

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

Planning and Zoning Commission

Call to Order

Planning Commission Chair Chuck Apostolic called the Planning & Zoning Meeting to order at 7:00 p.m.

Roll Call

- Present Chair Apostolik
- Commissioner Breslin – left at 9:17 p.m.
- Commissioner Borgard
- Commissioner Slack
- Commissioner Riddile - arrived at 7:10 p.m.
- Absent Commissioner Holley

Town Council

Call to Order

Mayor Breslin called the Town Council meeting to order at 7:03 p.m.

Roll Call

- Present Councilor Riddile
- Councilor Metzger
- Mayor Breslin
- Councilor Gordon
- Councilor Leland
- Councilor Stuckey
- Absent Councilor Russi

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

Pledge of Allegiance

Planning and Zoning Commission

Meeting Notice

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

1 **Conflicts of Interest**

2 There were no conflicts of interest.

3

4

5 **Town Council**

6

7 **Meeting Notice**

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

10

11 **Conflicts of Interest**

12 There were no conflicts of interest.

13

14 **Citizen Comments on Items NOT on Agenda**

15 There were no citizen comments.

16

17

18 **Items for Consideration**

19

20 **Discussion and direction concerning recreational marijuana regulation and use
21 within Town limits**

22 Town Attorney David McConaughy told the Council and Planning & Zoning Commission that
23 the point of the meeting was to solicit input from members of the public, the council and
24 commissioners to give staff direction in regard to the passage of amendment 64 legalizing
25 recreational marijuana in the State of Colorado. The state constitutional amendment gave
26 municipalities the option to ban the sale of marijuana and related items within town limits. If
27 that were the consensus, staff would prepare an ordinance to that effect. If the uses were
28 allowed, the item would go to the planning commission to make recommendations about
29 zoning matters to the council. Additionally, amendment 64 legalized the personal
30 possession, use and growing of marijuana by those 21 years of age and older, and the town
31 may want to consider restrictions for those. The four main items for the council to consider
32 are; Retail marijuana stores, retail marijuana cultivation facilities, product manufacturers
33 and retail marijuana testing facilities.

34 Planning & Zoning Commission Chair Chuck Apostolic asked the audience if anyone had any
35 comments they would like to make.

36

37 Howard Stapleton, 5097 CR 214. Mr. Stapleton said he has lived in the area for 35 years,
38 and frequented New Castle. He said that although New Castle could potentially increase
39 revenues on the taxation of retail marijuana, he did not feel it would be enough of an
40 increase to be worth changing the look of Main Street. He also felt that medical marijuana
41 was something of a joke because of the way the retailers named their products and solicited
42 business. He said he preferred to see a restaurant in New Castle stay open. Mr. Stapleton
43 said that unless there was a true driving force to allow retail sales in New Castle, that it
44 should not be allowed.

45

46 Doctor Bill Bevins, 289 Mikayla and Family Emergency Physician at Valley View Hospital, and
47 New Castle resident. Dr. Bevins did a brief power point presentation, referencing open-
48 source studies about the effects of marijuana on humans. Dr. Bevins said that marijuana
49 and other drugs affect the primary reward center of the brain and makes a person feel good.
50 Continued use of recreational drugs damages the reward center of the brain and creates a

1 need for more and more drugs to feel good. This causes a progressive increase in
2 dependence. Other possible effects of marijuana included depression, a reduction in IQ, a
3 reduction in attention span, lower productivity, an increased chance of being diagnosed with
4 Bi-polar disorder or schizophrenia and the possibility of marijuana being a gateway drug to
5 other, more dangerous drugs. Dr. Bevins stated that New Castle had the choice to approve
6 the retail sales of marijuana, but that there was a responsibility to protect the young people
7 from the negative effects of drug use. He felt New Castle was a wonderful, progressive town,
8 and asked that New Castle be kept healthy and strong by opposing retail marijuana sales
9 within the town limits.

