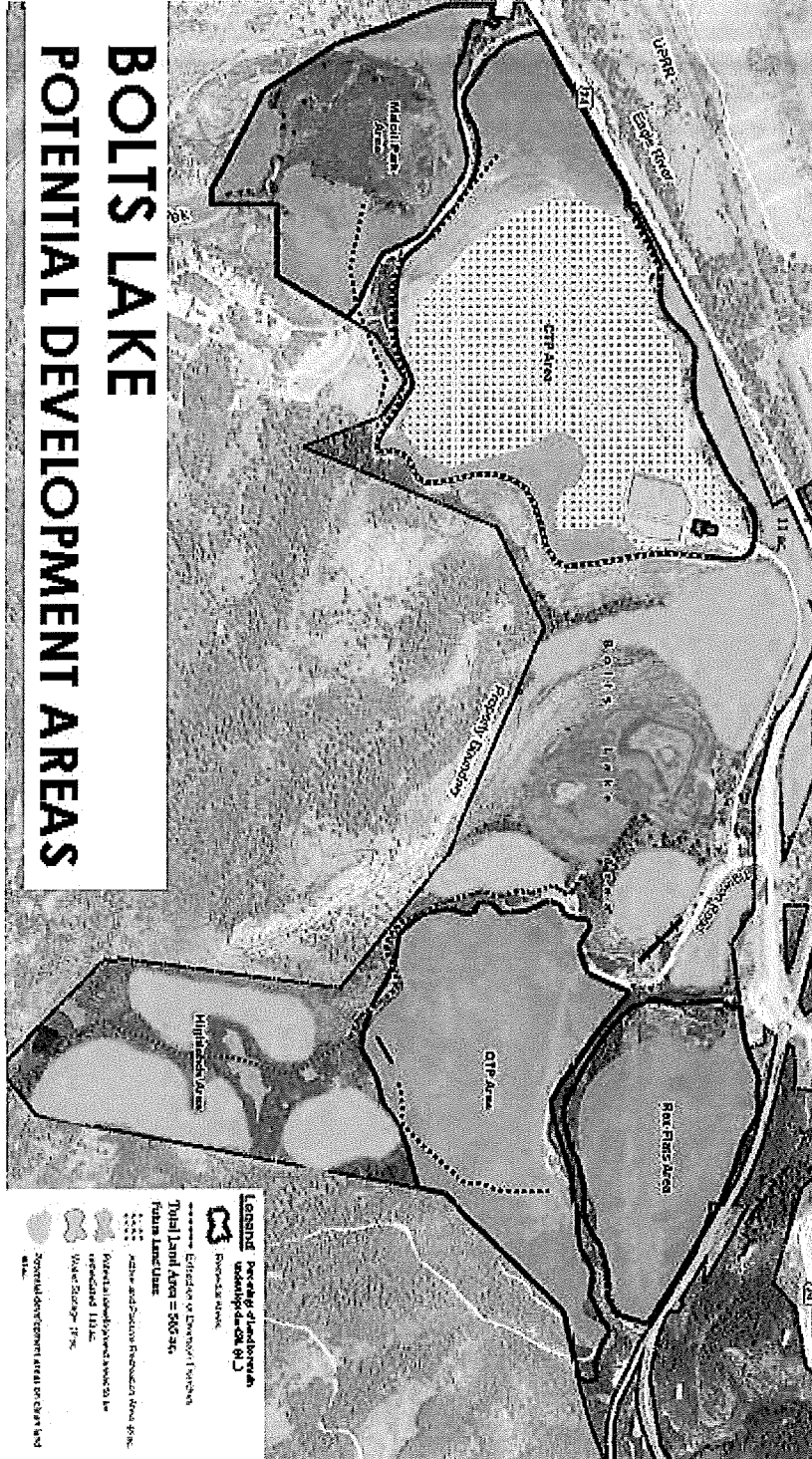
TOWN OF MINTURN, a municipal
corporation of the State of Colorado

By: 
Name: 
Title: Mayor

Appendix A
Bolts Lake Concept

[Follows this Page]

BOLTS LAKE POTENTIAL DEVELOPMENT AREAS



Appendix B
Mountain Concept

[Follows this Page]



**BATTLE MOUNTAIN
LARGE LOT CONCEPT**

- Unimproved lands
- Potential lynx denning habitat
- Potential Peregrine Falcon nesting
- Lands with Slopes < 20%
- 2 Large Lot

