

**New Castle Town Council Regular Meeting
Tuesday, March 15, 2011, 7:00 p.m., Town Hall**

Call to Order

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

Pledge of Allegiance

Roll Call

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

Also present were Consultant Attorney Dave Smith, Consultant Planner Farrar, Consultant Attorney Mike Sawyer, Town Administrator Andy Barton, Town Clerk Melody Harrison, Town Planner Tim Cain, and Public Works Director John Wenzel

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

Mr. Don Shrull of New Castle stated that he was there regarding the tree ordinance. Mayor Breslin told Mr. Shrull it would be later on the agenda.

Award Presentation

American Public Works Association Colorado Chapter Representative Duane Gamin greeted council and told them the New Castle Public Works Department had nominated Grand River Park for an APWA award. He referenced the article in the Colorado Public Works Journal and described the drainage and flood control achievements of the Grand River Park project. Mr. Gamin presented the award to Public Works Director John Wenzel. Director Wenzel thanked his staff for their hard work.

Consultant Reports

Consultant Attorney – Dave Smith – present for agenda items
Consultant Planner – Davis Farrar - present for agenda items
Consultant Engineer – not present

Lakota Canyon Ranch Discussion

Consultant Attorney David Smith left the Council Chambers for the duration of the Lakota Canyon Ranch discussion. Consultant Mike Sawyer introduced himself to the council and told them he was the Town water attorney represented the town in matters concerning Lakota Canyon Ranch. Attorney Sawyer briefly described the warranty issues for filings 2, 4, 5 and 6A of Lakota Canyon Ranch, and the discussions he had

with the owner of Lakota, Mr. John Elmore, regarding extension of the tolling agreement. Before any agreement was reached, Attorney Sawyer was notified that Alpine Bank, lender on the property, had obtained a court order appointing a receiver for all the Lakota assets. Attorney Sawyer explained that a receiver is a court-appointed party whose job is to preserve the value of the assets, and that the receivership had removed all Mr. Elmore's legal rights. He also stated that the bank intended to initiate a foreclosure on the Lakota properties. Attorney Sawyer gave the floor to Mr. Mike Staheli and Ms. Marcie Jaeger, of Cordes & Co., so they might answer any questions the council had. Mr. Staheli told council that it was their job as the receiver to preserve the value of the assets, which was in the best interest of the properties and the community. He stated that he wanted to fully understand the issues between the Town and the developer, and although they would not be liable for the obligations of the developer (including road repairs), their authority as the receiver allowed them to act as the owner of the properties. Their ability to enter long-term agreements was limited as well. He said the golf course had opened the previous week, and would remain operational at the will of the creditor, Alpine Bank. The recreation center was owned by Lakota Canyon Ranch as well and the receivers were working on the future of the recreation center. Mr. Staheli stated they would be meeting with the HOA because one of their responsibilities was to assume the declarant rights under the master declaration and they would occupy several seats on the executive board. They would ensure the HOA functioned correctly. He stated that the intent was to find another owner that would be able to move forward with the project.

Councilor Stuckey asked if the recreation center was in receivership, and Mr. Staley said yes. Attorney Sawyer stated that Mr. Staheli and Ms. Jaeger would likely remain on board for several months, probably through the foreclosure, and thereafter if bank wished. Councilor Riddile asked if it was the intention to keep the golf course and recreation center open, and Mr. Staheli said they were gathering information to see if they could be kept open, and what the needs of the community were. He said that Alpine Bank had would be the one to make the decision to keep the golf course and recreation center open. Mayor Breslin asked if there would be discussion about marketing the golf course. Mr. Staheli did not know, but said that the strategy is to keep the value of the property and to keep it profitable. Ms. Jaeger told the council that Mr. Staheli had a lot of experience with golf courses and felt Lakota and the Town was safe with him. Councilor Leland stated that the Town did value the course and the records would reflect that. Mayor Breslin asked Mr. Staheli for contact information for the Town Administrator.

Mr. Vince Testa, resident of Lakota Canyon Ranch, voiced his concern regarding the imminent foreclosure and hoped that the receivers and the Town would keep open communications with the HOA.

Mayor Breslin asked if Mr. Staheli had any questions and thanked him for his sensitivity to the situation.

Executive Session 7:44 p.m.

MOTION: Councilor Leland made a motion to go into executive session (1) for conference with Town Attorney for purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); and (2) for purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) - concerning potential litigation concerning Lakota Canyon Ranch Warranty Issues.

