OFFICIAL MINUTES

Town Council Regular Meeting | 5:30 PM

Wednesday, July 16, 2025

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

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate. This agenda and meetings can be viewed at www.minturn.org.

Meeting Access Information and Public Participation:

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: https://us02web.zoom.us/j/84107705331
Zoom Call-In Information: 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 841 0770 5331

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 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 Bidez called the meeting to order at 5:33 pm.

2. Roll Call and Pledge of Allegiance

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

Staff present: Town Attorney Mike Sawyer, Town Clerk Jay Brunvand, Town Engineer Jeff Spanel, and Planner II Madison Harris.

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. 07-08-2025 Minutes
B. Resolution 30 - Series 2025, A Resolution Adopting the ERFPD Updated Impact Fee Schedule
C. Liquor License - Change of Corporate Status, Minturn Mile Liquors
D. 532 Main Street - Changes to Approved Plans

Motion by Gusty K., second by Eric G., to approve the Consent Agenda for July 16, 2025 as presented. Motion passed 5-0. Note: Tom Priest and Brian Rodine were excused absent.

4. Approval of Regular Agenda
Opportunity for amendment or deletions to the agenda.

Motion by Eric G., second by Kate S., to approve the Agenda for July 16, 2025 as presented. Motion passed 4-0. Note: Kate Schifani, Tom Priest, and Brian Rodine were excused absent.

5. Declaration of Conflicts of Interest

6. Public Comment
Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five 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.

A. Public Comment

It was noted a public comment was submitted via email from Mr. Spence Neubauer, 444 Eagle River St, who spoke opposed to the Council decision at the 6/18 Council meeting to move forward with Memcore for the municipal water treatment plant.

7. Council and Committee Reports

Lynn F. was concerned about the letter received from Spence Neubauer and wondering if a final decision had been made in regard to the design contract. Would like to make her position known that she believes we should reconsider the contract in light of Mr. Neubauer’s comments.

Earle B. stated that after the meeting he and Gusty K. had a meeting with Jarod Limke and John Volk, and they are both ok with Memcore because this filtration system lasts longer and money should be saved on operating costs.

Lynn F. reported that Chief Bauer with ERFPD has retired and has been replaced by newly appointed Chief Woodworth who will do an excellent job.

Earle B. reported that the shooting range cannot be shut down until another one has been opened. Would like to know where the ERFPD monitors are in regard to Minturn.

Gusty K. reminded everyone that the bears are out, and cans should be secured as much as possible.

8. Staff Reports

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. Acceptance of the FY2024 Audit - Motion Required (Brunvand)

During the July 16, 2025 Council Meeting, Council will be asked to accept the Fiscal year Audit. This will include a brief presentation from Joe Hood of Maggard and Hood who will be attending virtually and discussion with the Council, the Auditor, and Michael S. as to how we should present the Highlands parcel in the Audit.

As per §29-1-606(a)(1) C.R.S. the Council must accept the audit and submit the approved audit to the Department of Local Affairs and to the Office of the State Auditor not later than June 30 of each year. Due to questions from the Council at the June 18 meeting, an extension was filed with the state to allow us to run past the 6/30/25 due date.

The audit was included in electronic format with the June 18 packet and again in this packet. NO CHANGES HAVE BEEN MADE FROM THE JUNE 18 MEETING.

Our audit firm, Maggard and Hood, was on site the week of February 18 and conducted their audit and financial review. The annual audit provides a snapshot view of the financial integrity of the Town as of December 31, 2024. The audit shows the town to be on a solid financial footing, and we have been presented with a clean financial bill of health.

During the 6/18 meeting, questions were raised that we did not include or reference the Highlands Parcel that was deeded to the Town as a condition of the Battle Mountain Settlement and that no value was assessed to the land in the audit. The potential concern is that the land use has not been specifically settled; it could be used for open space, conservation easement, development, or not limited to those concepts or a combination of those concepts. Each used would have a different impact on the assessed or appraised value of the lands.

Again, and during the meeting, staff and Council will have an opportunity to discuss how to present the lands in the audit. Then, in the motion to accept the Audit, the Council may condition the acceptance based on the discussions.

Joe Hood, Auditor, said that assigning a value without having a concrete use could positively or negatively distort the financials.

Mike S. said that as a municipality our land isn't taxed so establishing a value isn't necessary. We don't know exactly the value of the property, so we are working towards that. Next year, once we have the value, if need be we can amend this year's audit in order to record that information. If we input now a high value and it sells later for a much lower value then that difference will have to be justified.

Mr. Hood said that we can make a note to add reference to the properties of unknown value.