EAST PIONEER ST = 4,600 ac
Average Area = 4,700 ac
Unimproved Area = 2,900 ac

Existing Access Road

White River National Forest

White River National Forest



Potential motor-able trail routes and open space tract in building area

Potential motor-able routes and open space tract in building area

DRAFT CONCEPTUAL PLAN



Eastern Market
...
Concept Plan

Legend

- Easement/Right-of-Way Boundary
- 20' Access Easement
- Proposed Road
- 30' Access Easement
- Open Space/Trail
- Potential Motor-able Routes & Trail
- 10' Access Easement Area (to be used for other)
- 10' Access Easement
- East Project Boundary
- East Project Boundary
- Area of Land Traced Assessment (to be used for other)
- Area of Land Traced Assessment (to be used for other)
- Area of Land Traced Assessment (to be used for other)
- Area of Land Traced Assessment (to be used for other)

Scale: 1" = 100'

North Arrow

DATE: 01/15/2011

PROJECT: SUNSHINE MARKET

Appendix C **Statement of Intent**

Crave Community Company “Crave” has listened to Minturn community input and is seeking to continue collaboration regarding land located South of Minturn and managed by Crave (commonly referred to as Battle Mountain property or “project”). The goal is to advance planning, and amendments to existing agreements, to allow a project that results in a mutually agreeable robust, mixed use community comprised of different product types and price points. In addition Crave seeks to work with Minturn to amend zoning and subdivision regulations to allow 35 acre ranch lots within designated zone districts at the Mountain Top. The overall goal is to preserve and protect the rights and interests of both the Town and the developer while allowing the flexibility of plans to adjust to the long term build out of the project.

In order to achieve this, Crave believes that amendments to the annexation agreement and to the existing PUD are required and will allow for a successful project that benefits the community. Amendments to the annexation agreement would be phased with an immediate minor amendment to allow 35 acre lot creation on Mountain Top land, which will not trigger any existing annexation commitments, but which may trigger obligations to be described in an Annexation Agreement amendment. Subsequent to this initial amendment, Minturn and Crave would collaborate on an amended and restated annexation agreement that aligns exactions and related requirements with current conditions and the scale of a project on the Bolts Lake property only. The agreement would include a phasing of public improvements and impact fees that rationally correspond to the service needs and impacts of actual development. Future development of existing PUD approved density on the Gilman and East parcel will require similar revised annexation agreements, but those are not being contemplated at this time.

The new structure for the Bolts Lake project shall address all necessary items as required by the Town Code for development including but not limited to the specific issues below:

- The developer will be responsible for all onsite improvements required for the project including utilities, roads, trails, environmental mitigation and ultimate water storage capacity including storage capacity for Minturn (as to be determined during the process outlined in the MOU).
- The developer will be responsible for off-site improvements that are rationally related to impacts imposed by the Project.
- Exactions will be limited to those typically required to be addressed by a developer as set forth in the Town Code and impact studies related to the Project, such as school, emergency services, traffic and other direct project related impact fees.
- The first phase of development at Bolts Lake is assumed to have the ability to utilize existing Town water. It is very important to understand if this is feasible and to understand what will be necessary to allow this to occur. Crave will work with Town personnel and consultants to verify this assumption, as well as to determine approximate capacity available and any other specific requirements for this to occur. Battle and the Town will make their staff and consultants reasonably available upon the signing of this MOU to review the legal and

engineering implications to provide an initial phase with existing Town water, so that this issue can be addressed in conjunction with the meetings to discuss topics related to amendment of the Annexation Agreement outlined in Section 1.c.i of this agreement.

- The amended agreement would outline when the developer is required to build Bolts Lake (likely based on the exceedance of a specific number of units).
- In order for the community to understand how individual phases within the Bolts Lake area may be advanced, conceptual plans will be developed with public input. These plans will still be conceptual in nature, to be finalized on a phased basis during the final development plan and platting approval processes.
- The definition of what constitutes a unit will be agreed upon, possibly based on number of bedrooms or gross square footage. This could allow smaller more affordable units to be developed in the project while still allowing the project to be economically successful.
- The amended agreement will address wastewater treatment needs and determine if a wastewater treatment plant is required, or if the Upper Eagle Valley Water and Sanitation District can provide sewage treatment, and if so, whether the collection system from the Project to the Avon Treatment Plant has adequate capacity.

