

**New Castle Special Town Council Meeting
Tuesday, October 7, 2014, 6:00 p.m.**

Call to Order

Mayor Gordon called the meeting to order at 6:01 p.m.

Pledge of Allegiance

Roll Call

Present	Councilor Means Councilor Riddile Councilor Metzger Mayor Gordon Councilor Breslin Councilor Leland Councilor Stuckey
Absent	None

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Town Attorney David McConaughy, Town Planner Tim Cain and Town Finance Director Lyle Layton.

Meeting Notice

Clerk Harrison verified that her office gave notice of the meeting in accordance with Resolution TC-2014-1.

Conflicts of Interest

There were no conflicts of interest.

Citizen Comments on Items not on the Agenda

There were no citizen comments.

Items for Consideration

Town Attorney David McConaughy told the council that they could discuss the Senior Housing project in open session, and the council could decide during that discussion if an executive session was necessary.

Attorney McConaughy told the council that he had received a draft lease-purchase agreement from Community Resource Housing Development Corporation (CRHDC) that he had made changes to and sent back to them. CRHDC had not disagreed with the proposed changes. He said that he would like to know if the council agreed with the staff suggestions. He said he felt the real issue was whether the council agreed with the terms

of the deal, which included a lease term of two to four years for the nominal amount of \$1,000.00 per year and an option agreement that gave CRHDC the right to purchase the property after the deed restriction on the property expired. If CRHDC decided to purchase the property, it would be at full fair market value as determined by an appraiser. Attorney McConaughy had proposed a process by which an appraiser would be chosen. He said there was a requirement the applicant should be aware of in that the parcel is part of the Lakota Canyon Ranch PUD, which means nothing can be built until a PUD approval process is done. This will include sketch, preliminary and final plan approval through the Planning & Zoning Commission, as well as approval of an ordinance by town council. The process will take three to four months. Attorney McConaughy said he had provided this information to the applicant in November 2013 through Town Planner Tim Cain. Signing the lease prior to the land use approval is unusual but the applicant needed to show they had legal rights to the property to qualify applying for the necessary grants that will pay for the project.

Administrator Baker explained that CRHDC had done the same thing on the Front Range and had invested almost \$400k before they were able to get the tax credit authorization. He said they would explain later why their plan changed from the four percent to the nine percent tax credit program, and what it means. He said he felt they were committed to moving forward on the process while they applied for the tax credit program. This meant they were putting their money at risk, even if it took more than one application cycle to qualify for the tax credit.

Attorney McConaughy told the council that he felt the whole proposal was very straightforward. He asked if the council was willing to tie up the parcel and preclude other uses for as long as four years, for \$1,000.00 per year. There was the possibility they may not exercise the option to buy the land.

After a brief discussion, the council felt they should go ahead with the staff suggestions. Administrator Baker and Attorney McConaughy explained the process and basic timeline of the project including the lease-purchase, the application for the tax credits, the land use process for sketch, preliminary and final plans, and the land purchase and construction. They also said that CRHDC could explain some of the changes in the process they made since the last time council met with them.

~~**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 Colorado Resource Housing Development Corporation Lease Purchase Agreement**~~

The executive session was cancelled.

2015 Budget Proposal

Finance Director Layton gave a copy of the proposed 2015 budget to each council member. He reviewed some of the major points in the budget. He asked that the council to review it and contact him with questions. He told the council that the proposal did not include any salary increases or additional positions, those items would be considered during the council retreat.

Administrator Baker told the council that the budget could be further refined at a special meeting and at the retreat.

At 6:40 Administrator Baker told the council that after conferring with the town attorney, they felt the senior housing discussion could begin immediately as a work session, and once the regular meeting began at 7:00, the discussion could continue.

Andy Proctor, Department of Local Affairs, Division of Housing. Mr. Proctor explained to the council that CRHDC had altered the project to the nine percent tax program because the previously proposed four percent tax created a funding gap that was too large to overcome, and keep the project affordable.

Administrator Baker asked Mr. Proctor if the reason they wanted to purchase the land was because of the nine percent tax program. Mr. Proctor said that the four percent program gave them less equity, not enough to purchase the land. The nine percent gave them enough to pay for the land rather than a ground lease, although purchasing the land was not required for the tax program.

Attorney McConaughy asked what would happen if the land appraisal came back twice as high as everyone expected. Mr. Al Gold said they wanted to have the land appraised now, and the council felt that was not beneficial for the town. Councilor Stuckey asked if the appraisal was done now, if the town could request a percentage increase of the property value based on the market, and Mr. Gold agreed it could be negotiated. Mayor Gordon said he thought it was reasonable the CRHDC was asking for a locked-in land purchase price because the town was asking them to proceed with the project. Mr. Proctor said that locking in a price now gave both parties clarity and assurance to move forward. The draft contract had an agreement on how the land would be fairly appraised. He felt that both parties were helping the other achieve their goals.

