

1 **New Castle Planning and Zoning Commission Regular Meeting**
2 **Town Council Special Meeting**
3 **Wednesday, June 26, 2013, 7:00 p.m.**
4 **Community Center, 423 W. Main Street**

5
6 **Call to Order**

7 Commission Chair Chuck Apostolik called the regular Planning and Zoning
8 Commission meeting to order at 7:00 p.m.

9
10 **Roll Call**

11 Present

12 Commissioner Borgard

13 Commissioner Breslin- left at 9:17p.m.

14 Commissioner Riddile- arrived at 7:04p.m.

15 Commissioner Slack

16 Absent Commissioner Holley

17
18 Also present at the meeting were Town Administrator Tom Baker, Town Clerk
19 Melody Harrison, Town Planner Tim Cain, Consultant Attorney David McConaughy,
20 Deputy Town Clerk Wendy Mead, and members of the public.

21
22 **Town Council**

23 **Call to Order**

24 Mayor Breslin called the Town Council special meeting to order at 7:01p.m.

25
26 **Roll Call**

27 Present

28 Councilor Riddile

29 Councilor Metzger

30 Councilor Gordon

31 Councilor Leland

32 Councilor Stuckey

33 Mayor Breslin

34 Absent Councilor Russi

35
36 **Pledge of Allegiance**

37
38 **Planning and Zoning Commission**

39
40 **Meeting Notice**

41 Deputy Town Clerk Wendy Mead verified that her office gave notice of the meeting
42 in accordance with Resolution TC-2013-1.

43
44 **Conflicts of Interest**

45 There were no conflicts of interest.

1 **Citizen Comments on Items NOT on the Agenda**

2 There were no citizen comments.

3

4 **Town Council**

5

6 **Meeting Notice**

7 Town Clerk Melody Harrison verified that her office gave notice of the meeting in
8 accordance with Resolution TC-2013-1.

9

10 **Conflicts of Interest**

11 There were no conflicts of interest.

12

13 **Citizen Comments on Items NOT on the Agenda**

14 There were no citizen comments.

15

16 **Items for Consideration**

17 **Discussion and direction concerning recreational marijuana and use within
18 Town limits**

19 Town Attorney McConaughy said the objective of the meeting was to solicit input
20 from members of the public, the Planning and Zoning Commission and the Town
21 Council giving staff direction regarding Amendment 64, legalizing recreational use
22 of marijuana in the State of Colorado. If the Town Council chooses to ban
23 recreational marijuana then staff will prepare an ordinance to that effect. If the
24 Council chooses to allow recreational marijuana, it would be up to the Planning and
25 Zoning Commission to make recommendations where the use would be allowed
26 within the Town limits and to recommend to Council how to change the Town Code
27 to reflect the allowed use.

28

29 Town Attorney McConaughy said there are four uses that could be banned
30 altogether or separately. The uses are retail marijuana stores, retail marijuana
31 cultivation facilities (grow centers), retail marijuana product manufacturers
32 (infusing food with marijuana) or retail marijuana testing facilities which will
33 determine and verify the amount of toxins in the products sold for retail.

34

35 Town Attorney McConaughy said once the Council decides whether or not to ban
36 retail marijuana then the discussion could proceed to the land use regulation and
37 taxation of retail marijuana.

38

39 Commission Chair Apostolik opened the discussion to the members of the public in
40 attendance.

41

42 Howard Stapleton, 5907 County Road 214, said he is opposed to retail marijuana in
43 the Town of New Castle. He said that he didn't want New Castle to look like
44 Glenwood Springs with all the marijuana shops. He thought that medical marijuana
45 regulation was a joke.

46

47 Dr. Bill Bevans, 289 Mikala Lane, a family physician, presented a Power Point

1 presentation explaining the negative affects of marijuana on the human brain and
2 behaviors. He said that people become addicted to marijuana because of the feeling
3 they get from using it. He was concerned that more young people would have
4 access to marijuana if the sale of retail marijuana was allowed in New Castle. He
5 said that New Castle has a choice in whether to allow the sale of recreational
6 marijuana. New Castle is a progressive, healthy, strong community and he was
7 opposed to the retail sale of recreational marijuana in New Castle.

8
9 Peter Schaffner, 165 Current Dr., Youth for Christ, said he and his wife have
10 worked with youth in the area for many years. He said that while cities and towns
11 in the area may benefit with the taxation of retail marijuana, there are no cost
12 estimates on the social effects marijuana has on a community. He is concerned that
13 more young people will use marijuana if retail sales are allowed. He opposed to the
14 retail sale of marijuana in the Town of New Castle.

