

**New Castle Town Council Regular Meeting  
Tuesday, January 4, 2011, 7:00 p.m.**

**Call to Order**

Mayor Breslin called the meeting to order at 7:00P.M.

**Pledge of Allegiance**

**Roll Call**

Present	Mayor Breslin Councilor Stuckey Councilor Leland Councilor Bunn Councilor Metzger Councilor Riddile Councilor Russi
Absent	None

Also present at the meeting were Town Administrator Andy Barton, Town Clerk Melody Harrison and Town Public Works Director John Wenzel.

**Meeting Notice**

Town Clerk Melody Harrison verified that her office gave notice of tonight's meeting in accordance with Resolution TC-2010-1.

**Conflicts of Interest**

There were no conflicts of interest.

**Citizen Comments on Items NOT on Agenda**

There were no citizen comments.

**Agenda Changes**

**Consider adopting the Garfield County Public Library Construction IGA**

The item was tabled until the January 18, 2011 council meeting.

**Library Project Update.**

Amelia Shelley provided an updated financial statement to the council. Ms. Shelley also spoke to the council on the remodel project, stating that remodeling the basement had proved too expensive. The remodel plans had been redesigned to provide everything on one level, and to be within budget. Included in the design were a kitchen and a meeting room with after-hours access. Insulation will be added to the floor for soundproofing. The council discussed other details of the project with Ms. Shelley, as well as the architect Michael Hassig and contractor Hans Raaflaub, who were both present. Other items of discussion were the ADA compliant ramped entryway, parking, approximate start dates for construction, re-vegetation of the area in between the library and town hall, the possible use of the public works facility yard for construction storage and the need for a setback variance on the northeast corner of the building.

**Consultant Reports**

Town Attorney – Nicole Garrimone – Nothing to report

Town public Works Director – John Wenzel. Director Wenzel spoke to the council about the funds budgeted for 2011 for VIX Park. He also said that staff would be applying for a mini-grant from Greater Outdoors Colorado (GOCO) to supplement the budgeted funds. Improvements being considered in VIX Park are shade structures, BBQs, picnic tables, playground equipment and an amphitheater. Those park improvements will be further discussed at the Parks/Open Space/Trails/Recreation (POSTR) Committee meeting on January 5, 2011, 6:00 P.M.

Director Wenzel told the council that Dave Gray had nominated Grand River Park for the Colorado American Public Works Association Small Community Project of the Year Award. Director Wenzel felt the park met all the criteria for the nomination and that his department was looking forward to the award announcement. He also informed that a street tree ordinance would be coming to council for their consideration.

### **Consider renewal of the East Elk Creek Road Maintenance MOU**

Councilor Russi asked what it was that public works did to maintain the Elk Creek area. Director Wenzel said they primarily cleaned up trash, and that maintenance of the restroom was contracted to MRI. Director Wenzel stated that he believed the original agreement the Town had with the Forest Service was to allow vehicle access beyond the gate, and that the Town signed the MOU and made some concessions to ensure use of that road. It was Director Wenzel's understanding that the Forest Service had closed the road beyond the gate. He felt that it was a small thing to maintain the restrooms if the road would continue to be open to the public. After some discussion between council and staff and Attorney Garrimone, Councilor Russi stated that he felt a public hearing would be appropriate to receive input from the citizens. Attorney Garrimone suggested that the Forest Service be notified of the public hearing so they may respond to the citizens as well.

**MOTION: Councilor Russi made a motion to table the East Elk Creek Road Maintenance MOU until the February 1, 2011 council meeting. Mayor Breslin seconded the motion and it passed unanimously.**

Town Planner – not in attendance

Town Engineer – not in attendance

### **Discussion to consider approval of settlement agreement**

Attorney Garrimone described the settlement: That Mr. Ryan May agreed to dismiss all claims with prejudice in exchange for the Town releasing any right to recover fees. Both parties had agreed to the settlement, and the council was being asked to sign the agreement.

**MOTION: Councilor Russi made a motion to approve the mutual release settlement agreement between Mr. Ryan May and Chief Chris Sadler, as well as the stipulation for dismissal. Councilor Bunn seconded the motion and it passed unanimously.**

