

**New Castle Town Council Regular Meeting  
Tuesday, March 1, 2011, 7:00 p.m.**

**Call to Order**

Mayor Breslin called the meeting to order at 6:52 p.m.

**Pledge of Allegiance**

**Roll Call**

|         |                   |
|---------|-------------------|
| Present | Mayor Breslin     |
|         | Councilor Russi   |
|         | Councilor Riddile |
|         | Councilor Metzger |
|         | Councilor Bunn    |
|         | Councilor Leland  |
|         | Councilor Stuckey |

Also present at the meeting were Town Administrator Andy Barton, Town Clerk Melody Harrison, Town Planner Tim Cain, Consultant Planner Davis Farrar, Public Works Director John Wenzel, Police Chief Chris Sadler and Consultant Engineer Jeff Simonson.

**Meeting Notice**

Clerk Harrison verified that her office gave notice of the meeting in accordance with Resolution TC-2011-1.

**Conflicts of Interest**

There were no conflicts of interest.

**Citizen Comments on Items NOT on Agenda**

There were no citizen comments.

**Consultant Reports**

Consultant Attorney - not present.

Consultant Planner - Davis Farrar - present for other items on agenda.

Consultant Engineer - Jeff Simonson - present for other items on agenda.

**Letter of Interest from Shantel Conover-Newberry for open Historic Preservation Commission Seat**

Mayor Breslin welcomed Ms. Shantel Conover-Newberry and thanked for her letter of interest. Councilor Leland asked Ms. Newberry if she had experience with historic preservation. Ms. Conover-Newberry stated that she had been involved with historic reenactments, and that had provided her an interest in history.

**MOTION: Councilor Leland made a motion to appoint Ms. Conover-Newberry to the Historic Preservation Commission. Councilor Bunn seconded the motion and it passed unanimously.**

**The executive session was postponed to the March 15, 2011 Council meeting.**

## **Public Hearings**

### **East Elk Creek MOU discussion**

Mayor Breslin opened the public hearing at 6:58 p.m.

### **Public Comments**

Forest Service representative Joe Fazzi addressed the council. Referring to a question posed at a prior meeting, told the Council that he had reviewed the Americans with Disabilities Act and found that the forest service is only required to make their offices handicap accessible, not County Road 241. He felt that the first quarter mile of the road was probably useable for disabled persons, but further up it was too rough and narrow. Mr. Fazzi stated that the Forest Service was eager to work with Garfield County and the Town of New Castle to come up with the best plan for the road. He said that the road would never be closed to public access, but that vehicle access was the primary concern. He suggested a meeting with the county in April.

County Commissioner John Martin gave a brief history of the road: The trail was established in 1897; in 1908 the first map of East Elk Creek Road was recorded; around the same time, numerous mine permits were issued for the East Elk Creek area, calling into effect RS 2477 and establishing a public right of way on East Elk Creek Road (CR 241.) Also established were a sawmill and two logging roads. The mine closed in 1953, at which time there was a request to close the road and make it private. It was recognized that the road was a public right of way under RS 2477 and could not be closed to public access. Commissioner Martin provided a map for the Council to look at. He said the Forest Service had sold some of the adjacent land to private owners, and in 1984 Joyce Vanevery granted the County an easement across her property, to provide access to the forest service land. Commissioner Martin stated the county would maintain the road, but keep it primitive, and that they would work diligently to come to an agreement with the Forest Service.

Councilor Leland asked why it was important to continue allowing vehicle access, and Commissioner Martin said it was because the road is an established public right-of-way, and under the statute RS 2477, a road cannot be eliminated if it leads to a public ROW. Commissioner Martin suggested that a larger public meeting be held in April with the Forest Service and the County, and that the meeting include a site visit. Kyle Grambley, of the Forest Service, stated that the Forest Service travel plan which is under consideration encompasses the entire White River Forest, and that the motorized and pedestrian plans were on hold pending the board decision. The accesses have not been defined as motorized or any other designation. She stated the Chandlers had dedicated the parking area. Councilor Russi asked Ms. Grambley what public process had been followed to inform the communities of the pending changes in the FS Travel Plan. Ms. Grambley described the notices and meetings that had taken place. She noted that CR 241 was a very small corner of a much bigger plan.