15
16 Joe Todd, owner and general manager of White River Bar and Grill, 219 W. Main
17 Street, said he is in favor of the retail sale of recreational marijuana. He said that
18 with the taxation of the marijuana, the education system in the State will benefit.
19 He explained about living in a "dry" (non-alcohol) county in the south. People would
20 go to the neighboring county to get their liquor, that county would get the tax
21 dollars from those sales and even other items they bought while in that county.
22 The point is that people in our community do use marijuana, and they will go to
23 other communities to get marijuana. The Town of New Castle could potentially lose
24 tax revenue by not allowing retail marijuana sales. He said assuming that children
25 will use marijuana more because there is retail marijuana in New Castle is an
26 assumption. He is in favor of retail of marijuana sale in New Castle.

27
28 Doug DeNio, 25 Buckskin Circle, said he is a victim of a spinal cord injury in 2006
29 and is paralyzed. In 2011, he got his medical marijuana license to help him cope
30 with his pain. The prescription medicines he has gave him awful side effects, and
31 the pain came back faster. He said there are two strains of marijuana, one that
32 helps with pain and the other affects the brain as Dr. Bevins presented. He feels the
33 medical marijuana system is lacking, which is why he did not renew his license. He
34 does not think downtown New Castle is the place for the retail recreational
35 marijuana shops, as there is already inadequate parking. The shops should be
36 located where there is parking and access to the shop. He would encourage the
37 Planning and Zoning Commission and Town Council to allow retail recreational
38 marijuana sales in New Castle. The cultivation of recreational marijuana should be
39 allowed because it is an herb. The citizens in the New Castle area voted for
40 Amendment 64 and it would be a revenue stream for the Town. He supports the
41 retail sale of marijuana.

42
43 Michael Weertz, no address given, said in the beginning he was opposed to the
44 retail sale of recreational marijuana due to the cost to taxpayers of drafting all the
45 legislation to regulate. He realized it is not the business of the Town to decide what
46 kind of legal businesses can open up in the Town of New Castle. The Town can put
47 restrictions, such as proximity to schools, hours, etc., but the people of the state

1 voted to allow retail marijuana sales. He supports the retail sale of marijuana.

2
3 Wesley Fullenwider said he is in attendance at the meeting to earn his Eagle Scout
4 badge, he is 17 years old. He said he does not use marijuana, but if he wanted to
5 use marijuana he could find it easily. He said since people are using marijuana
6 already, the Town should benefit from the retail marijuana sales. He supports the
7 retail sale of marijuana.

8
9 Patty Ringer, 331 W. Main Street, said some people, today, that people who use
10 marijuana maybe wrongly stereo-typed, at least the new user, as they are using for
11 medical purposes. Initially, she didn't want to see retail marijuana shops in New
12 Castle, but if they are well regulated, it might be safer for the community. She does
13 not want to see it in the downtown area, but maybe across the river. She does not
14 want to allow sales to adults under 25. She wondered if waiting three years before
15 making a decision, to see what other towns and cities in Colorado do was an option.
16 Town Attorney McConaughy said if the Town does nothing the retail marijuana sales
17 would be allowed in New Castle, in every zone district based on only on the State of
18 Colorado regulations. He said it would be better to ban the retail sales of marijuana
19 or at the very least come up with zoning regulations and a licensing scheme.

20
21 Chip Nealy, Riverpark, he is also has a back injury. He uses medical marijuana to
22 help him with his pain. He said the Town of New Castle should allow the retail sale
23 of marijuana. He said parents should be raising their own children and not allowing
24 the sale of retail marijuana was not going to solve the issue young people using
25 drugs. People are using marijuana anyway and there is not a moral issue with the
26 retail sale of marijuana. Many people in the New Castle area voted in favor of retail
27 sales of marijuana and the Town needs to listen to the voice of the people.

28
29 Todd Baginski, 14 Antler Loop, said he recently moved to New Castle to be in a
30 small community. He agrees that parents should be raising their own kids, making
31 them responsible people. He does not feel that the government should be
32 governing based on his children. Parents should be giving their children good
33 decision making skills. Retail marijuana shops are in Glenwood, he can not hide it
34 from his children.

35
36 Mr. Schaffner said that when something is legalized it validates the stigma of what
37 has been legalized. The community is trying to decide whether allowing retail sale
38 of marijuana is acceptable. Just because it is acceptable in one community does not
39 mean that it should be acceptable for the Town of New Castle.

40
41 Councilor Riddile said that at the federal level, marijuana possession is illegal, how
42 do medical marijuana facilities get taxed, when bank accounts are illegal for these
43 businesses under the FDIC regulations. Consultant Attorney McConaughy stated the
44 dispensaries are cash businesses unless the federal laws are changed then there is
45 no way to audit the sales for sales tax.