Attorney McConaughy said a provision could be added to the lease-option agreement to provide an adjustment to the purchase price should the economy increase or decrease. He thought that perhaps the Consumer Price Index could be the appropriate gauge for any change in land value.

Carly Johansson, of CRHDC, said that there was survey work being done on the property as part of the tax credit application process. The next date for applying will be February or May, 2015. She said they would like to have an appraisal done as well as release an RFP for an architect. The market study is very much in favor of affordable senior housing. Moving forward with the PUD process would make their tax credit application more competitive.

Ms. Johansson said that finalizing the lease-option agreement would be the first step towards finalizing the tax credit application.

Attorney McConaughy advised the council that the regular meeting should be called to order.

**New Castle Town Council Meeting
Tuesday, October 7, 2014, 7:00 p.m.
Town Hall
450 W. Main Street**

Call to Order

Mayor Gordon called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Roll Call

Present	Councilor Means
	Councilor Riddle
	Councilor Metzger
	Mayor Gordon
	Councilor Breslin
	Councilor Leland
	Councilor Stuckey

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Town Attorney David McConaughy, Town Planner Tim Cain and Town Finance Director Lyle Layton.

Meeting Notice

Clerk Harrison verified that her office gave notice of the meeting in accordance with Resolution TC-2014-1.

Conflicts of Interest

Councilor Stuckey stated that he may have a conflict or the appearance of a conflict with the Warrior item, and would recuse himself. The council agreed.

Agenda Changes

Administrator Baker told the council he would like to remove the minutes from the consent agenda. He explained that staff had had an extraordinary week, and it had been necessary to remove Clerk Harrison from her regular duties. He said the minutes would be available very soon. The council agreed.

Citizen Comments on Items not on the Agenda

There were no citizen comments.

Update: Colorado Community Resource Housing Development Corporation

Administrator Baker summarized the work session discussion for the council:

During the work session council received an explanation why the financing strategy was changed from a four percent to a nine percent tax credit. This was because the financing gap seemed to be insurmountable with the four percent strategy. The nine percent strategy is more rigorous but provides a higher chance of success.

The first step needed was that council and Community Resource Housing Development Corporation (CRHDC) needed to agree on a lease-purchase option that would provide CRHDC site control needed to proceed with the tax credit application. There was talk about an escalator/de-escalator clause if an appraisal would be done in the near term. Last, CRHDC agreed that once they had site control, they would move forward immediately with the project.

Councilor Leland asked how long it took for CRHDC to get the tax credit on their other project. Ms. Johansson said it took about a year and a half. Councilor Leland said that was probably good since there was still two years on the property restrictions.

Councilor Leland asked about the results of the market report.

Ms. Johansson described the competition and capture rates in the study. She also described how they pertained to the tax credit application. She also described the waiting lists at the other senior housing projects in the county, which were very high.

Councilor Riddile asked how the project would be handled should Mr. Gold or Ms. Johansson leave employment at CRHDC. Mr. Gold said that CRHDC had been in operation for forty-three years, and they had a succession plan in place. He felt that there was enough stability in the organization to easily move forward should one person leave the company.

Councilor Stuckey asked if any infrastructure or other work would be done on the site prior to receiving the grant. Mr. Gold said some preliminary work would be done, such as soils tests and engineering, but no construction would be done before financing was in place. Mr. Gold and Ms. Johansson said they would like to get through the land use process as well.

Attorney McConaughy said he would draft another lease-purchase document for the council to consider at the next meeting.

The council thanked Mr. Gold, Mr. Proctor and Ms. Johansson.

Items for Consideration

Update: Lakota Warranty Work

Councilor Stuckey asked to be recused. The council agreed. Councilor Stuckey left council chambers at 7:20 p.m.

Administrator Baker asked Town Engineer Jeff Simonson to provide the council an update on the bridge and pedestrian trail after the Warrior discussion.

Engineer Simonson told the council he had spoken with Blaine Wright who is inspecting the work for the town. He said the original bid-scheduled work in filing 5 was complete, but that there was additional work that would have to be done. This was a result of additional damage done during construction and because of the recent wet weather. Spur Drive subgrade improvements/repairs have been done and they were waiting for the holes to dry out. Paving is scheduled to take place on the 17th. Work on Faas Ranch Road was supposed to begin the next week.

Bob Gibson and Engineer Simonson agreed that it was important to seal up the open areas of roadway before winter weather set in. Engineer Simonson told the council there was crack sealing and chip sealing that should be scheduled in the spring, when there was warmer weather.

Mr. Gibson said that the letters of credit had been extended into November, so that the town was covered.

