



## OFFICIAL MINUTES

### Town Council Regular Meeting 5:30PM

Wednesday, March 06, 2024

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

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

This agenda and meetings can be viewed at [www.minturn.org](http://www.minturn.org).

#### MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION:

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/87632458676>

**Zoom Call-In Information:** 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 876 3245 8676

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

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

#### 1. CALL TO ORDER

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

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

Council present Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, Town Council members Lynn Feiger, Eric Gotthelf, Gusty Kanakis, Brian Rodine, and Kate Schifani (zoom).

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

### **3. APPROVAL OF CONSENT AGENDA**

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

- A. 2-21-2024 Minutes
- B. Resolution 09-Series 2024 A Resolution Approving a Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad
- C. Resolution 10 - Series 2024 - A Resolution Approving a Security Agreement with Eagle County and Minturn North for the Improvements on Minturn Rd/CR 14

Mike S. noted Resolution 10-2024 has an attached letter from the county that has been up dated and will be included in the Resolution.

Motion by Gusty K., second by Eric G., to approve the Consent Agenda of March 6, 2024 as presented. Motion passed 7-0.

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

Opportunity for amendment or deletions to the agenda.

The applicant pertaining to Ordinance 02 – Series 2024 requested this be moved to the top of the Business Item.

Motion by Terry A., second by Gusty K., to approve the Agenda of March 6, 2024 as amended. Motion passed 7-0.

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

Terry A. noted a Conflict of Interest on Belden Place water SFE allocation and will recuse from this discussion.

Lynn F. stated she had a Conflict of Interest with Item 10F Ordinance 02-2024 (First Reading) in that the applicant was her husband and she is an owner in the referenced land.

### **6. PUBLIC COMMENT**

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

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

Eric G. reminded all of the snow removal operations.

### **8. STAFF REPORTS**

## A. 03-06-2024 Manager's Report

### **2025 Congressionally Directed Spending**

I am preparing Minturn's 2024 Earmark applications (brief memo included with this update). Minturn will be applying for water treatment funding, money toward Little Beach Park improvements and funds toward the continued sidewalk construction along Main Street. It is a competitive process and contingent on federal funds, so the likelihood of award is minimal.

### **Snow Removal - Pine Street Sidewalk Shoveling Improvements Needed**

We need your help! The Minturn Public Works crew tries hard to get to everyone's streets in a timely manner. During a recent snowstorm, Monday, February 26<sup>th</sup>, public works plowed the side roads (Pine Street as an example) only to have residents immediately shoveling the sidewalk snow back into the road AFTER the plow went by. We can all do better! Let's work as a team. This was not just a violation of the Snow Removal Plan, but it squanders precious public works time in making the team go back and re-plow the road again. It also leaves large amounts of snow immediately adjacent to the sidewalk, only to melt and leave a puddle causing more issues. Let's not multiply the snow removal issues. We can work together toward efficient snow removal for everyone!

### **Colorado Association of Ski Towns – Legislative Session**

The mayor and I will be in Denver Thursday, March 7<sup>th</sup> returning Friday, March 8<sup>th</sup> for a CAST legislative session. The Governor of Colorado along with the mayor of Denver will both be addressing the membership and updates on pertinent legislative matters will be discussed.

### **Little Beach Park Grant Denied**

I recently applied for a Land and Water Conservation Fund grant through the National Parks Service. This was an intensive application process that would have awarded Minturn \$250,000 toward retaining wall and replacement playground equipment at Little Beach Park. Unfortunately, after making it through the first round of cuts and providing a presentation of our project to the selection committee, Minturn's project did not get approved to go to the Congressional Subcommittee for consideration of selection.

### **Minturn Forward Survey**

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



Michelle M. highlighted this item and encouraged all to take the survey.

## **Historic Preservation – History Colorado Grant Award (Contingency List)**

See included award letter.

Michelle M. attended a WRAP meeting for emergency preparedness today.

### **9. SPECIAL PRESENTATIONS**

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

### **10. BUSINESS ITEMS**

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

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

Note: this item was moved to the top of the Business Items to accommodate the applicant who was present at the meeting.

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

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

Staff and the Planning Commission are recommending approval of the proposed rezoning request for Lot 3A, South Minturn Addition, located at 998 Main Street, to change the zoning from South Town Character Area Commercial Zone District to South Town Character Area Residential Zone District, based on the analysis provided in this report and staff’s findings that the request and application meet the Town’s submittal requirements, criteria, and findings to amend the Official Zone District Map. Therefore, Ordinance No. 2, Series 2024 - to amend the Official Zone District Map to rezone Lot 3A from the South Town Character Area Commercial Zone District to Residential Zone District - is being presented to the Town Council for consideration on first reading at the Council’s regularly scheduled meeting of Wednesday, March 6, 2024.

Woody Woodruff, applicant, stood for questions. He stated that the current commercial building was not to code and would cost more to fix than to replace. Using the packet items, he reviewed the plat and request.

#### Public Hearing Opened

Mr. Jim Sevens, 632 Main St, asked the location of the property.