### **Lakota Canyon Ranch Golf Course - Temporary Clubhouse Extension**

Attorney Garrimone referenced Contract Planner Davis Farrar's memo to the council, which included a letter requesting an extension on the CUP for the temporary clubhouse at Lakota Golf Course. She said that the CUP required Lakota to have the clubhouse under construction by November 1. The request for extension letter was dated December 1, 2010, a month after the CUP deadline. Technically Lakota is in default of the CUP, but that council could grant the extension. She said they could also table the item to a future

meeting, or deny the request for an extension. Denial would require Lakota to reapply for the conditional use permit for the temporary clubhouse. Councilor Stuckey asked why no one from Lakota had attended the meeting, and Administrator Barton stated that he did not know, but that he was certain Bret Benzel, manager of Lakota Canyon Golf Co., was aware of the meeting, as they had discussed it a few days earlier. Councilor Russi stated that he had recently broken the Town Code and was subsequently issued a ticket and made to pay a fine. He commented that he had watched Lakota violate town code repeatedly for close to nine years. He questioned the reasons the town had granted Lakota waivers and too much leeway in meeting their obligations to the Town. Councilor Leland stated that the same question had come up in previous years when Lakota asked for the extension and the position was that the Town had no stake in whether Lakota had an amenity such as a clubhouse.

Councilor Stuckey told the council that he lived in Lakota, and he had numerous neighbors ask why the clubhouse had not been built. He knew that several of those people had moved there because of the amenity of the golf course and clubhouse, and he felt the council has a level of responsibility to the citizens from that aspect. He also felt it was an amenity to the Town, and that there have been regular council conversations about economic development. A golf course, with a permanent clubhouse, would bring commercial development to the Town. Councilor Stuckey felt disappointed in Lakota because of their apparent lack of concern. He stated that he had spoken with both Bret Benzel and John Elmore about cleaning up the facilities and they agreed they would, yet nothing was done. Councilor Stuckey described some of the items he thought were issues, such as a deteriorating pathway, a damaged tee box and a muddy 18th fairway. He felt that Lakota should have had enough time and money when the economy was doing well several years ago, and that Mr. Elmore should have been aware of the condition of the course. Councilor Stuckey felt that Lakota should have to go through the CUP process again, to go through the public hearings so the citizens could be present and provide their input. Mayor Breslin agreed, and Councilor Leland said that anyone else who allowed his or her CUP to lapse would be required to go through the process again. He agreed that the public process would give the Lakota residents a forum to voice their concerns and Mayor Breslin commented that the council might learn a lot from that.

Councilor Russi asked if denial of the extension request would close the golf course. Attorney Garrimone said that they would not have a conditional use permit to operate; whether the Town takes any action to enforce that was something else. Councilor Leland asked why the course itself would close, and Attorney Garrimone said that the CUP included the course, driving range, temporary clubhouse, maintenance facility and other related facilities. The CUP included the conditional use agreement, which required a permanent clubhouse to be built in 2006, and the Town had been granting extensions since then. Councilor Leland clarified, stating that if the various facilities had been on separate CUPs, then the course could continue to operate regardless if the CUP for the temporary clubhouse was denied.

Attorney Garrimone offered that the council could grant the request for extension of the CUP; they could deny the request and chose whether to take enforcement action; or table the matter and see what happens in April when the warranty issues become due. Councilor Leland asked if there was anything the Town could do to require a privately owned golf course to be maintained better. Attorney Garrimone said no. Councilor Leland stated that the CUP conditions could be reexamined if Lakota has to reapply for the CUP, and that golf course maintenance could be included. Councilor Russi asked if council could include an enforcement provision in the motion. Attorney Garrimone said yes, and described how it was done.

**MOTION: Councilor Russi made a motion to deny the request for extension of an**

**expired conditional use permit by Lakota Canyon Golf Company, and to direct the Town attorney to pursue default provisions. Councilor Metzger seconded the motion.**

Discussion: Councilor Riddile asked what would happen in pursuing default. Mayor Breslin said that Lakota had ten days to respond. The councilors agreed that an appropriate response would be to make the application for the CUP. Councilor Stuckey said that if Lakota wanted to operate in early spring, they should apply for the CUP as soon as possible. Councilor Leland felt the council was correct in their methods. Councilor Riddile asked if Lakota would be shut down immediately and Attorney Garrimone said that Lakota would be without a CUP. Councilor Russi asked how the enforcement would take place if someone were out golfing on the course and Attorney Garrimone said that it would be the same as any other zoning violation. She then reviewed the possible remedies as listed in the CUP.

Councilor Stuckey voiced concerned that Lakota would ignore the notice the attorney's will send. Mayor Breslin asked the council if denying the extension would be viewed by the community as hostile. Councilor Russi said it was a contract violation and Councilor Metzger thought the residents would be thrilled. Councilor Stuckey noted that the council was in the situation not because of their own action, but because Lakota failed to follow through with their responsibilities, and he was concerned that approving the extension would set a precedent of violating our own code. Mayor Breslin agreed. Councilor Russi asked that the letter sent to Lakota Canyon Golf Co. in July 2010 from Attorney McConaughy, which outlined the upcoming development issues to Lakota, become part of the public record (attached as exhibit A). Administrator Barton told council that when Mr. Benzel brought the letter to the Town on December 1, 2010, he stated that it was not his intention to be late with the request, but that he believed it was an automatic renewal and did not require a formal request.