Motion by Gusty K., second by Kate S., to accept the FY2024 financial audit as amended. Motion passed 5-0. Note: Tom Priest and Brian Rodine were excused absent.

1. That a note be added to reference the Battle Mountain properties of unknown value.

B. Resolution 31 - Series 2025, A Resolution Accepting the Construction Management Agreement for the Main St. (US 24) Pedestrian Improvements. (Spanel)

The Town of Minturn published a Request for Qualifications for Construction Management and Materials Testing Services for the Main Street (US 24) Pedestrian Improvements Project on February 10, 2025. These services are required by the terms of the CDOT Revitalizing Main Streets Grant for the project. RockSol submitted a Statement of Qualifications (SOQ) on March 17, 2025. While this was the only SOQ received, Jason Huddle, the LA Program Manager for CDOT, approved moving forward with negotiating a contract with RockSol. Stolfus and Associates recommends RockSol based on past experience. The Project Manager, Bob Yost PE, worked for Inter-Mountain as a design engineer and project manager, and we think highly of Bob.
RockSol accepted the Town of Minturn Professional Services Agreement without modification. The estimated cost for their services is $198,933.90.

Gusty K. asked if the 198,000 comes out of the grant portion.

Jeff S. is unsure if it will, but it should be within budget.

Motion by Eric G., second by Gusty K., to approve Resolution 31 - Series 2025, A Resolution Accepting the Construction Management Agreement for the Main St. (US 24) Pedestrian Improvements as presented. Motion passed 4-0. Note: Tom Priest, and Brian Rodine were excused absent.

C. Ordinance 06 - Series 2025 (First Reading), An Ordinance Authorizing the Renewal of an Updated Xcel Energy Franchise Agreement (Sawyer)

A franchise agreement governs the relationship between a public utility service provider and a municipality. The agreement grants a company the right to use a town's streets, easements, and property to provide utility service to the Town and its residents. This involves a company locating its facilities and operating within the Town subject to a "franchise fee," which requires the company to pay the Town a percentage of its gross revenues from sales of its utility service. The franchise fee is imposed as a surcharge upon Town residents who are the company's customers.

In exchange for the Town's granting of the franchise to the company, the Town is not subject to paying the surcharge for the franchise fee on its utility bills. Additionally, the Town may use the company's electric distribution poles for police, fire, emergency, public safety, or traffic control purposes free of charge.

Another central component of electric utility franchise agreements is the creation of an undergrounding program for the purpose of placing electrical distribution lines underground. As part of the agreement, a company allocates a percentage of the preceding year's electric gross revenues to the undergrounding program, to be used for relocation of existing above-ground electric distribution lines underground beneath Town streets and property. The revenue generated from the undergrounding program helps defray the costs of undergrounding projects but likely does not cover the full cost of such projects, in which case the Town, the utility company, or a contractor would be responsible for the remaining amount. The company is also generally required to construct new electrical distribution lines underground in newly developed areas of the Town.

A. Review of Existing and Proposed Agreements

The Town has held a 20-year franchise with the Company since 2005 for the provision of gas and electrical service within the Town (the "Prior Franchise"). The term of the Prior Franchise expired on June 1, 2025 and was extended for 90 days pursuant to Ord. 05-2025. The Town now wishes to renew the franchise to ensure continued utility service is provided within the Town.

The Prior Franchise and the Agreement share several terms and provisions in common. Both agreements grant the Company a nonexclusive right to use Town streets, public utility easements, and other Town property to provide gas and electric utility service to Town residents. The franchise fee in both agreements requires the Company to pay the Town three percent (3%) of its gross revenues collected as a surcharge on Town residents that receive the Company's utility service. The franchise exempts the Town from paying the franchise fee to receive utility service for its own consumption and provides the Town the ability to use the Company's poles for the purposes described in part A of this memo. While the Company is subject to all Town laws and codes, as well as sales and use taxes, the Town may not impose any sort of occupancy or occupation tax on the Company.

For undergrounding, the Company must allocate one percent (1%) of the preceding year's electric gross revenues for electrical line relocation as part of the Town's Underground Program.

The Underground Program over the years has collected more than $350,000, of which the Town currently has available $133,673 for undergrounding projects. The agreements also require the Company to locate all new electric distribution lines underground. The Agreement provides the Company with 240 days to complete the undergrounding installation (*see* Article 11, Section 11.3(B)).