#### Public Hearing Closed

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

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

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

At the February 21, 2024 Town Council meeting, Council requested referral guidance from Colorado Parks and Wildlife regarding a recommendation on the proposed building window given the entirety of the Cemetery is located within a wintering elk corridor. Please see below for the correspondence from Devin Duval, District Wildlife Manager, Colorado Parks and Wildlife:

“Thanks for reaching out, Michelle. I truly appreciate the Council’s interest in minimizing disturbance during the wintering months for elk. Also, given the migratory/movement habitat considerations of this area, a prudent set of dates would also seek to accommodate the majority of seasonal movements for other big game species (mule deer). Without being unduly restrictive, I would be comfortable with a closure that mirrors adjacent trail networks. Thus, my recommendation is the following: In order to minimize disturbance and impacts to migratory and wintering wildlife, it is recommended that the applicant adopt a construction window of June 22nd through November 22nd, annually. This should result in all construction, construction related activities, and construction preparatory activities ceasing for the period starting November 23rd through June 21st, annually. This is consistent with Forest Service seasonal wildlife closures in the area. Please let me know if you require any additional information, etc. Thanks. Devin Duval District Wildlife Manager”

The 2023 Community Plan Action 7.5.3 states “Collaborate with regional partners such as the Eagle River Watershed Council, Eagle Summit Wilderness Alliance, and Eagle Valley Land Trust, and Vail Valley Mountain Trails Alliance on stewardship education and enforcement efforts to protect and preserve natural resources and wildlife.” Chapter 5 Water Infrastructure, Hazard Mitigation & Sustainability on page 81 of the plan states “Sustainability can and should be considered and woven into all aspects of the Town’s operations and culture wherever possible. From recycling, composting and Zero Waste events such as the Minturn Market, to water conservation, to sustainable development and landscaping practices, to renewable energy viability,

to balancing recreation and development with the protection of natural resources, ecosystems, and wildlife, to alternative transportation habits.” The 2023-2025 Strategic Plan promotes “Wildlife protection and safety” within the key strategy to “Practice Fair, Transparent and Communicative Local Government” as well as a second key strategy “Long-Term Stewardship of the Natural Beauty and Health of Minturn’s Environment.” The proposed construction window by Colorado Parks and Wildlife follows the town’s goals as they pertain to the 2023-2025 Strategic Plan and the 2023 Community Plan.

Staff Request: Review and ratification of Planning Commission actions from their regular meeting of January 24, 2024. The following actions were taken by the Planning Commission, acting as the Minturn Design Review Board, which may be called-up for further review by the Minturn Town Council.

Mike S. requested this item be continued to a date certain to allow for publication and posting.

Motion Terry A., second by Gusty K., to continue this to the May 1, 2024 Council Meeting as requested by the cemetery district to consider the Cemetery’s New Maintenance and Storage Building located at 806 Cemetery Rd as presented. Motion passed 7-0.

#### C. Belden Place Application for Additional Water SFEs

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

As members of Council may recall, in February 2022 representatives of the Belden Place development made a request to Council to have additional SFEs allocated for its development. At that time, the Council took the request under advisement without giving a specific direction. In the interim, Belden Place filed litigation against the Town in part asserting its rights to receive additional SFEs of water service. The Town entered into a settlement agreement with Belden Place in November 2023 (attached). Belden submitted application documents to the Town for additional SFEs in December 2023. Due to health issues of the Town Attorney, final review of the application materials was not completed until February 2024. The Belden Place development contains single family residences, duplexes, and multifamily residences. As a result of the land use configuration, several of the units do not have yards requiring irrigation. Instead, there are common areas that will be irrigated together with lawn and gardens associated with single family and duplex lots. The result of this is that the total effective water consumptive use associated with the development is less than would be expected if all of the units were single family residences. In effect, the Belden Place development creates more housing with less water consumption than would a strictly single family or duplex community. Under ordinance No. 5, Series 2020, the Town imposed a moratorium on development that limited new water service to historical use plus three SFEs. The 2020 moratorium ordinance was subsequently updated in 2023 to limit development to historical use plus one SFE. Another amendment to the 2020 moratorium ordinance was removing a provision that allowed developments to seek additional SFE allocations from the Council. Because Belden Place made its request for additional SFEs prior to the adoption of the 2023 revised moratorium, Belden may proceed with its application to seek additional SFEs for its development under the 2020 moratorium provisions. Under the 2020 moratorium, the Minturn North development was allocated 70 additional SFEs of water service which constituted the bulk of the

remaining water service the Town currently has the legal and physical means to provide. The Minturn North development turned out to be less water intensive than was contemplated in 2020. Specifically, Minturn North development only has 39 lots.