Engineer Simonson felt that the work could be complete in 2014, with the exception of the crack and chip seal. The letters of credit would have to be readdressed to accommodate that work next year.

Attorney McConaughy said that the agreement that required completion of the warranty work by September 1, 2014 had not been amended. The direction to staff had been to send the applicant a notice of breach. The letters of credit had been extended to November 28, 2014. The council had the option to call those letters of credit at any time and then the town would complete the work, although staff was not recommending it. Attorney McConaughy said the agreement could be amended to include the scope of work that could not be completed by November 28, and felt that Engineer Simonson should provide a list of incomplete items and an appropriate amount of security. Attorney McConaughy said staff was not recommending the agreement be amended or that any remedies be exercised, instead he thought the default should be remedy enough for the time being.

Councilor Stuckey returned to chambers at 7:30 p.m.

Engineer Simonson said that the railroad section of the pedestrian bridge was scheduled to be set on October 14. The I-70 section would be set on October 15, and the river section on October 21. He described how the bridge sections would be assembled and set, and when there would be road closures.

He said the pedestrian trail was essentially on schedule and budget.

Mr. Zachariah Milby, of 841 Mt. View Drive, asked Councilor Stuckey by what criteria he chose to recuse himself. Councilor Stuckey said that Warrior was one of his clients; that he had designed the clubhouse and he had designed some homes for them. Mr. Milby said there had been no topic discussed in which Councilor Stuckey had a substantial economic interest. Councilor Stuckey said he recused himself to avoid there being the appearance of a conflict of interest. Mr. Milby asked if the municipal code or the council had a list of criteria for recusal. Councilor Stuckey said he had been advised by the town attorney, David McConaughy, and whenever there was a possible question, or the appearance of a conflict, he felt it was better to err on the side of caution by recusing.

Mr. Milby said he felt that the councilors were elected to make decisions on behalf of the citizens, and to be in attendance at meetings, and he was concerned Councilor Stuckey was recusing himself unnecessarily.

Again, Councilor Stuckey stated that he wished to err on the side of caution, and would not want to appear conflicted in some way, or appear to be influencing the other council members. Anything that influenced his client financially could influence whether or not they employ him. The warranty work is a substantial amount of money and it could influence them to do or not do something else that he may be involved in.

Councilor Breslin asked Attorney McConaughy if FedEx might have been interested in a site in New Castle.

Attorney McConaughy said he was the attorney for the developer and could not comment, but said he had put his client directly in touch with Administrator Baker.

Consent Agenda

September bills of \$759,523.58

Silver Club Saloon Tavern Liquor License Renewal

Proclamation -October Conflict Resolution Month

MOTION: Councilor Leland made a motion to approve the consent agenda.

Councilor Riddile seconded the motion and it passed unanimously.

Rosie Ferrin – Historic Community Discussion

Administrator Baker said he had begun a flip chart in relation to the Historic Community discussion and would get up from time to time to write down the various ideas.

Rosie Ferrin, New Castle resident.

Ms. Ferrin greeted the council and thanked them for allowing her to speak with them.

Ms. Ferrin told the council that she was establishing the Ferrin Foundation, and would like to see a collaborative effort between the town and her foundation to make her dream of a historical community come true. The historic community would include arts, music, history and environment.

Ms. Ferrin said when she was teaching second grade social studies she obtained information about the Williamsburg Historical Community, and felt that Williamsburg reminded her of Main Street New Castle. After the school district moved out of the old schoolhouse, she told herself she wanted to do something with the old building. Ms. Ferrin did not feel she and her husband's heirs would carry on with her work towards a historical community. This is why she was speaking with the council.

Ms. Ferrin described her efforts over the years to preserve and protect the New Castle community, as well as the surrounding area. She also described her efforts to help the homeless, as well as restore the old schoolhouse building. Ms. Ferrin felt she had a good relationship with the Garfield County Commissioners, and had their commitment to assist her in building a historical community in New Castle.

Ms. Ferrin and the council discussed her ideas at length. The council stated their interest in the historical community idea, and told Ms. Ferrin they needed more information and also needed to speak with the town attorney for advise on how to proceed.

Ms. Ferrin felt it was too soon to involve attorneys and stated that she was disappointed in the reception the council offered her and her historic community dream. Ms. Ferrin said she would have to reconsider her partnership offer to the town.

Zachariah Milby said he felt the council was acting appropriately, because it would be irresponsible for the council to jump into such a project without any deliberative discussion. The purpose of any legislative or governing body. He said he felt discussion

with the town attorney was appropriate, and felt that the county commissioners should do the same.

Mayor Gordon thanked Ms. Ferrin for making her presentation to the council, and assured her they would study it thoroughly.