46
47 Commissioner/Mayor Breslin asked who would be the Town agent for issuing the

1 retail marijuana license and could they be prosecuted for issuing such a license.
2 Town Attorney McConaughy said that issue is being discussed at the Colorado
3 Municipal League wondering if town staff or elected officials could be held criminally
4 liable for allowing a use that violates federal law. There is not a strong consensus.
5 He said that is his opinion the Town of New Castle is not going to be the test case,
6 it will be a community on the Front Range. He also felt there was a duty to uphold
7 the Colorado Constitution.

8
9 Dr. Bevins agreed that Colorado had chosen to legalize marijuana. Marijuana used
10 now was as much a ten percent more potent than it was years ago. Nine percent of
11 users will become addicted. Mr. Todd asked if there statistics on the addictive
12 qualities of alcohol and oxycontin. Dr. Bevins said that oxycontin was one of the
13 most abused prescription drugs and the responsibility was back on physicians to do
14 a better job prescribing. One of the problems with marijuana was that it was not on
15 the list of controlled substances that legislation allowed a physician to monitor
16 online.

17
18 Councilor Leland said the next step in this process would be a public hearing at the
19 July 10, 2013 Planning and Zoning Commission meeting. The Council and the
20 Planning and Zoning Commission would be debating whether or not to ban and if
21 retail marijuana sales are not banned, where to allow retail sales of marijuana.
22 Across the river, in the industrial zone district is the most talked about zone district,
23 currently.

24
25 Mr. Todd said he would like to see more people come to the downtown area. He
26 does not know if allowing retail marijuana shops downtown is the answer but he
27 would like to see more community members in the downtown area.

28
29 Mike Edgar, 110 Carson Ct., said the voters of the State of Colorado passed
30 Amendment 64. The issue has nothing to do with the young people, the medical
31 effects but the bottom line is the Town needs to allow the sale of retail marijuana,
32 and make sure it is regulated properly.

33
34 Councilor Leland said another issue is the number of marijuana shops allowed in
35 New Castle. He said Carbondale did not limit the amount of medical marijuana
36 shops. Town Attorney McConaughy said that the Town liquor licensing process does
37 not put a limit on the number of liquor stores in town, but a prospective applicant
38 has to demonstrate a neighborhood need by having citizens sign a petition.

39
40 Commission Chair Apostolik said currently the meeting is just a discussion and he
41 sees no need to move to a direction at this point. Consultant Town Attorney
42 McConaughy said that a public hearing notice for the July 10, 2013 Planning and
43 Zoning Meeting has been posted. He would like to see Council make a
44 recommendation regarding retail marijuana. He would like to see Council, if they so
45 wish, to direct staff to draft an ordinance banning retail marijuana sales in New
46 Castle, so the public hearing for the Planning and Zoning Commission could be
47 cancelled saving the Town some expense.

1 Mr. Nealy wondered if the Planning and Zoning Commission and Town Council could
2 wait for the July 10 public hearing to see if more community members would attend
3 before banning retail marijuana sales. Town Attorney McConaughy said they could
4 but some action either banning the retail sale of marijuana or the regulations for
5 the retail sale of marijuana have to be effective October 1, 2013.

6
7 Councilor Gordon said there was a misconception with the election results regarding
8 Amendment 64. He said that voters passed Amendment 64 by 55%. It was not a
9 landslide. New Castle passed by 58% which was also not a landslide. He said it was
10 unnecessary to allow retail sales in New Castle because it was available elsewhere
11 locally. He said he did not want marijuana stores in his hometown. He said it was
12 about the Town's youth. He asked the police chief his opinion and received a memo
13 that he was willing to share with anyone who wanted it. Finally, he said that
14 approving, regulating and monitoring retail marijuana would be much more costly
15 to the town than people realized.

16
17 Councilor Riddile said he would like to wait and see what other communities do with
18 recreational marijuana sales. He would like to either take no action or a moratorium
19 if that is an option. His biggest concern with retail sales of marijuana is that it is a
20 cash business with no accountability.

21
22 Commission Chair Apostolik asked Town Attorney McConaughy if he thought the
23 recreational marijuana rules coming out Monday, July 1, 2013 would address the
24 accountability issue. Town Attorney McConaughy said if the regulations are similar
25 to the medical marijuana regulations, there would have to be a computer record
26 and camera recording of every transaction. Commission Chair Apostolik asked if
27 retail marijuana sales could ever be a non cash business. Town Attorney
28 McConaughy said no because the FDIC rules are from the federal level and Colorado
29 can not get around the federal banking rules.