Commissioner Martin commented that a decision needed to be made by the FS on what level of maintenance should happen on such a primitive road. Mayor Breslin asked about the old MOU and the requirement for the FS to provide erosion barriers. He noted that no details were provided in the plan. Mr. Fazzi agreed that the requirement was very general. Commissioner Martin stated that the Division of Water Resources would need unrestricted access to maintain water rights. Mayor Breslin noted there was a gauging station on the creek as well. Mr. George Chandler felt that there should be no need for anyone to take a vehicle up there for a gauging station because the West Ditch was on private property.

Mayor Breslin addressed the entire audience and asked, by show of hands, who would be in favor of maintaining vehicle access, and approximately half were in agreement.

Steve Rippy, former Town Administrator of New Castle, complimented Commissioner Martin

on his history of CR 241. Mr. Rippy felt that the road should remain primitive and not be paved. He thought a maintenance agreement could be agreed upon between the FS and County. He also felt the road was not a four-wheel road, but one people use to access areas for day use, similar to Rifle Mountain Park. He stated that he really could not see what the issue was. He felt that although there was a lot of human activity there, there were more threats to the water quality of Elk Creek from wildlife, livestock and irrigation run-off than from humans. Mr. Rippy did not believe the FS had done any road maintenance on CR 241, and felt the County should make any decisions whether the road remained open or closed. It was his thought that New Castle was included in the MOU because the residents use the area the most.

Barbara Orcutt stated that she and her disabled husband use the trail, and stated that there were not many areas a disabled person could go. The Orcutts were concerned that the road would be paved and they felt it should remain as is. She felt it was quiet and safe, and access to the creek was easy.

Commissioner Martin stated for the record that the rumor that East Elk Creek Road would be paved came from a letter to the editor of the newspaper, and had never been a consideration. Councilor Russi asked Ms. Orcutt if she thought there should be motorized access on East Elk Creek, and she said no, not even for the disabled because it would change it too much. She also said there should be no barriers because it prevented access to the creek.

Dr. Liz Chandler said that she had a long family history in the area, and was as proud of her heritage as Mr. Rippy. It was her opinion that more than New Castle residents use the East Elk Creek Area. She thought the area very special, and she felt that the issue at hand was preservation for future generations. Ms. Chandler stated that the beer parties that take place on the weekends are intimidating to visitors, and made it not a family friendly place. She also said that anyone in a wheelchair or pushing a stroller were in danger because the road is narrow and there is no place to go when a vehicle comes up the road. She felt the chance of a vehicle driving off into the creek were high, and that there were several places on road that needed repair before people got hurt. In her opinion, the road was dangerous. She emphasized that she had not heard anyone say that public access would be denied, only motorized access. Additionally, she had been asking visitors for several years if excluding vehicles would prevent them from using the area, and all but one said no.

Grady Hazelton agreed with Mr. Rippy. He felt there were a lot of opportunities for a vehicle to overturn into the water. He wanted to be able to take his children or father to the area without any concerns.

Darrin Ferris stated that he visited the East Elk Creek twice a week in the summer because he was a fly fisherman, and he likes to take his three-year-old son there as well. He wanted the road to be open to vehicles because his son would not be able to make the hike to the bridge.

Ms. Chandler said that the beer parties happen on the weekends, and the people use winches to pull rocks off the hillside to make illegal fire rings, and the residents end up cleaning up the messes.

Mr. Ferris stated he had never seen a beer party or beer cans strewn about, but had seen the fire rings, and had cleaned up garbage himself. He felt the people of New Castle should not allow any government agency to take the road away.