Appendix D
Bullet Point Outline of Proposed Amendments

1. Amendment to the subdivision code permitting the limited creation of exemption parcels within defined Character Areas of the Mountaintop with a minimum acreage of 350 acres by administratively reviewed subdivision exemption plats (Exemption Plat Process). No more than 10 parcels, each with a minimum area of 350 acres, may be created pursuant to the Exemption Plat Process.
 - a. Town review of plats under the Exemption Plat Process would be limited to ensuring that:
 - i. The plat conforms with specified state survey / platting requirements.
 - ii. The plat conforms with specified Minturn plat requirements.
 - iii. Each of the parcels created by the Exemption Plat Process have legal access from a public road to the parcel boundary. In this instance, legal access will be limited to the exemption plat (a) depicting a road that physically connects to each 350 acre or larger parcel, and (b) identifies the method by which legal access to the exemption parcel is (or will be) provided (E.G. easements, ecrs, etc.)
 - iv. Construction of or security for the access roads would not be required before filing a subdivision exemption plat with the County thereby creating separately conveyable parcels.
 - b. Provisions noting municipal services to parcels created by the Exemption Plat Process is essentially non-existent and that such lots will not be disconnected from the Town due to the non-provision of services otherwise provided within Minturn.
2. Amendment to the subdivision code to create a separate subdivision process for lots 35 acres or larger in size within designated Mountaintop character areas ("35 Acre Process").
 - a. One step approval with P&Z with ability to appeal or call up to Town Council (similar to design review).
 - b. Review criteria for the 35 Acre Process would be limited to:
 - i. Demonstration of legal and physical access from a public road to all lots being created.
 - (1) Legal access would include that adequate easements or road dedications exist in appropriate form to permit the long term use, operation, repair and maintenance of an access road. Legal access

would also include demonstration that an appropriate legal arrangement exists for the common repair and maintenance of roadways that serve more than one lot (HOA, road association).

- (2) Physical access would include that all proposed roads meet Town public works standards for the number of lots/units being served and that the road design is compliant with referral entities' requirements (i.e. Fire District, Ambulance District, etc.).
 - (3) Confirmation that designated segments of certain Mountaintop roads and non-motorized trails will provide public access to designated open space tracts or areas, as generally described in the Mountaintop Concept conceptual depiction for 35 acre parcels that is attached at Appendix B of the MOU (and limited to such), and to be identified in the amendment to the annexation and development agreement.
 - (4) Construction of access roads or provision of adequate security to construct access roads prior to recording plat.
- ii. Determination that each lot created would contain a minimum of 1 acre of "buildable" land (building envelope) based upon the approved "wildlife/view corridor/ slope" map.
- c. Provisions noting that municipal services to 35 acre lots are limited and that such lots will not be disconnected from the Town due to the non-provision of services otherwise provided within Minturn.
3. Amend the zoning code and PUD Guide to permit the creation of lots utilizing the 35 Acre Process within specified character areas on the Mountaintop:
 - a. Implement lot dimensional standards.
 - i. 35 acre minimum lot size
 - ii. Front / side / rear yard setbacks
 - iii. Impervious surface limitations
 - b. Permitted uses by right / conditional use / special use / prohibited uses (Primary residential structure / ADU / Outbuildings)
 - c. Adopt a master map outlining buildable / non-buildable locations within Mountaintop character areas. This map would be created using information on wildlife corridors, view shed corridors, wetlands and stream corridors, and critical slopes. This map will be used in determining (a) whether a proposed lot at the time of subdivision contains a buildable area, and (b) whether at the time of

building permit a proposed structure is located in a potentially buildable area (building envelopes).

- d. Compliance with PUD open space requirements.
 - e. As conceptually depicted on the graphic in Appendix B of the MOU showing potential 35 acre parcel configurations (and limited to such), delineation of the specific segments of those Mountaintop roads and non-motorized trails that will provide public access. All segments of the Mountaintop roads and trails that are not shown in Appendix B as open to the public may, at developer's sole discretion, be restricted to private use (and emergency services) to serve the potential 35 acre parcels.
4. Amend Building Code to include provisions specific to construction in the Mountaintop character areas:
- a. Payment of impact fees at time of building permit (traffic, parks, etc.), to be established before the building code is amended, so that the parties (a) establish the methodology by which the amount of such fees will be determined; (b) identify the scope of impacts to be addressed by such fee; and (c) establish a methodology for calculating the fees with certainty in the future (i.e. in current dollars, with a reasonable CPI adjustment).
 - b. Determination that structures will be in a "buildable area" as designated by the master map.
 - c. Determination of adequate legal and physical water supply from exempt well.
 - d. Determination of adequate wastewater treatment and issuance of a septic permit.
 - e. Determination of compliance with hazard avoidance / mitigation requirements.
 - f. Determination of construction of access roadways to applicable approvals / codes.
 - g. Determination of adequate access driveway that complies with Town standards and referral agency requirements.
5. Amendment to Municipal Utility Code to provide:
- a. Within designated Mountaintop character areas water service may be provided by well or potentially community water system.
 - b. Within designated Mountaintop character areas wastewater treatment may be provided by septic system. Incorporate a septic system permitting system.
 - c. Provide that upon approval by the Town, water service within designated Mountaintop character areas can be provided by a community water system that is not operated by the Town:

- i. Legal water supply (water rights) sufficient for the requested amount of development. Community water system's water rights will not interfere with Town's water rights.
 - ii. Physical water supply in both quantity and quality sufficient to meet the requested amount of development.
 - iii. Compliance with CDPHE community water supply regulations
 - iv. Establishment of appropriate entity to manage and operate the community water supply.
 - v. Incorporation of adequate indemnities of the Town from operating, managing, owning or financially supporting the community water system.
 - vi. Comply with Fire District standards for fire suppression requirements.
6. Limited amendment to the Annexation and Development Agreement to provide:
- a. The creation of parcels or lots pursuant to the Exemption Plat Process and 35 Acre Process will not be subject to the requirement of a final development plan and will not trigger the payment and exaction requirements under the main ADA.
 - b. As depicted in the Mountaintop Concept conceptual depictions attached at Appendix B of the MOU (and limited to such), designation of specific segments of certain Mountaintop roads and non-motorized trails that will provide public access to certain limited and specifically designated public open space tracts or areas within the Mountain Top area.
 - c. As depicted in the Mountaintop Concept conceptual depictions attached at Appendix B of the MOU (and limited to such), designation of specific and limited public open space tracts within the Mountain Top area.
 - d. Payment of impact fees at time of building permit (traffic, parks, etc.), to be established before the building code is amended, so that the parties (a) establish the methodology by which the amount of such fees will be determined; (b) identify the scope of impacts to be addressed by such fee; and (c) establish a methodology for calculating the fees with certainty in the future (in current dollars, with a reasonable CPI adjustment).
 - e. Provisions indicating the reduced services that will be provided to the lots or parcels created through the Exemption Plat Process and the 35 Acre Process (no water, sewer, shallow utilities, public roads, snowplowing, streetlights, maintained parks, etc.) and this will not be grounds for disconnection from the Town.

Appendix E

Use of Escrow Funds

DETAIL	LITTLE BEACH PARK SCHOLARSHIP		CAPITAL FUND				RESERVE FUND		TOTAL RESERVE	TITLE ESCROW	TOTAL
	TITLE	MTN	LAND PURCHASE	REC CENTER	WATER & INFRASTRUCTURE	TOTAL CAPITAL FUND	Admin Fees	Legal & Consulting			
INCOME FROM											
RES 5-2012	250,000.00	350,000.00		1,000,000.00	892,000.00	1,992,000.00	540,000.00	1,240,000.00	1,780,000.00	28,000.00	4,390,000.00
Previous Interest	6,088.28	8,523.30							28,058.30	77.07	42,746.95
Interest - 2012	462.60	636.77							7,250.90		8,352.27
Interest - 2013	322.85	16,931.70							3,738.09		20,992.64
Interest - 2014	284.70	4,068.64							2,542.60	34.07	6,930.01
MARCH 19, 2014 REALLOCATION*				250,000.00	-250,000.00						
Interest - 2015	434.97	-69.94							1,646.60	48.29	2,062.92
Interest - 2016	926.81	0.45							3,828.07	105.32	
TOTAL INCOME	258,520.21	380,092.93	0.00	1,250,000.00	732,000.00	1,982,000.00	540,000.00	1,240,000.00	1,827,066.56	28,265.75	4,471,084.79
EXPENSES											
PARK DESIGN - 2012	1,370.25								0.00		1,370.25
PARK DESIGN - 2013	8,382.46								0.00		8,382.46
PARK DESIGN - 2014									0.00		0.00
PARK DESIGN - 2015									0.00		0.00
SCHOLARSHIP - 2012		732.00							0.00		732.00
SCHOLARSHIP - 2013**		49,000.00							0.00		49,000.00
SCHOLARSHIP - 2014		9,100.00							0.00		9,100.00
SCHOLARSHIP - 2015		4,000.00							0.00		4,000.00
SCHOLARSHIP - 2016		5,350.00							0.00		5,350.00
LAND PURCHASE-BONE YARD			236,470.00			236,470.00			0.00		236,470.00
REC CENTER - 2012				502,978.52		502,978.52			0.00		502,978.52
REC CENTER - 2013				750,000.00		750,000.00			0.00		750,000.00
REC CENTER - 2014									0.00		0.00
ADMIN FEE - 2012							180,000.00		180,000.00		180,000.00
ADMIN FEE - 2013							180,000.00		180,000.00		180,000.00
ADMIN FEE - 2014							180,000.00		180,000.00		180,000.00
LEGAL AND CONSULTING-2012								391,630.62	391,630.62		391,630.62
LEGAL AND CONSULTING-2013								62,510.19	62,510.19		62,510.19
LEGAL AND CONSULTING-2014								213,461.00	213,461.00		213,461.00
LEGAL CONSULTING & FEES-2015		14,848.25			530,000.00			84,236.63	84,236.63		99,104.88
ENTRTWAY-2016											
TOTAL EXPENSE	9,792.71	83,030.25	236,470.00	1,252,978.52	530,000.00	2,019,448.52	540,000.00	762,058.44	1,292,058.44	0.00	2,864,939.92
BALANCE REMAINING	248,767.50	297,062.88	-236,470.00	-2,978.52	202,000.00	-37,448.52	0.00	487,941.56	535,008.12	28,265.75	1,606,144.87