**The motion passed with Councilor Riddile voting no.**

### **Consider approving letters of support for the Roaring Fork Transit Authority (RFTA) Grants**

Councilor Russi asked about what was happening with the talks with RFTA. Administrator Barton said there had not been much in the past few weeks, but that he would provide an update at the next meeting.

The council discussed the potential of some development on the park and ride location, and what services RFTA currently provided to the Town. The council agreed that more discussion needed to take place with RFTA about services, and that it should be discussed at the next council meeting.

**MOTION: Mayor Breslin made a motion to approve the mayor signing the letters of support. Councilor Stuckey seconded the motion and it passed unanimously.**

**MOTION: Councilor Russi made a motion to add the item to the next agenda. Mayor Breslin seconded the motion and it passed unanimously.**

Councilor Leland asked if he should ask REDC to join discussion. Mayor Breslin said yes.

### **Consider Resolution TC-2011-1, A Resolution of the Town Council of the Town of New Castle Designating Public Notice Posting Places.**

**MOTION: Councilor Leland made a motion to approve TC-2011-1, a Resolution of the Town of New Castle Designating Public Posting Places. Mayor Breslin seconded the motion and it passed unanimously.**

## Consent Agenda

**MOTION: Councilor Leland made a motion to remove the November 30 and December 7 minutes from the consent agenda for corrections. Mayor Breslin seconded the motion and it passed unanimously.**

Approve November 16, 2010 Meeting Minutes

Approve December 2010 Bills of \$433,891.57.

Approve Liquor License Renewal for Lakota Canyon Rec Center

**MOTION: Councilor Leland made a motion to approve the remaining items on the consent agenda. Councilor Stuckey seconded the motion and it passed unanimously.**

Approve November 30, 2010 Meeting Minutes

Councilor Leland offered corrections to the minutes.

**MOTION: Councilor Leland made a motion to approve the November 30, 2010 minutes with the corrections as noted. Mayor Breslin seconded the motion and it passed unanimously.**

Approve December 7, 2010 Meeting minutes. Councilor Leland and Councilor Russi offered corrections to the minutes.

**MOTION: Councilor Leland made a motion to approve the December 7, 2010 minutes with the corrections as noted. Councilor Metzger seconded the motion and it passed unanimously.**

## Council Comments

Councilor Metzger told council that two more members were needed for the Planning & Zoning Commission, and asked if Sharon could put it in the Friday newsletter.

Administrator Barton agreed. She also asked what would happen with Patti's Main Street Coffee House. Administrator Barton told council that the attorneys waited until after the holidays to pursue remedies with Patti Reich. He also stated that a request came from Bill Pugh to transfer an extra tap from Sam Garcia to Patti and after reviewing it, Town Staff and Town Attorneys had to deny the request because no extra tap existed.

Councilor Stuckey told council that more members were needed on the Historic Preservation Committee. He also asked the councils' position on a several-year-old rumor that the Town wanted to demolish the museum building. The council discussed it briefly and all agreed that the museum building should be preserved.

Councilor Leland reported that there was nothing to report on REDC.

## Staff Reports

Town Clerk – Town Clerk Melody Harrison told the council that the new web hosting company provides the opportunity to allow submitting applications on line. Staff is considering business licenses, contractor's licenses, dog licenses and perhaps some minor building permits. To do this, the Town code would have to be changed because it requires hard copy submittals only. Clerk Harrison asked the council if they would like staff to explore the opportunity.

Town Administrator – Administrator Barton stated that Hot Topics would resume the following week. Staff would be having a retreat the following week as well. Lastly, Staff Accomplishments would be available to council prior to the next council meeting, and Goals by the end of the month. Administrator Barton suggested the council approve having another neighborhood council meeting. He suggested February 15, at Riverside Middle School. **MOTION: Councilor Riddile made a motion to extend the meeting past 10:00 P.M. Councilor Leland seconded the motion and it passed unanimously.**

Councilor Russi informed council that January 18 was the birthday of the Administrator's wife and asked the council to consider giving the Administrator the evening off. The council agreed.

**MOTION: Mayor Breslin made a motion to adjourn. Councilor Metzger seconded the motion and it passed unanimously.**

The meeting adjourned at 10:03 P.M.

Respectfully Submitted,

  
Town Clerk Melody Harrison



  
Mayor Frank Breslin