Grady Hazelton stated that beer parties happen everywhere, and he encouraged the residents of East Elk Creek to take down license plate numbers and report illegal activities. Richard Terrell stated that he had been a resident since he was five years old, and felt the vehicle traffic should continue to be allowed.

Earl Dawson stated that he had been in the area 90 years, and had driven the road probably more than anyone in the room. It was his opinion that the road was about the same as it had been 80 years ago. He also felt that conflicts over the road had been going on for a long

time, and he wanted the issue finally resolved.

Fred Davidson stated that he was part of the Sample family that owned properties in the area. His concern was maintenance in the winter months. He stated that snow plowing was not done past Eagle Ranch. Mr. Wyatt Keesbery, Garfield County Road and Bridge, agreed that the county did not plow past the Eagle Ranch in agreement with Mr. John Kelly, who wanted the road left so he could run a horse and sleigh, and who had agreed to maintain the road himself.

County Commissioner Martin said he would like to have a site visit and a community meeting afterwards in the New Castle Community Center in April. He stated that the county would hold off on any decision until after the community meeting.

Councilor Russi asked Garfield County Attorney Carolyn Dahlgren if the county intended to try to prevent some of the more serious erosion issues on CR 241 to help avoid vehicles going off the road into the creek. Attorney Dahlgren felt that was exactly why another public meeting would be held, and Commissioner Martin agreed, saying that the public meeting would be held, and a maintenance agreement between the County and the Forest Service finalized.

Attorney Dahlgren clarified that another meeting was needed because a public hearing on the East Elk Creek Road had not been held at the BOCC. Councilor Leland commented the Town had no jurisdiction on East Elk Creek, yet the old MOU obligates the Town to assist with road maintenance. Commissioner Martin noted that the Town could decline to sign the MOU.

Mayor Breslin asked the Council if anyone was opposed to a maintenance agreement, and none were. The council also felt another public hearing was a good idea. Councilor Leland offered that the Town providing law enforcement services to the Elk Creek area was a practical difficulty due to understaffing in the Town's police department. He felt the Sheriff's Department should have more responsibility and be part of the agreement, because it was really their jurisdiction. Commissioner Martin agreed to include the Sheriff's Department in the agreement.

Ms. Chandler posed the question if any of the entities involved should dedicate too much to the agreement considering the economic environment, and asked if it was a prudent use of public funds.

Mr. Dawson inquired as to the number of complaints the police department had received, and New Castle Police Chief Chris Sadler said that to his knowledge, there had been none. Mr. Dale Coombs stated that he had done some research with the sheriff's department and they had not received any complaints in the past five years.

Mr. Keesbery stated that there was vandalism and resource damage occurring. Mr. Dawson stated that a few 'bad apples' should not ruin it for everyone.

Mr. Fred Kuersten stated that the road had been open since 1908 and did not feel it should be closed.

The meeting date for the community meeting and site visit was not set, but all agreed that it should be after the snow was gone, and should be scheduled in the late afternoon.

Mayor Breslin thanks everyone for coming and stating their views.

Mayor Breslin closed the public hearing at 7:52 p.m.

Mayor Breslin recessed council and convened as the Board of Zoning Adjustments at 7:54 p.m.

### **Library Variance**

Purpose: Encroachment into rear yard setback 2'8"

Location: 402 West Main Street

Applicant: Garfield County Library District

Landowner: Garfield County Library District

Resolution BZ-2011-1

Mayor Breslin opened the public hearing at 7:54 p.m.

Consultant Planner Farrar reviewed the Library District Variance Application and his staff report for the board. He reviewed the criteria for granting a variance as listed in the Town Municipal Code, and how the library application met those criteria.

**Public Comments**

There were no public comments.

Close public hearing at 8:01 p.m.

