

**New Castle Town Council Meeting**  
**Tuesday, April 19, 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 Russi
	Councilor Riddile
	Councilor Metzger
	Councilor Bunn
	Councilor Leland
	Councilor Stuckey

Also present were Town Administrator Andy Barton, Town Clerk Melody Harrison, Town Planner Tim Cain, Consultant Planner Davis Farrar and Consultant Attorney David Smith.

**Meeting Notice**

Town Clerk Melody Harrison verified that her office gave notice of tonight's meeting in accordance with Resolution TC-2011-1.

**Conflicts of Interest**

There were no conflicts of interest.

**Citizen Comments on Items NOT on Agenda**

Linda Holley spoke to the council, voicing her concern regarding the beer cans that Rosie Ferrin had used to adorn the drip lines in her flower beds. She felt it detracted from the look of the downtown. The council discussed the issue briefly, and considered the opinion of Town Planner Tim Cain that it was not a violation of the code. They also considered that it could be considered a nuisance by the Town code. Mayor Breslin stated that the Town code for littering was relatively weak and should be reviewed. Administrator Barton told council that Ms. Ferrin had been cited on a safety issue regarding some old refrigerators on her property. Consultant Attorney David Smith stated that the nuisance provision in the statutes could be invoked by a probable cause process as determined by the Town Code Enforcement Officer, Police and Town Prosecutor. Although some councilors agreed that Ms. Ferrin had made her point in protesting the irrigation water rates and wanted Attorney Smith to propose reasonable action, Mayor Breslin was opposed to pursuing the issue.

Ms. Holley asked how long there would be gravel on the road at Rio Grand, and Mayor Breslin said the bid for asphalt should be awarded soon, but that it had taken so long because the asphalt plants were closed for the winter.

**Consultant Reports**

Consultant Attorney - Consultant David Smith told council his office had received the deed for water rights from Mr. Burke, in exchange for the bridge decking materials the Town received as surplus material that was obtained by Jim Stevens in 2005. Garfield and

Hecht were in the process of looking for a lessee for those rights. He also addressed the difference between a public meeting and a public hearing, stating that New Castle handled it differently from other municipalities. He explained that every council meeting was a "public meeting" but the requirement for a "public hearing" was limited by the Town code to those issues that required public testimony related to due process or property rights. The three items that required a "public hearing" were annexations, vested rights, and appeals for variances before the Board of Adjustments. Ordinances were not required to be heard in a "public hearing."

Consultant Planner - Councilor Russi asked what the opportunity would be to require mitigation of the City Market/Walters Lane intersection, since it is difficult and dangerous. Consultant Planner Davis Farrar suggested creating a special improvement district so that road improvements at that intersection were a collective effort amongst property owners there. He said a traffic analysis as well as a land use analysis would be needed to determine the future needs of the intersection.

Consultant Farrar and the council briefly discussed the county Comprehensive Plan and their concerns with it. Administrator Barton told the council that the BOCC would like to meet on May 10th at 6:00 p.m. to discuss the East Elk Creek road/trail, following an on-site meeting at 2:00 p.m.

Mr. Michael Blair of the Glenwood Springs planning commission told council that Glenwood and Carbondale felt it a good idea to have an agreement with the county regarding the Comp Plan that addressed their concerns, although he thought it might be difficult to work out with them.

Consultant Engineer - not present

### **Items for Consideration**

#### **Letter of Interest from Sondra Smith for appointment to the Climate Action Advisory Committee.**

Ms. Smith greeted the council and told them she had recently relocated to the area from Florida. She said she had a great interest in environmental issues, and felt that protecting our environment was not only good for citizens, but for tourism as well.

**MOTION: Councilor Russi made a motion to appoint Sondra Smith to the Climate Action Advisory Commission. Councilor Bunn seconded the motion and it passed unanimously.**

### **Action Items**

#### **Comcast Franchise (continue public hearing)**

Mayor Breslin opened the public hearing at 7:45 p.m.

There were no public comments

**MOTION: Councilor Leland made a motion to continue the public hearing until such time the Town Administrator was prepared to place the item on the agenda. Councilor Metzger seconded the motion.**

Discussion: Councilor Russi asked why the Town was required to engage in negotiations with Comcast. Attorney Smith explained that it was not only Comcast, it was other utilities as well - electric, telephone - because they use the Town Rights of Way, and in exchange, the Town receives franchise fees that increase revenues.