10
11 Pete Schaffner, Youth for Christ, 165 Current Drive. Mr. Schaffner said that he and his wife
12 have worked with youth in the area for many years. With the approval of medical marijuana,
13 the number of youth using the drug increased and was a problem. He said Glenwood Springs
14 made about \$74k in 2012 in tax revenues off the sale of medical marijuana. He agreed the
15 tax revenue was attractive, but said the social cost was not yet known. He thought the costs
16 to municipalities could be additional police, equipment and other services; loss of
17 productivity, and costs to the county for incarceration of persons who have committed
18 crimes while under the influence of marijuana. He further stated that if there was something
19 done in the school guaranteed to drop student's IQ eight points, he is certain something
20 would be done to stop it. He felt Dr. Bevins had aptly demonstrated a negative cause and
21 effect from the use of marijuana, and was opposed to allowing recreational marijuana within
22 town limits.

23
24 Joe Todd, Owner of White River Bar and Grill on Main Street. Mr. Todd said he has been in
25 the area for 14 years and really likes New Castle because it is a well-balanced community.
26 He said he was in favor of retail marijuana sales in town because it would benefit the
27 community financially with an increase in sales tax revenue and because fifteen percent of
28 the taxes collected would go towards schools. Mr. Todd said he grew up in a 'dry' county in
29 Tennessee, where alcohol sales were limited to beer only. He said residents purchased their
30 liquor in the neighboring county. This meant that the sales tax benefit went to the
31 neighboring county. He agreed that drugs and alcohol caused issues with brain development
32 in young people, and caused social and financial issues for the municipalities. He said that to
33 assume retail sales of marijuana within town limits would increase usage was a false
34 assumption. To think there currently was no marijuana use in New Castle was naïve, as it is
35 naïve to assume that underage people did not drink alcohol. It was Mr. Todd's opinion that
36 retail sales should be allowed and regulated otherwise New Castle would be leaving money
37 on the table. Amendment 64 was passed state-wide by a majority of the voters whether
38 New Castle as a community likes it or not. Mr. Todd felt that forced morality behind laws
39 would not deter people from using recreational marijuana, and that allowing retail sales
40 would not make our community amoral or degrade what New Castle believes is right.

41
42 Doug DeNio, 25 Buckskin Circle. Mr. DeNio said he had a spinal injury in 2006 and spent
43 several months in the hospital. In 2011 he got a medical marijuana license and began using
44 it for pain. He said there are two types of marijuana; indica and sativa. The various names
45 of medical marijuana products are the result of hybrid plant strains. Mr. DeNio said that
46 indica is for body pain, and sativa is the one used for the effects on the reward center of the
47 brain. Mr. DeNio said he had more severe, debilitating side effects from prescription
48 narcotics than he did with medical marijuana. He thought the downtown area of New Castle
49 may not be the best place for a retail store because there is inadequate parking, but he felt
50 the town should adopt regulations and approve retail sales within town limits.

1
2 Michael Weerts, New Castle resident. Mr. Wertz said that when he first considered marijuana
3 sales in town he was firmly opposed. He felt the time and expense to the town in drafting
4 regulations would be extraordinary and not worth the expense for a business that he
5 assumed would not succeed. He discussed the issue with other residents and decided that
6 since the state's voters had approved legalizing marijuana, he did not feel it was New
7 Castle's position to make a value-based decision to ban something that was legal. Mr. Wertz
8 felt it should be regulated, and limited to certain zone districts within town, but it was in
9 fact, legal in the State of Colorado. He did not want values to dictate what businesses would
10 be allowed in New Castle if they were legal. He agreed that the economics of it did not make
11 a lot of sense, but that was not the only thing that did not make sense in a democratic
12 environment.

13
14 Wesley Fullenwider, Boy Scout. Mr. Fullenwider said he was attending the meeting because
15 he is a Scout and he was trying to earn a merit badge for his Eagle Scout by attending a
16 town council meeting. He agreed with Mr. Todd in that whether marijuana is legal or not,
17 people will use it. He said he did not use it, but if he wanted to, it was as simple as a
18 Facebook message to get. He felt the town should take advantage of the opportunity to
19 collect taxes on something people were already using.

20
21 Patty Ringer, 331 W. Main Street. Ms. Ringer said she felt that many people who used
22 medical marijuana were wrongly stereotyped as drug users. Initially she did not want retail
23 sales in New Castle, but felt if it were well-regulated it could be safer for the community. Ms.
24 Ringer stated that we live with people who smoke marijuana and that she did not feel New
25 Castle was a criminal society. It was her opinion that the reason marijuana was considered a
26 'gateway drug' was because illicit dealers laced marijuana with other drugs, hooking users
27 on stringer more dangerous street drugs. She felt Regulated retail sales may be a good
28 solution. Ms. Ringer thought a good location for retail stores would be across the river
29 because it is an area kids do not frequent. She suggested that retail sales could be approved
30 and reviewed in a year, or banned for three years at which time it could be reconsidered
31 after they saw what other towns had in place.