**MOTION: Councilor Leland made a motion to approve Resolution BZ-2011-1, a resolution of the Board of Zoning Adjustment of the Town of New Castle, approving a variance application for the Garfield County Library located at 402 West Main Street, New Castle. Councilor Riddile seconded the motion and it passed unanimously.**

Mayor Breslin adjourned the Board of Zoning Adjustment and reconvened the council meeting at 8:02 p.m.

**Items for Consideration**

**Library Conditional Use Permit**

Michael Hassig presented large format drawings depicting the new design of the library. He stated that the library would be a single story and that three "monitors" had been added to the roof to provide indirect light from the north. The monitors would also provide a future site for photovoltaic panels. The revised design provides eleven-foot ceilings throughout the building and will allow for full-height book stacks and a much more flexible floor plan. Mr. Hassig felt the library was within budget with the new plans, but could obtain additional funds if necessary. Councilor Stuckey asked how far back from the front of the building the monitors were, and if they would be visible from the street. Mr. Hassig said the monitors started eighteen feet back from the front face of the building and the council discussed the aesthetic and historical essence the Town was looking for. Councilor Russi felt there was no particular era the Town or HPC could strive for or require because the downtown was an assortment of architectural styles, and that the Town had never been able to guard a motif. Councilor Stuckey felt that the HPC was trying to keep an early 1900's look to the downtown, and the triangles of the stacks did not fit. Mayor Breslin quickly scaled out the drawing, and determined that for a person to see the monitors, they would have to be quite far from the building. Considering the width of Main Street, they may not be visible at all. Councilor Stuckey complimented Mr. Hassig on the improvements. Councilor Metzger asked about the difference between the sizes of the signs on the front and side of the building. Mr. Hassig stated that the sign on the south (front) side was scaled for a person walking on the street, whereas the sign on the east side was intended to be easily seen by people driving by. Mayor Breslin said he liked the respect shown to pedestrians.

**MOTION: Councilor Russi made a motion to approve Resolution TC-2011-5, a resolution of the Town of New Castle Town Council, approving a conditional use permit for lots 1 - 4, Block A of the original Town Site plat to permit a public library. Councilor Leland seconded the motion.**

Discussion: Councilor Leland asked Consultant Engineer Simonson to clarify how the drainage problem on the lots would be mitigated. Consultant Simonson stated that drainage from the

alley currently moved south between the library and town hall buildings. There would be a high point created at the alley to force water east or west down the alley. Councilor Metzger asked if the library would put in writing their intent to maintain the planters. Planner Farrar noted that there had been discussion at P & Z concerning the planters, and that the motion could be amended to include a condition regarding the planters. Mr. Hassig offered that hose bibs could be incorporated on the outside of the building. Planner Farrar said a yard hydrant would be easy as well, but that the library and the Town needed to resolve the issue together, since the Town owned the planters, but the library would provide the water. Planner Farrar finally stated that the planters were the Town's and should not be an issue for the library. He also stated that the Town had citizen committees to care for and maintain the planters.

**After a voice vote, the motion passed unanimously.**

### **Garfield County Senior programs MOU**

Judy Martin, Program Manager for the Garfield County Senior Programs described the services Senior Programs provided to senior citizens in Garfield County. The Council complimented her on the spreadsheets in the packet and briefly discussed the figures. Ms. Martin asked if there was anyone available to be an alternate on the Senior Programs Board, because Councilor Bunn would not be able to make all the meetings. She also stated it was a great help to her to know who would serve as alternate so she could keep them informed.

**MOTION: Councilor Russi made a motion to approve signing of the Garfield County Senior Programs MOU. Councilor Leland seconded the motion.**

Discussion: Planner Cain asked Ms. Martin about the provisions in place for the immediate evacuation of seniors in the County's emergency operations plan. Ms. Martin stated that the evacuation sites were the same as the locations where the senior lunches were held. She said she would get more information to him later.