The subdivision improvement agreement for Minturn North allows for certain units to be built larger than 3000 square feet and has reserved an additional 15 SFEs of water service for that purpose (for a total of 54 units) The water service for larger lots must be designated within two years of the Minturn North approval, otherwise those taps will go back into the general allocation. The 16 taps which Belden Place is seeking an allocation of represents the reduction in the Minturn North density to its current platted situation without including SFEs for a larger houses on some of the Minturn North lots. The settlement agreement in the Belden Place litigation contemplates that Belden Place will submit an application for allocation of the SFEs and applications to amend the SIA, the PUD plan, and the final plat. The amendments to the land use documents represent the conversion of a triplex lot into a single family lot (with ADU). The land use applications have been submitted together with the materials for the SFE allocation, but will be heard at a subsequent time by the council after land use notice occurs. While the settlement agreement contemplates the hearing to allocate 16 SFEs to Belden Place, the settlement agreement does not require a specific outcome. Instead, this will be a quasi judicial hearing in which the Council will make an independent evaluation of the request. The decision shall be made by a voice vote of the Council.

Staff recommends approval of the request to allocate the 16 SFEs to Belden Place. As noted, the allocation will result in less water use per SFE than allocation to single family or duplex lots. That helps the Minturn water system which faces major physical and legal limitations on water production. Further, the allocation would advance the goals of the settlement agreement with Belden Place and move toward dismissal of that litigation.

Information was presented on the concern of Midtown Lofts and their need for additional taps and how this request superseded the Midtown Lofts and the circumstances thereunder.

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#### Midtown Lofts

The Town's February 2023 repeal and reenactment of the moratorium allows Midtown Village to receive taps equal to the number of SFEs historically used by the property(ies) being developed, plus three new taps. Based upon the facts as they have been provided to us, however, the developer did not make a request to the Town Council for an expansion of that limit before the February 2023 repeal and reenactment of the moratorium eliminated the possibility of such relief. Therefore, the developer cannot now receive taps in excess of the historic use plus three SFEs.

As originally enacted on May 6, 2020, the moratorium limited applications for new connections to the Town's water system to developments involving "no more than three SFE's for new water use for an entire property or collection of adjoining properties...owned by the same or related owners." The original moratorium also provided that "[t]his limitation may be modified on a case-by-case basis by the Town Council based upon a specific application."<sup>1</sup> In 2021, the developer of Midtown Village submitted but did not pay the fees associated with a Conditional Use Permit ("CUP") application. <sup>2</sup> Town staff determined, however, that the proposed development could not

proceed as a conditional use. Therefore, the Town never accepted or processed the CUP application.

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#### Council Comments:

Brian R. had a concern with Point 11 and how units/lots could be removed.

Lynn F. felt it was a positive way for local housing. She felt most water consumption is outdoor use where it is not recovered back into the water system and questioned if we might reduce the 2000sf irrigation space to allow higher density housing. This would supply housing and would reduce the amount of water consumption overall.

Gusty K. asked for clarification of how the exchange out of SFEs would effect the final count. It was noted that even with this revised allocation, they would still be approximately 3sfes short. There is a clause in the settlement agreement for them to come back within 7 years to request the final potential allocation. He asked about Midtown Lofts, it was noted it was found that the Midtown had not applied a submittal for more taps, they had submitted a land application not a utility allocation prior to the most recent moratorium allocation allowance.

Earle B. asked about the two separate developments. Mike S. outlined how the two projects differ as to timing of the utility requests. He also noted that the irrigation limitation is also being considered but the request is based on the timing of the request, not the irrigation levels.

Mike S. outlined the next steps for this project.

Kate S. asked if there was an opportunity to rework how we define an SFE or are we stuck with this process. Mike S. stated we have a settlement agreement with Belden Place that included them bring this forward. As to adjusting the definition, this would need to be done in consultation with our water engineer and water attorney to ensure our water rights are not infringed upon. She asked if this was something we would want to continue this process until we can get that answer. Mike S. stated this current process will allow them to move forward now where continuing would preclude that, he recommended we stay this path. Because we currently have a pending water court case we are not able to modify the definition at this time.

Lynn F. was in favor of this settlement agreement but felt it was worth going back to consider limiting irrigation in exchange for more density.

#### Public Hearing Opened

Mr. Lindsay Webb, 642 Main St, was concerned with what this will look like and hoped the density levels would not take away from the vision of the town.

Christine Collims, 652 Main St, asked if it was prudent to hold back some of the SFEs rather than give them all we have. Earle B. stated that with the reallocation of the Minturn North project, this was a long time project and this is what was requested.



Discussion ensued on potential other options

Bev Christiansan, 1201 Main St, felt it was important to keep our town open to citizens that will make up our community. She spoke in support of this project.

Michelle M. stated water taps are allocated in section 3 of the water moritorium as they relate to two contiguous lots owned by the same owner where SFE's will be allocated on a first come first served basis.

Public Hearing Closed

Motion by Brian R., second by Lynn F., approve the Belden Place request of 16 additional SFE's as presented with the findings. Motion passed 6-0. Note: Terry A. stood recused.

Findings

The 16sfes made available by the Minturn North reallocation

Belden Place applied prior to the second moratorium and is first in line

Belden Place will use less water due to size and density of lots

Belden Place will create more housing with less water use than traditional single family homes

It is in the best interest and welfare of the Town to grant this request

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

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

Michael S. presented.