32
33 Attorney McConaughy said if the town did nothing, retail sales would be allowed in New
34 Castle, in every zone district based only on the state of Colorado regulations. He suggested
35 that town had to either ban it or decide on zoning and licensing regulations.

36
37 Chip Nealy, River Park resident. Mr. Nealy said he also suffered from a back injury and had
38 used medical marijuana in the past for his pain. He said that doctors were very willing to
39 prescribe oxycontin, a synthetic morphine, which is a dangerous drug. He said when he
40 began using marijuana for pain he felt much better than when he used oxycontin. He agreed
41 that people will and are using marijuana and that New Castle should allow retail sales. He
42 also did not feel it was appropriate to legislate morality. He also did not feel it was the
43 town's job to create regulations to parent children. He said he thought New Castle should
44 approve retail sales because society voted for it, and it is how democracy works.

45
46 Todd Beginski, 14 Antler Loop. Mr. Beginski said he and his wife had recently moved to New
47 Castle from the Front Range and were happy to be here. He agreed that parents should not
48 rely on government to make his child successful and responsible. Parents need to teach their
49 children good decision-making skills and about the life things going on around them.
50 Marijuana stores are a fact of life.

1
2 Mr. Schaffner agreed that parents should raise their kids, but that an environment could be
3 created that made it difficult to get marijuana. He felt that legalizing marijuana validated it
4 and increased use, and just because it is acceptable in other communities did not mean that
5 it should be acceptable in New Castle.

6
7 Councilor Riddile said that at the federal level, marijuana possession and distribution was
8 illegal. Marijuana stores had a revenue stream and he assumed those revenues were
9 deposited in federally regulated bank accounts. He asked if the businesses were run as cash
10 only or how it worked. Planner Cain said he had talked to Alpine Bank and was told that
11 marijuana retailers cannot have a bank account with a bank that is FDIC insured and
12 regulated by the federal government. Councilor Riddile asked how a marijuana store could
13 be held accountable for payment of taxes if no one knew how much they were making, and
14 where those facilities deposited their money. Attorney McConaughy said they were cash
15 businesses, and the problem could be with any cash business. He suggested transactions
16 could be recorded with cameras.

17
18 Commissioner/Mayor Breslin asked who would be the town agent that would sign and issue
19 a license to a marijuana business, and would that person be subject to liability should the
20 federal government pursue. Attorney McConaughy said the issue had been discussed at the
21 Colorado Municipal League as to whether elected officials and town staff were exposed to
22 liability under federal criminal law for allowing a use that violates federal law. Although there
23 was no clear answer, his opinion was that the test case for it would be a larger, more
24 prominent jurisdiction such as Denver. He also felt there was a duty to uphold the Colorado
25 Constitution, and marijuana was now legal by that constitution.

26
27 Dr. Bevins agreed that Colorado had chosen to legalize marijuana. He also said that New
28 Castle could choose as a community to send a message to our children and residents.
29 Marijuana used now was as much as ten percent more potent than it was years ago. Nine
30 percent of users will become addicted. Mr. Todd asked if there were statistics on the
31 addictive qualities of alcohol and oxycontin. Dr. Bevins said there were, and that oxycontin
32 was one of the most abused prescription drugs out, and the responsibility was coming back
33 on physicians to do a better job prescribing. One of the problems with marijuana was that it
34 was not on the list of controlled substances that legislation allowed a physician to monitor
35 online. This poses problems with drug interactions and control. Dr. Bevins stated that the
36 concept of a 'gateway' drug was because people who use marijuana can develop a need for
37 stronger substances to affect the pleasure center of the brain, not because marijuana is
38 laced with other drugs.

39
40 Mr. DeNio said he felt that Dr. Bevins reiterated his point in that the state regulations
41 require that retail marijuana be labeled with what strain and how potent the product is,
42 which he felt was a good control.