**After a voice vote, the motion passed unanimously.**

### **Garfield County Airport Project Presentation - Brian Condie, Garfield County Regional Airport Manager**

Airport Manager Brian Condie provided a PowerPoint presentation to the council that described the airport improvement project. Garfield County Airport is a general aviation airport, meaning that they only serve private plans, not commercial flights. He noted for Council that ninety-nine percent of airport usage is tourism-based. He also invited Council and staff to attend the 2011 Air Show on July 8-9. Attractions will include the Aerostars Acrobatic Team, the U.S. Army Parachute Team, and country singer Aaron Tippin.

Councilor Leland asked Mr. Condie about economic development on the airport property, and he said that any business located on airport property must be aviation-related. He also said that Aspen Land Company owned properties adjacent to the airport, and that the County was working with them to attract businesses to the area.

### **Discussion with Frank Smith regarding drilling impact and mitigation**

Frank Smith of Western Colorado Congress introduced himself to the council and briefly described his organization and their goal of providing drilling impact and mitigation information to the region. He told council that the packet materials included maps of well sites and water sources and information on recent local drilling permits and issues. He also said he had provided the specific rules that should be reviewed if the Town would like to comment on any oil and gas proposal or permit. For instance, Rule 503b allowed Garfield County to become involved in the well proposals on Silt Mesa. Mr. Smith reviewed the drilling

activity in Garfield County, and stated that the real effects to humans and the environment were still unknown. He felt strongly that the Town should be involved in oil and gas locally, and that communication from local governments was vital to mitigate potential problems even though none of the wells or proposed wells were within Town limits. He informed Council that the COGCC would be addressing proposed wells and a ten-acre spacing request on April 4 and 5, and that a meeting about Antero's ten-acre spacing proposal would be held on Thursday, March 3 at Colorado Mountain College in Rifle, from 6:30 - 8:30 P.M. He encouraged the Town to contact Ms. Judy Jordan, the County Oil and Gas Liaison, with regard to concerns on pending permits. He also talked about pending House Bill 1223 which would return the Colorado Oil and Gas Conservation Commission (COGCC) to its former composition, removing the seats for the Department of Health, the Wildlife Commission, the Department of Natural Resources, and the local government representative. Councilor Leland said that State Representative Wilson had been in town the previous week and Councilor Leland asked him if it was helpful for the Town to provide their concerns on legislative issues. Representative Wilson said it would be very helpful, and that he would be able to use local government comments in his arguments. Councilor Leland suggested that the Town submit their comments on legislative issues, including HB 1223.

### **Climate Action Advisory Council (CAAC) recommendation to adopt the 2009 International Energy Conservation Code (IECC)**

Lauren McDonald, CAAC Chairwoman greeted the council. Councilor Russi introduced all CAAC members in attendance. Ms. McDonald reviewed some of the energy efficiency standards in the 2009 code, and provided cost estimates for new construction to meet the proposed standards. She said that the new code has provisions for Energy Star labeled appliances, and that adopting the 2009 code would give opportunities for funds from the American Recovery and Reinvestment Act. Ms. McDonald also stated that the code could be adopted with the Town adding conditions or exceptions to particular code sections as the Town saw fit. Mayor Breslin voiced concern regarding unintended consequences of the code adoption, and asked if existing buildings would be required to meet the new code standards. Ms. McDonald stated that retrofitting would not be required and that the code applied to new construction only. Mayor Breslin stated that he respected the work of the commission, and felt that they were the experts, but voiced concern that it was a highly technical issue, and he was not entirely comfortable with making a decision about items on which he had limited knowledge. Councilor Russi said that the Town's contract inspector, Bruce Stolbach, had been involved in the discussions considering the new code and felt comfortable with its adoption. Ms. McDonald asked the Council to feel free to bring questions to CAAC, and explained that the ordinance could be written in such a way that allowed the Town to make exception to the code on a case-by-case basis. Councilor Stuckey felt the code should be adopted so that the Town kept within the standards of the rest of the municipalities in the county. The Council discussed the costs that would be imposed on a homebuilder, noting that the Town's contracted Building Inspector is paid by the hour, but the fees for building permits are determined by the size of the building. Councilor Russi asked Council if they would like to proceed with the ordinance and the Council agreed.