Consultant Reports

Consultant Attorney – present for agenda items

Consultant Planner – not present

Staff Reports

Town Administrator – Administrator Baker told the council that Public Works Director John Wenzel would attend the next council meeting and describe the ICS planning model for the council, so they could understand how Debbie Nichols utilized it to plan Burning Mountain Festival. He asked the council to feel free to comment so that their ideas could be incorporated into the next event planning.

Councilor Metzger said that the organization at Elk Creek Elementary for the parade was a little messy. She thought that each parade entrant could be assigned a number and the parking lot be staked out with those numbers so each entrant was staged and things stayed more organized. Administrator Baker said that task could be assigned for next year. Councilor Leland suggested that John Harcourt be asked to share the organization system he used for the 125th anniversary parade because that seemed to work well.

Councilor Breslin said he was impressed how well everything went with Burning Mountain Festival. How much the very small staff was able to accomplish in such a short time frame and to have the event go so well was quite an accomplishment. Councilor Leland said his wife was a vendor this year, and the vendors all liked the way they had been managed. Administrator Baker said he had also hear that the vendors were pleased.

Administrator Baker told the council that occasionally, the staff received special event applications for block parties. There had recently been a block party on Safflower Court that had gone very well. The applicant asked if the party could be done strictly on private property because they could not afford the liability insurance necessary to use the public right of way. Staff felt that as long as the neighbors were notified, the event remained on private property and the music ended at a reasonable time the applicant should move forward with their event. Administrator Baker felt this was in line with the council's effort of civic engagement and encouraging community-building efforts.

Administrator Baker said that at the retreat he would like to concentrate the time that Town Clerk Harrison, Finance Director Layton and Public Works Director Wenzel were in attendance. He did not want to bring in more staff than necessary, and wanted to dismiss them late morning, with council finishing in the early afternoon. The council agreed.

Administrator Baker told the council that there was an effort by Terry Knobb to resurrect the chamber of commerce. He said staff was working with them, and that Ms. Knobb would bring her ideas to them in the future.

Town Clerk – Clerk Harrison told the council that she and Debbie Nichols had been discussing the town Christmas party, and were wondering how the council felt about

moving the party to January, and calling it an Employee Appreciation party. The council generally agreed with the idea, as it provided some extra time, and some more open scheduling in the local restaurants. Clerk Harrison told the council that she had been looking into the online bill-pay option for the town and would bring that information to the council retreat. She also told the council that she would be bringing the citizen votes to them at the next council meeting for their consideration. She asked if they wanted to see all suggested names, or just the top few. The council agreed that they wanted to see all the name suggestions so they could choose their favorite one and that they would not necessarily choose the name with the most suggestions for naming the bridge and trail.

Town Planner – not present
Public Works Director – not present

Commission Reports

Planning & Zoning Commission – nothing to report
Historic Preservation Commission – nothing to report
Economic Advisory Committee – nothing to report
Senior Programs – nothing to report
RFTA – nothing to report
Associated Governments of Colorado – not so many citizen initiatives on ballot

Council Comments

Councilor Stuckey said that he felt it would be a good idea that Attorney McConaughy provide the council with a list or some written guidelines regarding conflict of interest. He felt the information could be provided at the council retreat.

Councilor Leland told the council that the construction of the Jolley Trail was complete. He said there were a lot of citizens that volunteered as well as Roaring Fork Outdoor Volunteers. He said he had already seen people using the trail.

Councilor Leland read an e-mail from Anne Stuckey that stated there were perhaps events on the town website that were outdated because that section of the site was an ongoing social media blog.

Administrator Baker said he had a discussion with the Garfield county webmaster who said the new town website was wonderful.

Councilor Breslin said that he and his wife had recently reflected on the town and how talented the staff was, and felt that the town should be poised for success.

Councilor Metzger told the council that Emily Barham of Me and My House was unable to attend the council meeting on September 16 because she was so busy. Councilor Metzger was not sure why Ms. Barham had not shown up this evening.

Councilor Metzger said that a doctor friend of hers, who lived in Glenwood Springs, brought his children to New Castle because the recreation programs were so wonderful. She said the Larry McDonald, the Recreation Director, was doing a very good job.

Councilor Metzger thought flowers should be sent to Elk Creek Elementary to congratulate them for being chosen as a National Blue Ribbon School. Councilor Leland said he would write a proclamation.

Councilor Riddile asked that Public Works Director John Wenzel be complimented on the excellent job he did running the previous council meeting. Administrator Baker said he would pass it along.

Mayor Gordon wanted to clarify that the Talbotts had not graduated from the old schoolhouse. He said his class was the last to graduate there.

Councilor Metzger asked what they would do about Ms. Ferrin.

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

The meeting adjourned at 9:55 p.m.

Respectfully Submitted,



Mayor Bob Gordon



Town Clerk Melody Harrison, CMC