As members of the Council will recall, the Town entered into a settlement agreement with Battle Mountain to resolve litigation that the Town had filed. The litigation arose from Town approvals granted between 2006 and 2008 to implement a ski resort development concept. Those approvals included both agreements as well as land use approvals for a large resort concept located in the Maloit Park, Bolts Lake and Battle Mountain areas. The settlement agreement (attached) contemplates that the Town will consider approval of a much scaled down development concept. Specifically, the settlement agreement identifies a maximum density of 250 residential units, a destination spa and wellness facility, and up to 50,000 square feet of commercial development. In order to implement these settlement terms, the settlement agreement identifies various changes to the Town Code (see section 2 on pages 3-8). The Ordinance presented for your consideration at the February 21 meeting (with proposed second reading on March 6) would implement the code changes identified in the settlement agreement. It is important to note that the settlement agreement did not guarantee that these code changes would be adopted. Rather, the settlement agreement creates a process by which the Town through its Planning and Zoning Commission and Town Council will consider applications for development approvals to implement the concept identified in the settlement agreement.

An important part of the settlement agreement is the requirement that Battle Mountain obtain water service for its proposed development from Eagle River Water and Sanitation District (“ERWSD”). Battle Mountain has an agreement that was executed at the time that the Bolts Lake reservoir site was sold to ERWSD that requires the District to provide water service. This likely will be in the form of a new water treatment plant taking water from the Eagle River and specifically providing it to the proposed Bolts Lake development. Section 4 of the ordinance includes utility code amendments specific to the Bolts Lake area that recognize that the Town will not provide water for this development and will not operate or maintain the water treatment plant providing such service period. Section 5 of the ordinance implements additions to the Town's zoning code specific to the Bolts Lake development. This includes the addition of certain definitions specific to the Bolts Lake zone districts and the establishment of four new zone districts. The Bolts residential zone district is characterized by residential, non-commercial land uses. The Bolts mixed-use zone district includes higher density residential and certain low impact commercial business uses. The Bolts open space and recreation zone district is specific to non-developed areas within the Bolts Lake property. The Bolt holding zone is a zone district that will be applied to properties the Town will receive but for which there has not been a formal planning process to establish eventual uses. The locations of these zone districts are included in a graphic in the ordinance. The proposed land use table is included at section 16-10.5-70 and describes the types of land uses allowed in the various zone districts. One use type that requires some attention is the temporary processing area use which is designated as a use by right in the Bolts open space and recreational zone. This particular use contemplates that material excavated from the Bolts Lake reservoir will be transferred to certain parcels for processing and eventual coverage of the old tailings pile area to complete remediation of that site. Normally, material processing would be subject to a conditional use permit requirement to ensure that impacts are addressed. The developer is requesting that this be a use by right but subject to a covenant whereby the Town could include certain mitigation requirements. The covenant has not been drafted yet and will be subject to review and approval by the Town Council. Council should be mindful that in the first Intergovernmental agreement between the Town and ERWSD, the Town agreed not to apply its 1031 permitting authority to the placement of fill at the OTP. The second IGA with ERWSD does require the District to submit information related to “Nuisance. Descriptions of noise, glare, dust, fumes, vibration, and odor levels anticipated to be caused by the project,” air quality, visual quality, surface water quality, and ground water quality. The second IGA also requires approval of a “monitoring and mitigation plan” to avoid potential adverse impacts.

The dimensional use table can be found at 16-10.5-90. This table has been reviewed by planner Scot Hunn. Section 6 of the ordinance involves changes to the subdivision code. The main provisions involve the use of exemption plats to create parcels within the Bolts Lake property that have a minimum size of five acres. The exemption plats are only subject to an administrative review. The plats will create parcels that can be conveyed to third parties. It is anticipated that the exemption plats will be used to create parcels that will be conveyed to the Town and also parcels that the developer may choose to convey to third parties interested in developing portions of the Bolts Lake area. The approximate locations for the initial exemption parcels will be presented by

Battle Mountain during the hearing. In section 17-6-80 (7) A, we are still working with the Town engineer to determine which of the Town's final plat requirements will apply to the exemption plats. That issue will be clarified prior to final approval by the Town Council. Parcels created by exemption plat will have no development rights. Instead, before an exemption plat parcel can be developed, the owner will have to come through either the site plan review process or a formal subdivision process. That way, impacts can be addressed and formal review of the development concept for these exemption plat parcels can be obtained. The exemption plats will further note that water service will not be provided by the Town of Minturn. Section 7 involves certain minor amendments to the building code. The code changes provide that impact fees are not addressed at time of an exemption plat but rather at the time of a further subdivision or development application for set parcel. The Planning and Zoning Commission did make one recommendation of approval. It is contained in the dimensional use table. The original draft had maximum building heights for the Open Space and Recreation District and the Holding Zone. The recommendation is to make building heights and setback decisions at the time of a design review, CUP, or location and extent review. The only building currently contemplated in this zone district is the water treatment plant to be constructed by ERWSD. Before that can occur, ERWSD will have to undertake a location and extent review with the Town and these dimensional limitations can be imposed. If Council would like to revert to the prior dimensions, we can do that for second reading.

Mike S. noted the changes from first reading are:

- Gas stations are now conditional use not a use by right
- The “Club” language was not changed. This includes churches in a mixed use zone, they would have to comply with all conditions the same as any other “Club” use.