Councilor Riddile seconded the motion and it passed unanimously.

Executive session concluded, 8:00 p.m.

At the end of the executive session, Mayor Breslin made the following statement:

"The date is March 15, 2011, the time is 8:00 and the executive session has been concluded. The participants in the executive session were: Mayor Breslin; Councilors Bunn, Stuckey, Leland, Metzger, Riddile, and Russi; Town Administrator Barton; Town Clerk Harrison; Public Works Director Wenzel and Consultant Town Attorney Sawyer. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record."

Executive Session 8:02 p.m.

MOTION: Councilor Leland made a motion to go into executive session (1) for conference with Town Attorney for purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); and (2) for purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) - concerning potential litigation concerning utility billing.

Mayor Breslin seconded the motion and it passed unanimously

Executive session concluded, 8:14 p.m.

At the end of the executive session, Mayor Breslin made the following statement:

"The date is March 15, 2011, the time is 8:14 and the executive session has been concluded. The participants in the executive session were: Mayor Breslin; Councilors Bunn, Stuckey, Leland, Metzger, Riddile, and Russi; Town Administrator Barton; Town Clerk Harrison; Public Works Director Wenzel and Consultant Town Attorney Smith. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record."

Public Hearings

Ordinance TC-2011-1, an Ordinance of the New Castle Town Council Prohibiting the Operation of Medical Marijuana Businesses Within Town Limits (first reading)

Mayor Breslin opened the public hearing at 8:17 p.m.

Councilor Leland asked about the extremes in the ordinance regarding amounts of marijuana in a person's possession. Consultant Attorney Dave Smith explained that the state statutes spoke to possession amounts in excess of one ounce, and would be heard in county court, not municipal court. Councilor Bunn stated that she had done some research for another municipality who would be taking the medical marijuana issue to their voters, and she found that the majority of citizens in New Castle had voted to allow medical marijuana back in 2000.

Public Comments

Doug Hughes, New Castle resident, commented that he had gone to the town website and seen the public notices for the meeting, but had been unable to locate the ordinance itself. Councilor Leland explained that the ordinance was in the council

packet. Mayor Breslin told him that generally speaking, ordinances were not published until they were passed by council. Town Clerk Melody Harrison explained to Mr. Hughes that the public notices were published on a separate page from the council agenda, but that the draft ordinances were available online.

Mayor Breslin closed the public hearing at 8:24 p.m.

MOTION: Councilor Riddile made a motion to approve Ordinance TC-2011-1, an Ordinance of the New Castle Town Council Prohibiting the Operation of Medical Marijuana Businesses within Town Limits (first reading.) Councilor Leland seconded the motion and it passed 5 to 7 on a roll call vote: Councilor Stuckey: yes; Councilor Leland: yes; Mayor Breslin: yes; Councilor Bunn: no; Councilor Russi: no; Councilor Metzger: yes; Councilor Riddile: yes.

Ordinance 2011-02, and Ordinance of the Town of New Castle, concerning the care and maintenance of Street Trees (first reading)

Mayor Breslin opened the public hearing at 8:25

He told the story of the maple trees on Main Street which had prompted the ordinance.

Public Comments

Don Shrull, New Castle resident asked what the ordinance meant. Mayor Breslin explained the care and maintenance responsibilities described in the ordinance.

Jim Shrull, New Castle resident, told council that there were Chinese elm trees in front of his property that were eighty feet tall, and removing them would be costly.

Brent Peterson, New Castle resident, said that he wanted to cut down the Chinese elm trees in front of his house years ago and the Town forbade it. He felt it was unreasonable for the town to transfer responsibility to him for trees he never wanted to begin with, and that were now huge. He said he certainly could not afford to have them removed now because it was too expensive. Mr. Peterson did not agree with the proposed ordinance at all.

Mr. Jim Shrull asked how it would be determined who was responsible for a tree when it sat on the property line.

Jackie Silva, New Castle resident, asked why the ordinance was proposed. Mayor Breslin answered that New Castle had a limited budget for tree maintenance, and after researching other municipal codes, found that it was a standard to have residents to care for street trees.