**The motion passed unanimously.**

Town Clerk Harrison told council that that the statutes that govern franchise negotiations suggested the town hold a public workshop or forum. She said that staff had done a survey, and had not received any additional citizen input for several months, but asked if council would be interested in providing the workshop. Mayor Breslin asked Teresa Hamilton of Garfield RE-2 School District, who was in the audience, what she thought the Town should ask for from Comcast. Ms. Hamilton stated that the City of Rifle actually had three Access TV Stations they could use. The issue then was time to create content for those three channels. She also suggested that the Council speak with Paul Vandre of Glenwood TV, since he runs many of the access channels in the area. Marcie Jaeger stated that in the Vail area there were a lot of problems with Comcast service, and she felt that Town should ask for cable upgrades as part of the negotiations, to ensure good service.

**Executive Session 7:56 p.m.**

**Councilor Leland made a motion to go into executive session 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) regarding Garfield RE-2 proposal. Councilor Metzger seconded the motion and it passed unanimously.**

**Executive Session concluded, 8:05 p.m.**

Mayor Breslin announced, "The time is now 8:05 p.m., and the executive session has been concluded. The participants in the executive session were: Mayor Breslin; Councilors Russi, Riddile, Metzger, Mayor Breslin, Councilors Bunn, Leland and Stuckey; Teresa Hamilton, Town Clerk Harrison, Town Administrator Barton, Town Planner Cain and Consultant 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."

No concerns stated.

**Ordinance TC-2011-4, an Ordinance of the Town of New Castle Town Council Amending the Municipal Code Concerning the Adoption of new Sign Code (second reading)**

Mayor Breslin noted that the first page of the sign code ordinance was stating police powers as opposed to promoting access to customers by a commercial business. He did not feel the statements in the 'whereas' section were in keeping with the rest of the Town codes. Consultant Farrar stated that the actual ordinance section of the document would not be included as part of the municipal code, only the exhibit portion would be in the code, so that the language Mayor Breslin did not care for would not be apparent at publishing. Attorney Smith stated that the 'whereas' section could be changed to state what the council wanted. Councilor Leland stated he had several corrections that he would turn over to staff. Councilor Stuckey noted that the word 'fascia' in the definitions section was used incorrectly, and probably should be removed. Staff and council discussed several additional items in the document, and agreed that changes would be submitted to staff by Councilor Leland.

**MOTION: Mayor Breslin made a motion to approve Ordinance TC-2011-4, an Ordinance of the Town of New Castle Town Council Amending the Municipal Code**

Concerning the Adoption of new Sign Code, on second reading, with amendments submitted to staff. Councilor Bunn seconded the motion and it passed on a roll call vote: Councilor Bunn: yes; Councilor Leland: yes; Councilor Stuckey: yes; Mayor Breslin: yes; Councilor Riddile: yes, Councilor Russi: yes; Councilor Metzger: yes.

## Items for Consideration

### Lakota Canyon Ranch Discussion

#### **Consider approval of temporary Tolling Agreement for Lakota violations**

Consultant Attorney Mike Sawyer updated the council on the ongoing issues with the Lakota foreclosure and warranty work. He noted that the packet included an amended tolling agreement, extending the existing agreement through May 20, 2011 to provide the Receivers and attorneys time to negotiate the warranty, security and tap fee items. He asked that council consider approving that agreement extension. Receiver Marcie Jaeger, of Cordes and Company, greeted council and described the work done to bring all the Lakota issues to a close. Attorney Sawyer told council that Receiver Mike Staheli had already signed the amended tolling agreement in anticipation of council approval. Attorney Sawyer asked Clerk Harrison if she would make certain that verification of Mr. Staheli's signing of the agreement was part of the record.

**MOTION: Councilor Leland made a motion to approve the Mayor signing an amendment to the Tolling Agreement, dated April 18, 2011, by and between the Town of New Castle and Lakota Canyon Ranch acting by Cordes and Company, the court-appointed receiver. Councilor Bunn seconded the motion and it passed unanimously.**

#### **Ordinance 2010-2, an ordinance of the New Castle Town Council Revoking the Vested Rights for the Remaining Undeveloped Portions of Lakota Canyon Ranch P.U.D. (second reading)**

Item tabled.

**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, regarding Lakota Canyon Ranch.**

The executive session was cancelled.