Mr. Tim McGuire, applicant representative, was present for questions.

Lynn F. spoke to who will be responsible for the contaminated lands; the EPA considers most of the lands remediated unless Battle Mtn changes the existing use or level of use before they can use the lands. If this further imposition is under taken, then Battle Mtn or its successors would be required to further mediate at their cost, not the cost of the districts. It was requested that this be made more clear in the Service Plan.

Public Hearing Opened

No Public Comment

Public Hearing Closed

Motion by Lynn F., second by Gusty K., to approve Ordinance 01 - Series 2024 (Second Reading) Amending Provisions Contained in Chapter 13 (Utilities Code), Chapter 16 (Zoning Code), Chapter 17 (Subdivision Code), and Chapter 18 (Building Code) of the Minturn Municipal Code as amended. Motion passed 7-0.

Amendment:

Make more clear that Battle Mtn or its successors would be responsible for toxic lands mitigation.

**E. Resolution 11 - Series 2024, A Resolution Extending the Approval Period for the Battle North/Minturn Settlement Agreement**

Michael S. presented.

The Town and Battle Mountain entered into a settlement agreement providing a process for review and approval of various land use applications. The settlement agreement had a term that the various land use applications would be approved by March 5 (Approvals Deadline) with an outside termination of April 30, 2024. As the Approvals Deadline is approaching, the Town and Battle Mountain desire to provide additional time for full review and processing of the various Battle Mountain applications. The attached resolution will approve the First Amendment to the settlement agreement extending the Approvals Deadline to June 20 and the outside termination date to July 18. Staff supports approval of the First Amendment.

Tim McGuire, applicant representative, was present for questions.

Public Hearing Opened  
No Public Comments  
Public Hearing Closed

Michelle M. updated on the work yet to be undertaken and felt confident this could be done by this revised date.

Motion by Gusty K., second by Brian R., to approve Resolution 11 - Series 2024, A Resolution Extending the Approval Period for the Battle North/Minturn Settlement Agreement as presented. Motion Passed 7-0.

**F. Resolution 12-Series 2024, A Resolution Terminating the 2008 Battle North (Ginn) PUD Preliminary Plan**

Michael S. presented. Tim McGuire, applicant representative, was present for questions.

Michael S. noted that since we have just approved new zoning on the property, we now need to terminate any prior approved zoning.

Terry A. asked why the Bolts Lake is not in this? Mike S. stated this is intentional in order to maintain the reservoir zoning.

Tim McGuire updated on the next steps for their side of the settlement agreement to include the formation of metro districts to manage the use and development of the properties.

As part of the approvals for the Battle Mountain ski area development back in 2008, the Town Council approved a preliminary planned unit development plan and environmental impact report (resolution #18 series 2008) for the property. This document created the zoning for the ski area development. With the adoption of the Battle Mountain code amendments in 2024, the prior PUD zoning will be displaced by the creation of new Bolts Lake zone districts. To that end, a resolution

formally terminating the PUD zoning for the Battle Mountain property is required. It is important to note that the legal description in the Resolution does not include the reservoir area conveyed to Eagle River Water and Sanitation District. The 2008 planned unit development plan includes zoning that allows for reservoir uses on that land. To that end, the original zoning will remain in place for that single parcel.

Motion by Eric G., second by Lynn F., to approve Resolution 12-Series 2024, A Resolution Terminating the 2008 Battle North (Ginn) PUD Preliminary Plan as presented. Motion passed 7-0.

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

### **A. Battle North Metro District Service Plan Review**

Messrs. Tim McGuire and Bill Ankele (zoom) presented on the item as applicant representatives.

The Districts are independent units of local government, separate and distinct from the Town of Minturn and, except as may otherwise be provided for by state or local law or this Service Plan, their activities are subject to review by the Town if they deviate in a material way from the requirements of this Service Plan. It is intended that the Districts will provide a part or all of the various Public Improvements necessary and appropriate for the development of the Project within the Town. The Public Improvements will be constructed for the use and benefit of all anticipated inhabitants and taxpayers of the Districts and the general public, subject to such policies, rules and regulations as may be permitted under applicable law. The primary purpose of the Districts will be to finance the construction of these Public Improvements. The Districts will also provide ongoing operations and maintenance as specifically set forth in this Service Plan. B.

There are currently no other governmental entities, including the Town, located in the immediate vicinity of the Districts that have the means or desire to undertake the planning, design, acquisition, construction, installation, relocation, and financing of the Public Improvements needed for the Project. Formation of the Districts is necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible. C. Objective of the Town Regarding Districts' Service Plan. The Town's objective in approving the Service Plan for the Districts is to authorize the Districts to provide for the financing, planning, design, acquisition, construction, installation and relocation of the Public Improvements from the proceeds of Debt to be issued by the Districts, and for maintenance of certain Public Improvements. All Debt is expected to be repaid by taxes imposed and collected at a tax mill levy no higher than the Maximum Debt Mill Levy and from other legally available revenues. Debt, which is issued within these parameters and as further described in the Financial Plan, will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt. Under no circumstances is the Town agreeing or undertaking to be financially responsible for the Debt or the construction of Public Improvements. The Districts shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Term, together with other legally available revenues.