Councilor Russi asked Consultant Farrar his experience with other towns and tree issues. Consultant Farrar suggested that perhaps the Town could initiate the initial maintenance on a tree before turning the responsibility over to a homeowner, especially for the larger, older trees. Councilor Leland stated that the Town having forbidden the removal of the elms created some of the current problem. Mayor Breslin said that back when the Town became a Tree City, elm trees were not considered 'junk' trees. Councilor Leland felt there should be some transitioning for the responsibility. Councilor Riddile though it a good idea to grandfather in some of the older large trees to relieve the residents from the burden of them. Councilor Bunn suggested that the ordinance should include a size of tree that could be excluded from the requirements of the ordinance. Mayor Breslin felt 'undesirable' trees should be included.

Mr. Hughes asked if responsibility for the trees also meant liability for the trees should something unfortunate happen. Attorney Smith said reaching an agreement for negotiated maintenance between the Town and residents would reduce the liability issue.

Mr. Jim Shrull asked if town could please remove some of the elm trees, and Mayor Breslin felt that could happen.

MOTION: Councilor Russi made a motion that the ordinance be tabled until the

April 5, 2011 council meeting so that the ordinance could be reconsidered. Mayor Breslin seconded the motion and it passed unanimously.

Ordinance 2011-3, An Ordinance of the New Castle Town Council Amending Chapters 16.10 and Section 16.08.040 of the New Castle Municipal Code Regarding Notice of Surface Development to Mineral Estate Owners (first reading)

Mayor Breslin opened the public hearing at 8:55

Consultant Attorney Dave Smith described to the council the statute change that prompted the need for the ordinance. The council and Attorney Smith discussed some of the problems encountered in locating lists of current mineral rights owners.

Public Comments

There were no public comments.

Mayor Breslin closed the public hearing at 9:00 p.m.

MOTION: Councilor Russi made a motion to approve ordinance 2011-3, An Ordinance of the New Castle Town Council Amending Chapters 16.10 and Section 16.08.040 of the New Castle Municipal Code Regarding Notice of Surface Development to Mineral Estate Owners (first reading), with a correction in §16.08.040 changing "subjection" to "subject." Councilor Riddile seconded the motion and it passed on a voice vote: Councilor Metzger: yes; Councilor Riddile: yes; Councilor Stuckey: yes; Councilor Bunn: yes; Mayor Breslin: yes; Councilor Russi: yes; Councilor Leland: yes.

Ordinance 2011-4, an Ordinance of the New Castle Town Council Amending the Municipal Code Concerning the Adoption of a New Sign Code (first reading)

Mayor Breslin opened the public hearing 9:04 p.m.

Consultant Planner Davis Farrar described what he and Town Planner Tim Cain had done to bring the sign code up to standards, including sending personal invitations and contacted the businesses in town to solicit their input. Referencing an electronic map, he indicated the various sign districts throughout town. Consultant Farrar briefly went through the proposed code and answered questions from the council. Councilor Leland suggested several corrections and revisions. Council agreed the second reading would be at the council meeting on April 5, 2011.

Public Comments

There were no public comments.

Mayor Breslin closed the public hearing at 9:38 p.m.

MOTION: Councilor Riddile made a motion to approve ordinance 2011-4, an Ordinance of the New Castle Town Council Amending the Municipal Code Concerning the Adoption of a New Sign Code (first reading) with the corrections as noted. Councilor Bunn seconded the motion and it passed on a voice vote: Councilor Stuckey: yes; Councilor Metzger: yes, Mayor Breslin: yes; Councilor Leland: yes; Councilor Russi: yes; Councilor Riddile: yes; Councilor Bunn: yes.

Items for Consideration

Town Hall Security Proposal

Human Resources Manager Mike Edgar reviewed the proposal for council. He stated that staff would like council to approve \$10,000.00 from reserves to begin the project.

He also said that initially security devices would be installed on the first floor of the Town Hall and the second floor would be done later. Mr. Edgar reviewed some of the safety measures that had already been addressed at the Town Hall. Administrator Barton told council that the cost of the project was estimated to be approximately \$6,000.00, but could go as high as \$10,00.00 to complete everything. Councilor Russi asked how the hemispheric cameras worked and Councilor Bunn and Administrator Barton explained. Councilor Leland suggested that an RFP be released for the installation.

Consent Agenda

MOTION: Councilor Russi made a motion to remove the Garfield Clean Energy IGA off the consent agenda due to some errors in it. Mayor Breslin seconded the motion and it passed unanimously.