* Change was made to 2014 budget numbers as a result
 ** Includes the \$40,000 scholarship set up at CMC

Water & Infrastructure	202,000.00
Plus Interest Earned	43,238.49
Net	245,238.49
Land Purchase	-236,470.00
Rec Center	-2,978.52
Funds Avail	5,769.97

4,362,000.00

October 6, 2016

To: Residents of Minturn
Fr: Willy Powell, Town Manager

Re: Memorandum of Understanding (MOU) between the Town and Battle Mountain Corporation

The Minturn Town Council considered and made a first review of the MOU at their meeting of October 5, and the MOU will be further considered at the next Council meeting of October 19. The MOU is somewhat complex and this memorandum is written to help the public understand the most important points of the MOU. The MOU follows along with a letter from the Town Attorney.

Important aspects of the MOU are the following.

- An MOU is not a binding agreement. Rather the MOU is an aspirational document which lays out a "roadmap" of land use submittals and reviews to occur and in conformance with the Municipal Code.
- Battle Mountain Corporation (BM) is proposing to develop on their private lands. No Forest Service land trades are contemplated now or in the future.
- BM contemplates developing 35 acre or larger lots on the "mountain top." The Bolts Lake area is contemplated for a residential PUD with densities to be decided during the review process. See conceptual maps contained as appendices to the MOU.
- Target dates for reviews contained within the MOU are not binding, rather a guideline. Timelines for land use reviews depend on many aspects including the following: timely and quality submittals by the applicant, thorough staff review, public hearings granting the Planning & Zoning Commission, Town Council and public sufficient time to consider the applicant submittal.
- Renegotiation of the Annexation and Development Agreement of 2008 to more closely align with any approved PUD and its commensurate density and effect on the Town.

Town Council and Staff are committed that any Battle Mountain land use approvals will constitute responsible developments, will adequately mitigate impacts, and not place undue burdens on Minturn tax payers and utility rate payers.

Karp.Neu.Hanlon^{PC}
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****All correspondence should be sent to the
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September 30, 2016

To: Minturn Town Council

From: Town Attorney

Re: Memorandum of Understanding with Battle Mountain

Over the last few months, the Town's Battle Mountain Committee has engaged in several meetings with Battle Mountain to discuss the future of the project. Battle Mountain is interested in exploring alternative development scenarios from what is provided for in the existing PUD. Our initial meetings were to discuss the process that would be required to bring more detailed proposals before the public, the Planning Commission and the Town Council. The attached Memorandum of Understanding (MOU) outlines a process for revised development proposals both on Battle Mountain and in the Bolts Lake area to receive formal consideration.

In the course of the discussions about process, it made sense to flesh out possible framework for some of the alternative proposals Battle Mountain is considering. In particular, you will see a fair level of detail about a "Mountain Top Concept" that would be an alternative development pathway for the lands on Battle Mountain. The Mountain Top Concept contemplates larger lots on the mountain top with a minimum size of 35 acres. I want to stress that this is an alternative development pathway as the original zoning of the mountain top area for a ski area is anticipated to remain intact.

The Mountain Top Concept is consistent with many rural subdivisions in Eagle County. Similar to how rural subdivisions occur in Eagle County, the Mountain Top Concept as outlined in the MOU would permit for limited review by the Town for the creation of large lots. Very large lots (over 350 acres in size) could be created with an administrative review. Large lots (35 acres in size) could be created with a special subdivision process that would entail review by the Planning Commission.