**MOTION: Councilor Russi made a motion to continue the meeting past 10:00p.m. Mayor Breslin seconded the motion and it passed with Councilor Riddile voting no.**

### **Consent Agenda**

Minutes of the February 15, 2010 Council Meeting  
Approval of February Bills of \$301,416.73  
Approval of GCE IGA

**MOTION: Councilor Leland made a motion to accept the minutes of February 15, 2011 and the February bills, postponing the approval of the GCE IGA. Councilor Bunn seconded the motion and it passed unanimously.**

### **Council Comments**

Councilor Russi commented that Administrative Assistant Sharon Rather would be submitting for a GoCo Grant for improvements to VIX Ranch Park, and that the grant funds would help finance a dog run, as well as the previously discussed improvements.

Councilor Leland asked when the legislative agenda reports would be brought to Council. Administrator Barton said he would bring them to the March 29 Special Meeting.

Councilor Russi stated he opposed House Bill 1223. Mayor Breslin asked council if they wanted to send a letter stating their position opposing HB 1223 and the council said yes.

Councilor Metzger asked if we knew what it cost to prepare the revised Sign Code. Administrator Barton said the costs had not yet been calculated.

Mayor Breslin suggested that perhaps the Town should rejoin the Associated Governments of Northwest Colorado (AGNC). He also asked Council permission to approach Governor's energy czar regarding micro-hydroelectric projects. Council agreed that the inquiry was appropriate. Consultant Engineer Simonson noted that there were water rights issues for such projects regarding removing water from a stream and putting it back somewhere else.

### **Staff Reports**

Public Works Director John Wenzel asked Council for their permission to purchase a vehicle to replace the public works truck that had been totaled in October 2010. He stated that the insurance payout on the totaled truck would cover the cost of the purchase, and that the vehicle would be purchased at a discount from a reliable source.

**MOTION: Councilor Leland made a motion to allow the purchase of the replacement vehicle. Councilor Russi seconded the motion and it passed unanimously.**

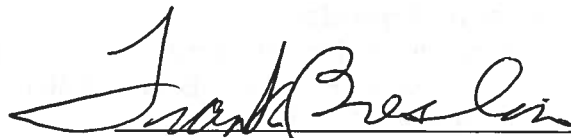
Town Clerk Melody Harrison asked the Council to review the March 15th agenda and suggest possible changes to ease the schedule. The council felt that the four public hearings could be heard on the 15th without problem. The GCE IGA and legislative agenda would be on the March 29, 2011 special council meeting agenda.

Town Administrator Andy Barton stated that he had spoken with Consultant Attorney Mike Sawyer regarding a meeting with Scott Balcomb, attorney for Lakota Canyon Ranch, and the meeting had gone well. The executive session regarding the issue would be on the March 15 Council agenda. Administrator Barton told council that he had spoken with Patti Reich about the tap fee agreement, and she was negotiating a new lease with Mr. Sam Garcia and asked to be on the March 15 agenda to discuss revisions to her Tap Fee payment agreement with the Town. Administrator Barton told Council that Ms. Reich had made two payments to the Town. Mayor Breslin and the Council reviewed the history with Ms. Reich and the accommodations they made for her. Councilor Leland suggested that a line be added to the Code requiring that a business plan and financial statement be included in future applications for tap fee loan agreements.

**Councilor Russi made a motion to adjourn. Councilor Bunn seconded the motion and it passed unanimously.**

**Adjourn, 10:33 p.m.**

Respectfully Submitted,



*Melody Harrison*  
Town Clerk Melody Harrison



Mayor Frank Breslin