30
31 Councilor Leland said if Council either bans or regulates retail sales of marijuana, he
32 would like the ordinance to be reviewed yearly. The State has given communities a
33 short time frame to enact bans or regulate retail marijuana sales and that mistakes
34 could easily be made. He would like to see a ban with an opportunity after the State
35 and other communities enact their regulations to have an opportunity to revisit the
36 issue of retail sales of marijuana in a year.

37
38 Scot Gerdes, 624 Lariat Loop, said that a temporary ban would be the most
39 appropriate action, giving the Council time to get more information on retail sales of
40 marijuana and how to proceed.

41
42 Commission Chair Apostolik commented that he would like to see what the State
43 regulations are before making any decision on the retail sales of marijuana and
44 continue this discussion and hopefully get more New Castle citizens to come voice
45 their opinions. He said he wanted New Castle to create their own rules rather than
46 waiting for other communities to create regulations. Councilor Stuckey agreed, and
47 thought they needed to hear more information and listen to more citizens opinons.

1 Val Harju, 642 E. 1st Street, said she works for Alpine Bank and it is true that
2 medical marijuana retailers can not open bank accounts. She also said the Town
3 may want to find out if they can even file federal tax returns. She is opposed to
4 retail sales of marijuana in New Castle.

5
6 One citizen said he came to the meeting against the retail sale of marijuana, but
7 after listening to the discussion, he would be in favor of retail sales of marijuana
8 with the right regulations in place.

9
10 Art Harvey, New Castle, said he is against the retail sale of marijuana in New
11 Castle. The young people should be taught not to use marijuana and allowing it in
12 the community, people are going to use it. He would be in favor of medical
13 marijuana use if it provided a level of comfort to someone in pain.

14
15 Commission Chair Apostolik asked that before Council makes any kind of motion
16 would any other commissioners or council members like to make comments.
17 Commissioner Graham Riddile said he wanted to wait and see what the state did
18 with the rules. Commissioner Borgard said that if it is legal the people should be
19 able to use marijuana. Commissioner Slack said financially with the sales tax that
20 could be generated, it does not make up for the money needed to draft the
21 regulations. Mayor Breslin said as a business and homeowner on Main Street he is
22 sympathetic to the rights of businesses; but he agreed with Commissioner Slack
23 that the expense of creating regulations would be a lot, and he would like to see
24 what the State does in regulating retail marijuana sales.

25
26 **Mayor Breslin made a motion to proceed with information for a ban on**
27 **retail marijuana stores. Councilor Metzger seconded the motion.**

28 Discussion-Councilor Leland said suggested that another way to handle it would be
29 to proceed with regulations but to make them very strict. This would be his second
30 choice as a way to respect what they had heard for the citizens, but also to protect
31 the town. Mayor Breslin stated he was concerned about the expense of creating the
32 regulations.

33
34 **The motion passed with Councilor Stuckey voting no.**

35
36 **Councilor Riddile made a motion to adjourn the Town Council meeting.**
37 **Councilor Metzger seconded.**

38
39 The Town Council meeting adjourned at 9:17p.m.

40 41 **Items for next Planning and Zoning Agenda**

42 Potential amendments of the Town's zoning and land use regulations relating to
43 marijuana cultivation facilities, marijuana products manufacturers, and marijuana
44 testing facilities.

45
46 The meeting for July 10, 2013 was supposed to the public hearing on potential
47 amendments of the Town's zoning and land use regulations relating to marijuana

1 cultivation facilities, marijuana products manufacturers, and marijuana testing
2 facilities. Due to a miscommunication by staff, the public hearing will be on July 24,
3 2013.

4
5 Planner Cain said there will be an ordinance on parkland regulation on a meeting
6 agenda in August.

7
8 **Commission Comments and Reports**

9 There were no commission comments or reports.

10
11 **Staff Reports**

12 There were no staff reports.

13
14 **Review Minutes from Previous Meeting**

15 **Motion: Chair Apostolik made a motion to approve the May 22, 2013**
16 **meeting minutes as presented. Commissioner Slack seconded the motion**
17 **and it passed unanimously.**

18
19 **Motion: Chair Apostolik made a motion to adjourn the meeting.**
20 **Commissioner Breslin seconded the motion and it passed unanimously.**

21
22 The Planning and Zoning Commission meeting adjourned at 9:32p.m.

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33 Respectfully Submitted,

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39 _____
40 Planning and Zoning Commission Chair
Chuck Apostolik

41 _____
42 Deputy Town Clerk Wendy A. Mead