Implementation of the Mountain Top Concept would require changes to the Town Code, the PUD zoning, and the Annexation and Development Agreement for Battle Mountain. All of these changes will undergo robust public processes. A proposed timeline for consideration is included in the MOU. However, that timeline is fully subject to these concepts being vetted in public meetings

Page 2

after opportunities for public comment. Thus, approval of the MOU does not constitute any sort of approval, or even endorsement, of the development concepts articulated in the exhibits.

The MOU similarly contemplates additional process relative to alternative development paths for the Bolts Lake area. The MOU provides that Battle Mountain will submit a Concept Plan application (as contemplated under the Town's PUD code) to introduce new development concepts for Bolts Lake. The Concept Plan will be considered in public meetings with opportunities for public comment. After the Concept Plan is reviewed, Battle Mountain anticipates bringing a revised preliminary PUD plan to the Town. This would require providing in-depth information on a variety of development topics. Further, it will require amendments to the Annexation and Development Agreement and the Town Code. Again, robust opportunities for public participation and Council deliberation exist with each application.

As Council is aware, many years ago Battle Mountain deposited a sizeable amount of money with the Town in escrow to cover certain expenses. Over \$1,000,000 of that money was earmarked for legal and consulting work. The MOU contemplates that the Town will further earmark \$200,000 of the legal and consulting escrow to pay outside costs (e.g. legal, engineering) incurred by the Town associated with the applications and processes described in the MOU. This is in addition to the \$15,000 per month that Battle Mountain pays to help offset Town staff expenses under an agreement from 2012. The \$200,000 earmark will leave over \$250,000 in escrow to cover other Town legal and consulting expenses that have a nexus to Battle Mountain (for example the Tucker Rule 106 litigation, upcoming water court cases, and efforts to have the Bolts Ditch congressionally authorized).

I would direct Council's attention to paragraphs 7 and 8 of the MOU. These provisions make clear that the MOU is aspirational in nature. It does not confer any rights without future Council actions. The MOU does not create any guarantees of substantive outcomes. Finally, the MOU does not amend any other agreement between the Town and Battle Mountain.

I look forward to discussing the MOU with you in more detail. Tim McGuire of Battle Mountain will also be present to answer questions.



To: Mayor and Town Council
From: Michelle Metteer, Town Manager
Date: December 16, 2020
Agenda Item: Financial Relief for Local Businesses – Water Bill waiver

REQUEST:

Council to consider another round of COVID relief to local businesses through the waiving of the water utility bill for a 3-month period.

INTRODUCTION:

COVID continues to hit Minturn’s local businesses hard. With the County moved to Orange on the COVID Dial, restrictions for businesses, especially restaurants, are making it incredibly difficult to remain open. Additionally, many local businesses have already exhausted their reserve funds in order to make the required distancing modifications to their establishments.

ANALYSIS:

There is growing concern that local small businesses will not be able to survive another round of shutdowns. And even though businesses currently remain open, they are unable to accommodate the level of customers necessary to sustain a staff and break-even.

Through the 72nd Special Session of the State Legislature, 10 bills were passed for support of small businesses, child care and Colorado families (see Manager Report). These efforts are helpful in the support needed, however most of the funds will go to Counties in the Red Level of the COVID dial.

COMMUNITY INPUT:

Ongoing

BUDGET / STAFF IMPACT:

Approximately \$45,000 impact to Enterprise Fund

STRATEGIC PLAN ALIGNMENT:

Financially support local businesses during a pandemic meets the Minturn Strategic Plan in the following way:

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION:


- Provide direction regarding financial utility bill relief to businesses most effected by the restrictions of being at the “Orange Level” on the COVID dial.

ATTACHMENTS:

- COVID Dial Restrictions

What are the capacity restrictions at each level?