During the meeting Mr. Ankele presented a PowerPoint presentation where he reiterated the three districts will be a residential, a commercial, and an operating district and outlined the proposal and schedule. They will have an election to approve the districts at the soonest in Nov 2024.

Mike S. noted the parcels being conveyed to the town are not included in this action. The restricted parcels that are also offered as part of the settlement would have the ability to transfer to the town without being in the districts.

Mr. Ankele reviewed the proposed max mill levy, debt limits, operations and maintenance mill levy, and outlined estimated fees. He presented about 10mills for the O & M and a ceiling of 50 mills for debt service, noting this is a very common debt service ceiling.

#### Council questions

Brian R. asked if they are going straight to the 50mill limit? How will it apply to the first homes? Mr. Ankele stated he felt they would come in below that max limit and the project will be phased. Brian R. asked regarding financing. It was noted the developer will set up the financing, but the district set up allows bonds and taxes. Mr. McGuire stated they have about 10years of development of this project and are aware of market conditions within the various financing vehicles. They are working on cost estimates for the infrastructure which will determine how they position themselves. It was noted that, because the trails and whatnot are publicly financed they are available to for all public, not just the members of the districts.

Lynn F. discussed the remediation of the lands and that this would be done by Battle Mtn not by the districts. She asked who would be responsible for the contaminated property? The EPA as determined most of the lands mitigated as long as Battle Mtn doesn't increase the current use. Discussion ensued as to how the proposal could be more transparent in the Service Plan.

Terry A. expressed concern that what is in the document will be abided by. The project representatives outlined how the law gives the town oversight of the Service Plan, while not accepting responsibility of debt, etc. This is a separate governmental entity from the town but still within the town. The districts allow tax exempt financing where without the districts this would not be available. Investors will pay for the proposals which will allow more than what any developer could afford to do.

Lynn F. expressed concern and discussion ensued as to how Rex Flats would be managed. Tim McGuire stated Battle Mtn would be responsible for trespassing, etc. He replied that Battle Mtn or a future owner will be responsible for the management of the land and annual reports are required to the EPA and this is not something someone can just walk away from.

Michelle M. asked where are the costs for a well? They are looking at more of a diversion than a well. Mr. McGuire stated they are limited by the 50mills and the funds that generated from that. If the costs exceed what 50 mills can generate they would then have to review their phasing of the project.

Mike S. encouraged Council to give further direction they would like to have staff follow up on.

Direction given by Council:

- Affordable housing
- Increased transparency

**12. FUTURE AGENDA ITEMS**

**A. Future Agenda items**

- Discussion of SFEs and alternative definitions and applications this would be an executive session

**13. ADJOURN**

Motion by Gusty K., second by Eric G., to adjourn the meeting at 8:50pm.



Earle Bidez, Mayor

ATTEST:



Jay Brunvand, Town Clerk



**INFORMATIONAL ONLY ITEMS**

Upcoming Meetings & Events:

- March 20, 2024 Council Meeting
- April 2, 2024 Minturn Municipal Election
- April 3, 2024 Council Meeting



# Consolidated Service Plan for Battle North Metropolitan District Nos. 1-3

White Bear Ankele Tanaka & Waldron  
2154 East Commons Avenue, Suite 2000  
Centennial, CO 80122





# Proposal and Schedule

- ▶ The applicant will be seeking approval by the Town Council of the Consolidated Service Plan for Battle North Metropolitan District Nos. 1-3 (the “**Service Plan**”).
- ▶ Districts are being proposed in keeping with the Settlement Agreement to fund significant infrastructure needed for the Battle North Project.
- ▶ Following this Work Session, Applicant proposes a March 20, 2024 Town Council Meeting to consider a Resolution of Approval.
- ▶ Organization proposed to occur at the November 5, 2024 election.




# General Background

- ▶ The project is anticipated to be comprised of the following:
  - ▶ 225 to 250 residential units
  - ▶ 50,000 square feet of commercial space
  - ▶ Spa/Wellness Facility
- ▶ Three Districts are proposed in keeping with the Settlement Agreement, a Residential District, a Commercial District, and an Operating District.
- ▶ The Districts would provide financing for roads, water (including a potable water system), sanitation, storm drainage, and parks based on future Town requirements.
- ▶ Beyond financing, it is anticipated that the Districts will own and maintain:
  - ▶ Open space/restricted parcels
  - ▶ Community parks and trails
  - ▶ Potable water system, unless operated by ERWSD