#### **Garfield County All-Hazard Mitigation Plan**

Betsy Suerth, of Garfield County greeted council. Ms. Suerth described the county plan for hazard preparedness, which differs from hazard recovery. The Hazard Mitigation Plan looks at the risks for the community and devises a plan to reduce the impacts. She said the plan was also about long-term recovery. Ms. Suerth said the information in packet was an invitation to the Town to become involved with the county plan, and that the county would work with New Castle to devise our own hazard mitigation plan. She said that oil drilling companies and fire districts were interested in being a part of the plan, and that joining with the county plan would provide grant opportunities for the Town.

Additionally, the county would assist with some GIS mapping of the Town.

**MOTION: Councilor Russi made a motion that the Town of New Castle participate in the Garfield County Multi-Jurisdictional Pre-Disaster Mitigation Plan. Councilor Riddile seconded the motion and it passed unanimously.**

### **Consider authorizing the Mayor to sign the 2011 Mosquito Control IGA**

Public Works Director John Wenzel asked council for their approval to enter into an intergovernmental agreement with Garfield County for mosquito control. Director Wenzel said that the Town had budgeted \$4,500.00 for the program. The cost would be \$4,600.00, minus \$1,100.00 funding by the county, leaving a balance of \$3,500.00. Mayor Breslin asked if the larvicide used in the water caused any harm to the shorelines or left a green residue. Director Wenzel stated he had not made that observation, but would find out.

**MOTION: Councilor Leland made a motion to approve authorizing the Mayor to sign the 2011 Mosquito Control IGA with Garfield County. Councilor Stuckey seconded the motion and it passed unanimously.**

### **Street Trees Discussion**

Administrator Barton told council the trees discussion was back on the agenda at the council's request. He asked for direction from council on how to move forward with it. Council discussed how the tree maintenance issue could be resolved by enacting an ordinance turning maintenance of street trees over to the property owners. Mayor Breslin felt the ordinance should be worded in such a manner to encourage the citizens to want to care for the trees, as opposed to the language being punitive. He thought perhaps information could be provided to residents regarding specific street trees in their care, identifying the species and its needs. Councilor Metzger felt the issue was perhaps a bit controversial because of the economy and people could not afford to sponsor trees. She noted that her research indicated other municipalities had the maintenance ordinances in place for many years. Mayor Breslin suggested that the ordinance be set aside for the time being. Director Wenzel felt that the Town should address the hazardous trees. He stated removal was less expensive and time consuming than maintaining them. He also felt the Town should continue street tree maintenance for now, and Mayor Breslin agreed.

### **Infrastructure Plan Revision Discussion**

Public Works Director John Wenzel gave council an update on the infrastructure plan which included updates to the raw water system, and information regarding a traffic signal light or roundabout at Castle Valley Boulevard and Highway 6. Director Wenzel stated that he felt the improvements to the water plant and the raw water system were priorities to reduce demand on the potable water system. Administrator Barton told council that as part of his staff report he would be asking council to rank the council goals in priority order, which included the infrastructure plan. Councilor Leland asked if a DOLA grant could be used for the water systems. Councilor Bunn stated that the Town could file with the assessor to use mill levy funds, but that the tax would not be available for a year. Director Wenzel said staff would also be prioritizing the goals.

### **Consider Approval of Street Maintenance Agreement**

Director Wenzel asked council for their approval on two maintenance contracts. The first with Sealco in the amount of \$27, 100.00 for crack sealing on Town streets; \$3,500.00 of which would come from the utility fund to repair Rio Grand Avenue, where there had been

a water leak. The second contract was with Frontier Paving for milling and asphalt patching in the amount of \$27,400.00. Councilor Leland asked if the work to be done was on streets in most serious need of repairs, and if there were other streets that needed attention as well. Director Wenzel said there were many other streets in need of attention, and that his department would use the extra \$3,500.00 to rent equipment to mill and patch streets themselves. Councilor Bunn asked if any of the alleys in the downtown area would be looked at. Director Wenzel said that his department would again obtain milling material from CDOT to use on the alleys.

**MOTION: Councilor Leland made a motion to accept the bids for street maintenance from Sealco and Frontier Paving. Mayor Breslin seconded the motion and it passed unanimously.**

### **Consider Earth Day Proclamation**

Town Clerk Melody Harrison told council she had been contacted by a nation-wide organization called the Earth Day Network, whose goal is to promote Earth Day everywhere. They asked that council consider proclaiming April 21 as Earth Day.