Effective date: 11/20/20

	LEVEL GREEN: PROTECT OUR NEIGHBORS	LEVEL BLUE: CAUTION	LEVEL YELLOW: CONCERN	LEVEL ORANGE: HIGH RISK	LEVEL RED: SEVERE RISK	LEVEL PURPLE: EXTREME RISK
HIGH RISK POPULATIONS	Use caution Eligible for worker benefits and mandatory prioritization for remote work	Use caution Eligible for worker benefits and mandatory prioritization for remote work	Advised to Stay at Home Eligible for worker benefits and mandatory prioritization for remote work	Strongly advised to Stay at Home Eligible for worker benefits and mandatory prioritization for remote work	Stay at Home Eligible for worker benefits and mandatory prioritization for remote work	Stay at Home Ordered Eligible for worker benefits and mandatory prioritization for remote work
VARIANCES	Eligible for both <u>outdoor</u> and <u>indoor</u> site-specific variances if approved by LPHA	Eligible for both <u>outdoor</u> and <u>indoor</u> site-specific variances if approved by LPHA	Eligible for <u>outdoor</u> site-specific variances if approved by LPHA	Not eligible	Not eligible - Current variances reevaluted	Not eligible - Current variances revoked unless specifically allowed
PERSONAL GATHERING SIZE	Per local guidance	Up to 10 from no more than 2 households	Up to 10 from no more than 2 households	Up to 10 from no more than 2 households	None	None
CHILDCARE	Open	Open	Open	Open	Open	Open
P-12 SCHOOLS	In-person	In-person	In-person suggested, hybrid, or remote as appropriate	In-person suggested, hybrid, or remote as appropriate	P-5 in-person suggested, or hybrid or remote as appropriate Middle school in-person, hybrid, or remote suggested, High school hybrid or remote suggested	In-person, hybrid, or remote as appropriate
HIGHER EDUCATION	In-person	In-person	In-person, hybrid, or remote as appropriate	In-person, hybrid, or remote as appropriate	Remote suggested, limited in-person when necessary	Remote suggested, very limited in-person when necessary
PLACES OF WORSHIP AND LIFE RITES - INDOOR UNSEATED FUNCTIONS	50%* capacity or 500 people †	50% capacity or 175 people †	50% capacity or 50 people no calculator, or up to 100 (with calculator) †	25% capacity or 50 people (with calculator) †	25% capacity or 50 people (with calculator)	Remote, virtual service, or outdoor are strongly encouraged; indoors up to 10
PLACES OF WORSHIP AND LIFE RITES - INDOOR SEATED FUNCTIONS	50%* capacity or 500 people †	50% capacity or 175 people †	50% capacity or 100 people †	25% capacity or 50 people †	25% capacity or 50 people †	Remote, virtual service, or outdoor are strongly encouraged; indoors up to 10
PLACES OF WORSHIP AND LIFE RITES - OUTDOORS	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning
RESTAURANTS - INDOORS	50%* capacity or 500 people †	50% capacity or 175 people indoors †	50% capacity or 50 people (or up to 100 with calculator) †	25% capacity or 50 people †	Indoor dining closed. Take out, curbside, delivery, or to go	Indoor dining closed. Take out, delivery, or to go is open
RESTAURANTS - OUTDOORS	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	6ft between parties outdoors, per local zoning	Open air with only groups of own household is open	Outdoor dining closed. Take out, delivery, or to go is open
LAST CALL	Per local	12am (on premises)	11pm (on premises)	10pm (on premises)	8pm (on premises)	No on premises service
NON-CRITICAL MANUFACTURING	50%* capacity or 500 people †	50% capacity or 175 people †	50% capacity or 50 people (or up to 100 with calculator) †	25% capacity or 50 people †	25% capacity or 50 people †	10% capacity or 25 people †
OFFICES	50%* capacity	50% capacity	50% capacity, remote work is strongly encouraged	25% capacity, remote work is strongly encouraged	10% capacity, remote work is strongly encouraged	Remote work or Closed
BARS	50%* capacity or 500 people †	Closed	Closed	Closed	Closed	Closed
GYMS/FITNESS	50%* capacity or 500 people †	25% capacity or 75 people †	25% capacity or 50 people †	25% capacity, 25 people indoors †, or outdoors in groups less than 10	10% capacity, 10 people indoors per room †, or outdoors in groups less than 10. Reservations required	Virtual, or outdoors in groups less than 10
GROUP SPORTS AND CAMPS	50%* capacity or 500 people †	50 person capacity per activity	25 person capacity per activity	Virtual, or outdoors in groups less than 10	Virtual, or outdoors in groups less than 10	Virtual, or outdoors in groups less than 10
CRITICAL AND NON CRITICAL RETAIL	50%* capacity	50% capacity	50% capacity	50% capacity with increased curbside pick up, and delivery. Dedicated senior and at-risk hours encouraged	50% capacity with increased curbside pick up, and delivery. Dedicated senior and at-risk hours encouraged	Non-critical retail closed. Curbside pick-up and delivery OK. Critical may operate at 50% capacity but should make significant efforts to reduce the number of people in-store as much as possible
PERSONAL SERVICES	50%* capacity or 500 people †	50% capacity or 50 people †	50% capacity or 50 people †	25% capacity or 25 people †	25% capacity or 25 people †	Closed
LIMITED HEALTH CARE SETTINGS	50%* capacity or 500 people †	50% capacity or 50 people †	50% capacity or 50 people †	25% capacity or 25 people †	25% capacity or 25 people †	10% capacity or 25 people †
INDOOR UNSEATED EVENTS AND ENTERTAINMENT	50%* capacity or 500 people †	50% capacity or 175 people †	50% capacity or 50 people no calculator, (or up to 100 with calculator) †	25% capacity or 50 person capacity (with calculator) †	Closed	Closed
INDOOR SEATED EVENTS AND ENTERTAINMENT	50%* capacity or 500 people †	50% capacity or 175 people †	50% capacity or 100 people †	25% capacity or 50 people †	Closed	Closed
OUTDOOR UNSEATED EVENTS AND ENTERTAINMENT	50%* capacity or 500 people †	50% capacity or 250 people †	50% capacity or 175 people †	25% capacity or 75 people	25% capacity or 75 people (with calculator) †, attended only with members of your own household and 6ft spacing between groups	Closed
OUTDOOR SEATED EVENTS AND ENTERTAINMENT	50%* capacity or 500 people †	50% capacity or 250 people †	50% capacity or 175 people †	25% capacity or 75 people †	25% capacity or 75 people (with calculator) †, attended only with members of your own household and 6ft spacing between groups	Closed
OUTDOOR GUIDED SERVICES	50%* capacity or 500 people †	50% capacity or 25 people †	50% capacity or 10 people †	25% capacity or 10 people †	25% capacity or 10 people †	25% capacity or up to 10 only in your own household †