# General Background (cont.)

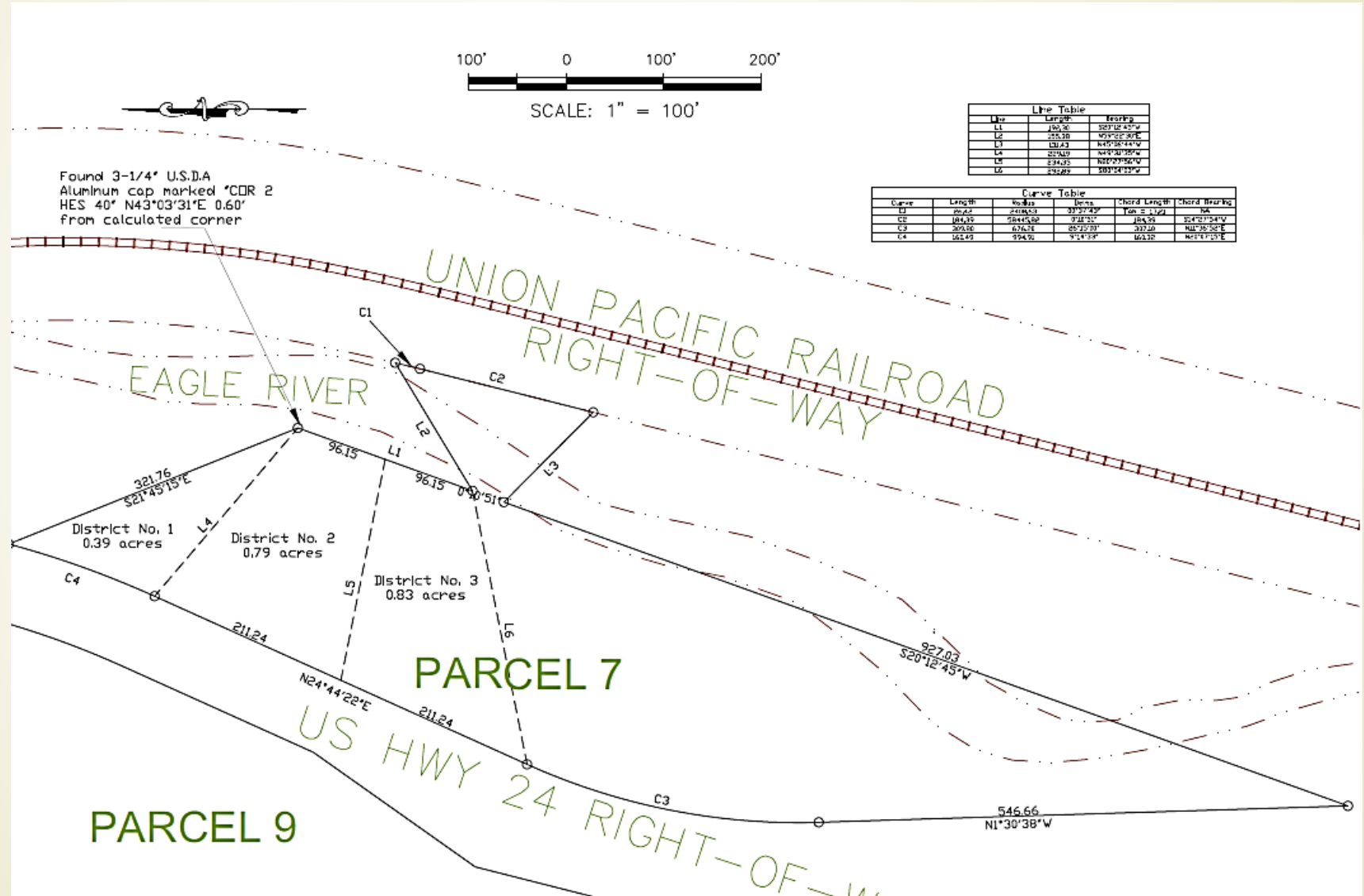
- ▶ The Special District Act allows metropolitan districts to provide many services. However, the functions of the Districts are narrowly drawn in the Service Plan to those financing and operations activities directly related to the Battle North project.
  - ▶ The Districts will be subject to various statutes that promote transparency, including the Open Meetings Law, the Colorado Open Records Act, the requirement to file an annual report with the Town, and the requirement to maintain a website containing specified information, which must be accessible by the public.
  - ▶ The Districts shall not exercise the statutory power of eminent domain without first obtaining approval from Town Council.
  - ▶ Prior to the issuance of any debt to the developer, the District issuing such debt must obtain an External Municipal Advisor Certificate relative to the reasonableness of the interest rate on such debt.
- 