**MOTION: Councilor Russi made a motion to proclaim April 21, 2011 as Earth Day in the Town of New Castle. Councilor Riddile seconded the motion and it passed unanimously.**

### **Consent Agenda**

Renewal of Liquor License for Hongs Garden  
Patti's Main Street Tap Fee Contract

**MOTION: Councilor Russi made a motion to approve the consent agenda. Councilor Riddile seconded the motion and it passed unanimously.**

### **Council Comments**

Mayor Breslin asked if there would be funds available to have military insignia cut into "Soldier's Circle" at Highland Cemetery. Administrator Barton stated that he had spoken with Mike Miller, the cemetery caretaker, who said the American Legion would cover the cost. Council agreed that Mike Miller should be recognized for his efforts.

Councilor Leland said he had been contacted by Susie Romig who requested that the council consider placing "creek-side protection" on the agenda. He also asked if anyone had been in contact with Dave Schroeder regarding the detention pond in Castle Valley. Administrator Barton said that had not been done yet. Councilor Metzger said she had received an e-mail from Mr. Schroeder saying that he had not yet spoken with Justin Winhold. Last, Councilor Leland said that HPC had toured the historical museum and that both he and Councilor Riddile had been negatively affected by the mold in the museum. He thought perhaps something may have to be done about it. Mayor Breslin stated that the mold problem existed with the items in the museum, not necessarily with the building. Councilor Stuckey stated that he had been in the building and that it was in sound condition, with the exception of a few areas. He stated that he would pursue grant funding to make improvements to the museum.

Councilor Metzger said there was some confusion about committee rotations. Clerk Harrison stated that the only rotation schedule she did not have was for CAAC, because the current rotation included councilors who were no longer with the Town, so the schedule fell completely apart. The other committees had a rotation that had been e-mailed to the councilors. Councilor Russi said he had volunteered for CAAC and if another councilor would like to volunteer, he would be fine with that. Councilor Metzger said the Planning Commission needed more members, and that HPC would like water pitchers available for their meetings. She also said that she had received a compliment about the

nice condition of the golf course.

**MOTION: Councilor Riddile made a motion to extend the meeting past 10:00 p.m. Councilor Russi seconded the motion and it passed unanimously.**

Councilor Russi told the council that he was doing some work for Sandy Karp, who is the Senior Partner of Karp.Neu.Hanlon. He felt that information should be on the record even though he did not do any work with Town Consultant Attorney Mike Sawyer or Lakota Canyon Ranch.

Councilor Bunn asked if staff would convey council's feelings on the change of date for Burning Mountain Festival and Administrator Barton said he would be meeting with Bucky Moser the following day and would pass them on. Councilor Metzger said the Chamber indicated that the change of date was an experiment for 2011 only, to see how it worked out. Councilor Leland said the Chamber intended to schedule some other event for the second weekend in July.

### **Staff Reports**

Public Works Director - John Wenzel - Community Clean-Up would be Friday May 20 and Saturday May 21, from 9:00 a.m. to 4:00 p.m., at the public Works compound. He said they would be open until the dumpsters were full, and would be limited to town residents only.

He also said that both inmate workers and the eighth grade class from Riverside Middle School were working on trash detail around town.

Mayor Breslin told council he thought that "no littering" signs should be posted in town. Town Clerk - Clerk Harrison told council that a resolution would be coming soon that gave them the opportunity to be a review agency for tax exempt status under the Town's recent designation as a Certified Local Government for historic preservation.

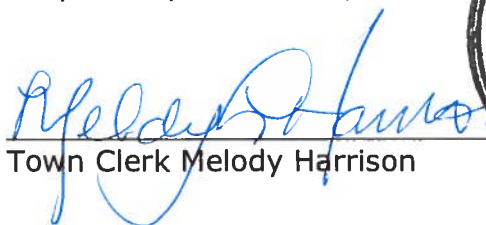
Town Administrator - Administrator Barton stated that the BOCC wanted to have a meeting in New Castle on Tuesday, May 10 at 6:00 p.m. regarding East Elk Creek. Additionally, they wanted to do a site visit at 2:00 p.m. Council agreed the meeting should be at the Community Center to accommodate the public. Last, Administrator Barton said that at the previous council meeting, council had discussed employee health insurance costs, and that staff asked that further discussions be deferred until the 2012 budget discussions. Council agreed.

Mayor Breslin asked about the CML Conference. Administrator Barton said it would be the third week in June and that he would provide council with the agenda.

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

**Adjourn, 10:23 p.m.**

Respectfully Submitted,

  
Town Clerk Melody Harrison



  
Mayor Frank Breslin