*Counties that enter Protect Our Neighbors are eligible to increase the percentage caps by 5% every month they continually sustain those metrics.
† When capacity limits are expressed as both a percentage of posted capacity and a total number of people, use whichever number is fewer.

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Town Council
Mayor – John Widerman
Mayor Pro Tem – Earle Bidez
Council Members:
Terry Armistead
George Brodin
Brian Eggleton
Eric Gotthelf
Gusty Kanakis

December 16, 2020 Manager Update

Minturn Ice Rink - update

We're hopeful that a final pour the week of Dec 14th will finish the job of filling the rink. It's ideal to pour a rink in multiple phases to avoid "bubbling." We expect to need about another 30,000 gallons to finish the job. John Volk has provided his approval pending that the Fire Dept use no more than 80 gallons/minute which means it will take about 6 hours to fill the rink. This requirement is to ensure we maintain necessary fire flow levels in the Maloit Park tank. Ice skating season will hopefully be here before Christmas!

Rocky Mountain Real Estate Challenge Kick-off Event

The kick-off event will be held January 26 from 3-5:30 pm via zoom. As the event nears, I will share the link for those interested in watching.

COVID-19 Vaccine Dissemination Process

[Here is a helpful link shared by Eagle County which provides a video \(about 11 minutes long\) outlining the dissemination of the COVID-19 vaccine.](#)

COVID Relief Approved following 72 General Assembly Special Session by State Legislature and Governor Polis

Here is a breakout of the relief packages approved for small businesses, childcare and families of Colorado:

- [HB20B-1004](#), **Qualified Retailer Retain Sales Tax For Assistance** - Sponsored by Representatives A. Valdez & Van Winkle, Senators Bridges & Tate
- [HB20B-1005](#), **Local Authority To Impose Food Delivery Fee Restrictions** - Sponsored by Representative Bird, Senator Rodriguez, Senator Tate
- [HB20B-1006](#), **Insurance Premium Tax Payments And Credits** - Sponsored by Representative Arndt, Senator Zenzinger
- [SB20B-001](#), **COVID-19 Relief Small And Minority Businesses Arts Organizations** - Sponsored by Senators Winter & Priola, Representatives Herod & Sandridge
- [HB20B-1003](#), **Food Pantry Assistance Grant Program** - Sponsored by Representatives Cutter & Bockenfeld, Senators Story & Hisey
- [SB20B-003](#), **Money For Energy Utility Bill Payment Assistance** - Sponsored by Senators Fields & Crowder, Representatives Duran & Landgraf
- [SB20B-002](#), **Housing And Direct COVID Emergency Assistance** - Sponsored by Senators Gonzales & Holbert, Representatives Exum & Tipper

- [HB20B-1001](#), **Grants To Improve Internet Access In P-12 Education** - Sponsored by Representatives Young & Soper, Senators Donovan & Coram
- [HB20B-1002](#), **Emergency Relief Programs For Child Care Sector** - Sponsored by Representatives Kipp & Landgraf, Senators Pettersen & Sonnenberg

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Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS
December 16, 2020
Review of Enterprise CIP and water rates
January 6, 2021
Resolution establishing posting sites
January 20, 2021
DATE TO BE DETERMINED
An Ordinance adopting Specified Sustainability Building Codes
Review of Recreational Marijuana