# Benefits of District Formation

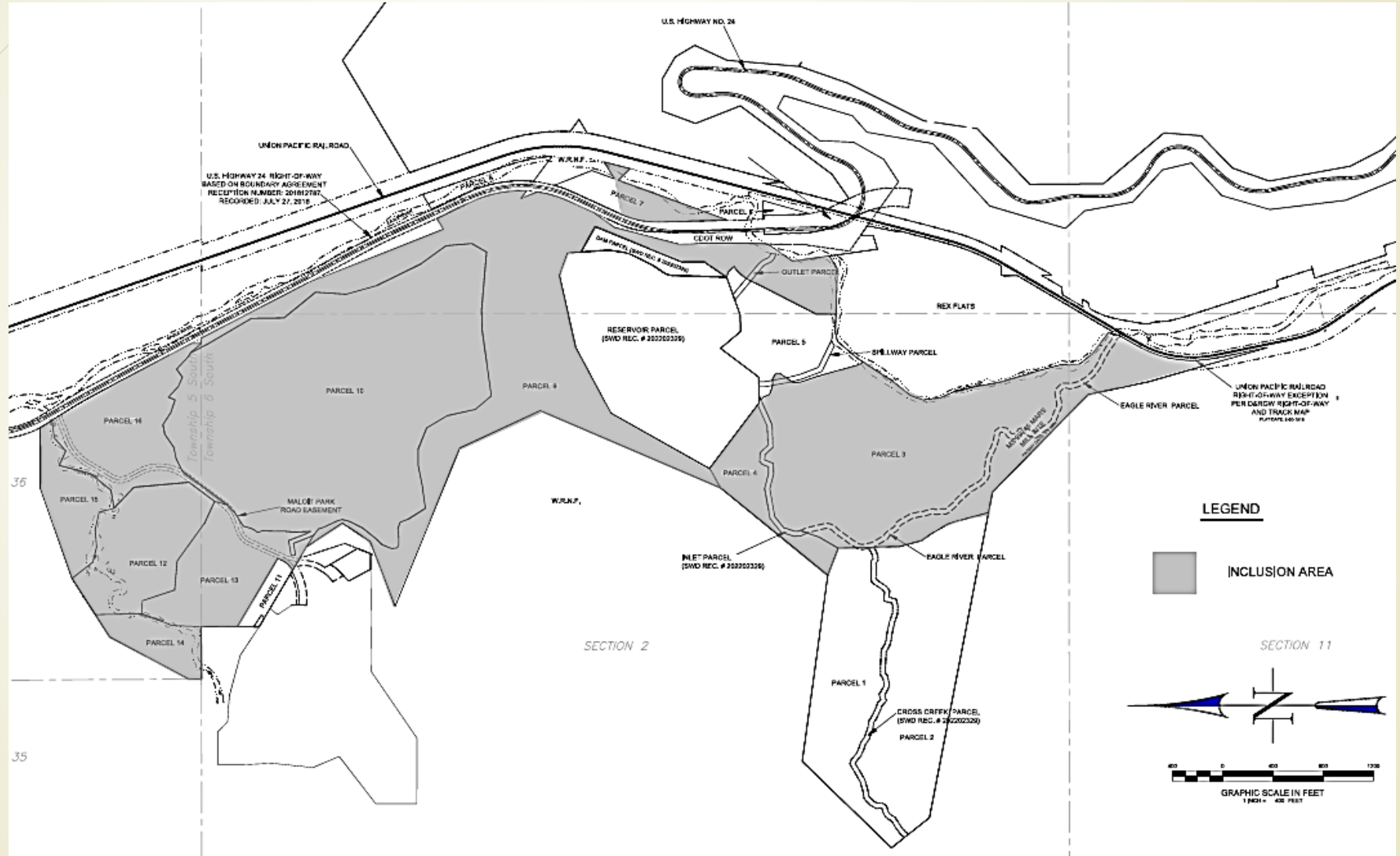
- ▶ There is no other entity willing or able to provide infrastructure to service to the Battle North project.
  - ▶ The Districts are able to fund significant public improvements which are necessary for the projected needs of the community.
  - ▶ The Districts would have power to manage obligations associated with the “Restricted Parcels” as referenced in the Settlement Agreement.
  - ▶ The Financial Plan included in the Service Plan shows the Districts have the financial ability to discharge the proposed indebtedness at reasonable mill levies.
- 

# Initial Boundaries of the Districts





# Inclusion Area



# Key Financial Terms of Service Plan

Estimated Costs of Public Improvements	\$51,385,000
Total Combined Debt Limit	\$62,000,000
Maximum Debt Service Mill Levy	50 mills, subject to adjustment to reflect changes in the method of calculating assessed value
Operations and Maintenance Mill Levy	To be set based on actual administrative, operations and maintenance costs
Maximum Debt Mill Levy Imposition Term	30 years from the date of first imposition of a debt service mill levy for each debt issuance
District Fees	Permitted to be imposed for services, programs or facilities provided
Projected Bond Issuances	<p>Series 2026</p> <ul style="list-style-type: none"><li>• Approximately \$35,920,000</li></ul> <p>Series 2036</p> <ul style="list-style-type: none"><li>• Approximately \$54,070,000</li><li>• Refinance of the 2026 issuance</li><li>• Approximately \$24,000,000 in additional funding</li></ul>

# Mill Levy Comparisons

District	District O&M Mill Levy	District Debt Service Mill Levy	Overlapping Mill Levy	Total Mill Levy
<b>Battle North</b>	<b>10.000</b>	<b>50.000</b>	<b>65.595</b>	<b>125.595</b>
Valagua	15	54.229	57.806	127.035
Siena Lake	18.029	51.971	55.529	125.529
Haymeadow	20.000	50.000	50.337	120.337
Red Sky Ranch	5.000	32.743 (includes debt and contractual oblig.)	46.601	84.344
Avon Station	23.000	44.299 (contractual oblig.)	56.167	123.466
Eagle-Vail	11.227	2.980	47.661	61.868





Questions?