Minutes of the March 1, 2010 Council Meeting
Approval of Temporary Construction Easement for new Library
2011 Letters of Support for RF Valley BRT Project

MOTION: Mayor Breslin made a motion to approve the consent agenda, excluding the GCE IGA. Councilor Bunn seconded the motion and it passed unanimously.

MOTION: Councilor Riddile made a motion to allow the meeting to go past 10:00 p.m. Councilor Russi seconded the motion and it passed on a 6 to 1 vote.

Councilor Russi noted several changes that needed to be made to the GCE IGA.

MOTION: Councilor Russi made a motion to approve the Garfield Clean Energy IGA with corrections as noted. Mayor Breslin seconded the motion and it passed unanimously.

Council Comments

Mayor Breslin told council he had been approached by a citizen who had started a litter project and had bumper stickers for sale. He suggested that the council become involved in the project and gave them the web address: www.litterproject.com. He said that the project was inspired by the increasing amount of garbage being seen along Main Street, much of which was McDonald's bags. Mayor Breslin thought that Volunteer New Castle would be interested in the project and that perhaps McDonalds would be willing to donate in some way. Mayor Breslin thought that volunteer projects could be put on a council agenda for discussion. The council asked that Spring Cleanup be on the next agenda, so council could make a decision about when it would be.

Councilor Leland announced that the New Castle Volunteer Appreciation Dinner would be April 7 and he passed out invitations. He also mentioned that the county had proposed creation of their own economic development committee, and felt that the county should partner with the REDC. Councilor Bunn mentioned that the name "Rifle" economic development was somewhat offensive to other entities because Rifle was not the only municipality involved. Mayor Breslin thought using the name "Rifle" would inspire interest in the area. Councilor Stuckey felt that the two agencies should strive to work together.

Councilor Leland also told council that Representative Wilson would be at a meeting in the County building on Saturday, March 19, regarding the state budget, and anyone interested could attend.

Councilor Russi asked why that last bill from Attorney Tom Silverman was so much

higher than prior bills. Administrator Barton told council that Mr. Silverman's bill was so large because he had spent a lot of time preparing for a trial that was subsequently cancelled. Administrator Barton told council that he thought an RFP should go out at the end of the year for prosecutorial services.

There was mention of a level of disconnect between Crystal Property Management and the Lakota HOA, and council felt that it was important to rebuild that relationship, especially in light of the pending foreclosure.

Councilor Bunn asked what was happening with Patti's Main Street Coffee House Tap Fee agreement. Administrator Barton said he was still waiting for her to get back with him on the agreement because she felt the property owner was liable for the taps. She has been making payments to the Town. Councilor Bunn complained that Patti was using Ritter Plaza for cooking and had placed tables outside as well. She felt it was a serious violation of the Town code. Councilor Bunn's opinion was that if Patti was not legally able to cook inside her business, she certainly had no right to cook outside on Town property. Councilor Leland stated that he thought Patti's argument about who was liable for the taps and who may or may not assume the responsibility was nothing for the Town to be concerned about. Administrator Barton said that if Patti would not sign the new contract, then the old contract was enforceable and the Town would have to take action on it.

Councilor Stuckey asked if more police attention could be given to the speeders on Clubhouse Drive and Administrator Barton agreed.

Councilor Stuckey also offered four tickets to the Denver home show to anyone who wanted them.

Councilor Russi told council that the Castle Valley HOA was interested in exchanging the detention pond for green space, and they would like to discuss the possibility with council. Mayor Breslin liked the idea. Council agreed to schedule the discussion for April 5, 2011.

Staff Reports

Public Works Director - Attending for other items

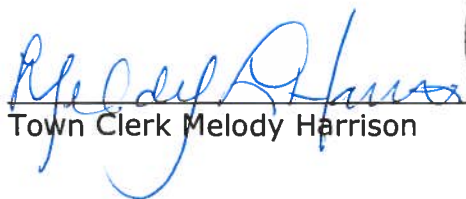
Town Clerk - nothing to report

Town Administrator - Administrator Barton told council that Tim Cain was the department head for planning and building, and would be taking on the budget responsibilities for building. He also asked council if it would be possible for staff to report Hot Topics once per month, as opposed to twice per month. Council agreed that would be all right.

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

The meeting adjourned at 10:43 p.m.

Respectfully Submitted,


Town Clerk Melody Harrison



Mayor Frank Breslin