While in most respects the Agreement echoes the terms of the Prior Franchise, the two differ in a few ways. The term of the Agreement is shorter, lasting for a period of 10 years beginning on September 1, 2025 and terminating on August 31, 2035 (*See* Article 2, Section 2.3). Both agreements provide for an audit of the Company's finances to ensure the franchise fee reflects the amount owed to the Town. The Prior Franchise gives the Town the right to examine the Company's metering records during normal business hours and upon reasonable notice to ensure compliance with the franchise fee requirement. In contrast, the Agreement requires the Company to conduct an internal audit every three years upon the Town's request (*see* Article 4, Section 4.2(C)). The Agreement upholds the Town's power of condemnation of Company facilities for the Town's public purposes (*see* Article 12), unlike the Prior Franchise that prohibits the Town from condemning Company facilities. Finally, the Agreement contains additional provisions binding the Company to various environmental and conservationist programs and principles (*see* Article 14) and expressing the Company's commitment to providing equal opportunity to individuals in underrepresented groups (*see* Article 20).

The Town's legal team negotiated with the Company on several provisions in the Agreement. Among these were ensuring sufficient protection against the Company's ability to install facilities such as high-voltage transmission lines on Town property. The Agreement requires the Company to obtain Town approval of the location of Company facilities prior to the installation of such facilities on Town property that is not parks or open space (*see* Section 2.1(C)). This would include obtaining a permit under the Town's Areas and Activities of Statewide Interest Code provision. To locate facilities on Town parks or open space requires the Company to obtain a revocable license, permit, or other approval agreement from the Town, subject to the Town's sole discretion in granting or denying such approval (*see* Section 2.1(D)). The Agreement also subjects any installation, renovation, and replacement of Company facilities in Town streets or property to permitting, inspection, and approval by the Town in accordance with applicable Town laws (*see* Section 6.5(D)). Additionally, the legal team pushed for inclusion of a provision requiring the Company to notify the Town of any incident of which it has knowledge that resulted in damage to Town facilities (*See* Section 8.3(C)).

B. Process of Publication

The Company submitted a Notice of Application for Franchise that was published once a week for three successive weeks in the *Vail Daily* leading up to first reading of the ordinance to approve the Agreement on July 16, 2025. If approved on first reading, Notice of Further Consideration of Ordinance Granting a Gas and Electric Franchise will be published leading up to second reading of the ordinance on August 6, 2025. Each of these notices states that a public hearing will be held at the regular meeting of the Town Council, which requires allowing the public to comment on the adoption ordinance for the Agreement. If adopted upon second reading, the ordinance would go into effect August 13, 2025.

C. Conclusion and Recommendation

Town staff has reviewed the Agreement and believes its terms are reasonable and acceptable to ensure continued utility service is available in the Town. Town staff has compared the Prior Franchise and the Agreement and surveyed existing franchise agreements in other municipalities to more thoroughly understand the rights and responsibilities provided for under the Agreement. Town staff is comfortable moving forward with the Agreement between the Town and the Company and recommends its approval, along with authorization of the Mayor to execute the same.

Blair McGary, Xcel Representative, looks forward to continuing the partnership and understands that the franchise fee is beneficial to small communities. They have publicly noticed this two times so far and then second reading will be noticed again. This also needs to be approved by the Public Utilities Commission.

Lynn F. pointed out that Xcel has agreed to provide all new electric distribution lines be underground. Asked if this applies to transmission lines.

Ms. McGary said it does not, but that there is a large project to update transmission lines and replace with more fire resistant poles.

Earle B. asked if Ms. McGary had any idea about the timeline of the work on Hwy 24.
Ms. McGary said to anticipate it through the construction season but could try and get a more concrete schedule.

Jay B. said that the estimate given to staff is the project will continue through mid-August but that SiteWise is not following any agreed upon conditions as stated they would.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Gusty K., second by Lynn F., to approve Ordinance 06 - Series 2025 (First Reading), An Ordinance Authorizing the Renewal of an Updated Xcel Energy Franchise Agreement as presented. Motion passed 5-0. Note: Tom Priest and Brian Rodine were excused absent.

11. Discussion / Direction Items

Mike S. brought up pushing start time of Council meetings to 6 or 6:30. Their was discussion on both the pro and con of his but most of the council present was in general concurrence,

12. Future Agenda Items

A. Future Meeting Topics

13. Adjourn

Motion by Kate S., second by Gusty K, to adjourn the meeting at 6:15 pm. Motion passed 5-0.

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Earle Bidez, Mayor

ATTEST:

____
Jay Brunvand, Town Clerk

Information Only items

Upcoming Council Meetings: 8/6/25, 8/20/25, 9/3/25, 9/17/25. Town Hall Closed 9/1 for Labor Day holiday.

Upcoming Special Events: August First Friday (8/1) at The Bunkhouse.