43
44 Mr. Nealy said that allowing and regulating marijuana may take away the allure of 'getting
45 away with something' by kids.

46 Mr. Nealy asked if there was a zone district in town that allowed for adult entertainment.
47 Attorney McConaughy said there was, in the industrial area south of the river. Mr. Nealy
48 pointed out that porn degrades, exploits and promotes violence against women and that
49 would be ok. Attorney McConaughy clarified that the right to adult entertainment was upheld
50 by the federal supreme court as a 1st amendment right, and the Colorado constitution

1 specifically states that a municipality can ban marijuana sales.

2
3 Councilor Leland said the next step in the process would be a public hearing at the July 10,
4 2013 planning & Zoning Meeting to determine proper zone districts for the various marijuana
5 uses.

6
7 Mr. Todd said he would like to see more people come to the downtown area. He said he did
8 not know if marijuana store was the answer, but that something needed to be done to bring
9 more vitality to the downtown area.

10
11 Mike Edgar, 110 Carson Ct. Mr. Edgar said that the voters of the State of Colorado passed
12 amendment 64. The issue had nothing to do with young people or the medical effects. New
13 Castle had a pretty high percentage of voters that voted for it. He thought New Castle
14 should allow it, regulate it and collect the tax benefits.

15
16 Councilor Leland said another issue with allowing retail sales was the number of stores
17 allowed in town. Attorney McConaughy said the town liquor licensing process did not limit
18 the number of liquor stores allowed, but a new applicant had to demonstrate a neighborhood
19 need by having citizens sign a petition in support.

20
21 Councilor Gordon asked Chair Apostolik if the council could make comments.

22
23 Chair Apostolik said they were just having discussion, and saw no point in going a specific
24 direction yet. Attorney McConaughy said that a public hearing notice for the July 10, 2013
25 Planning and Zoning Meeting had been posted. He said he would like to see council provide
26 some direction to staff to draft an ordinance either allowing or banning marijuana sales
27 within town.

28
29 Mr. Nealy asked if the Planning and Zoning Commission and Town Council could wait for the
30 July 10 public hearing to see if more community members would attend before banning
31 retail marijuana sales. Consultant Town Attorney McConaughy said they could, but some
32 action either banning the retail sale of marijuana or allowing the retail sale of marijuana
33 needed to take place, with regulations in effect October 1, 2013.

34
35 Councilor Gordon felt there was a misconception. He said the state passed amendment 64
36 by 55%. If you thought about it, it was not a landslide win. New Castle passed it by 58%
37 which was also not a landslide. He did not feel it was necessary to allow retail sales in New
38 Castle because it was available locally. He said he did not want marijuana stores in his
39 hometown. He did feel it was about the towns' youth. He said he asked the police chief his
40 opinion and received a memo that he was willing to share with anyone who wanted it.
41 Councilor Gordon said he thought that approving, regulating and monitoring it would be
42 much more costly to the town than people realized.

43
44 Councilor Riddile said he would like to wait and see what other communities do with
45 recreational marijuana sales. He was in favor no action or a moratorium if that was an
46 option. His biggest concern with retail sales of marijuana was that it is a cash business with
47 no accountability.

48
49 Chair Apostolik asked Attorney McConaughy if he thought the recreational marijuana rules
50 coming out Monday, July 1, 2013 would address the accountability issue. Attorney

1 McConaughy said if the regulations were similar to the medical marijuana regulations, there
2 would have to be a computer record and camera recording of every transaction. Commission
3 Chair Apostolik asked if retail marijuana sales could ever be a non cash business. Consultant
4 Town Attorney McConaughy said no because the FDIC rules are from the federal level and
5 Colorado can not get around the federal banking rules.
6

7 Councilor Leland said if council either banned or regulated retail sales of marijuana, he
8 would like the ordinance to be reviewed yearly. The state gave communities a short time
9 period to enact bans or regulate, and mistakes could easily be made. Councilor Leland said
10 he would like to see a ban with an opportunity to review it in one year after the state and
11 other communities have enacted regulations.
12

13 Mr. Nealy said that 58% was the majority. The Supreme Court has made decisions based on
14 a 5-4 vote. He thought 58% was the will of the people, and postponing a decision for a year
15 was ignoring the will of the people. Councilor Gordon reiterated that people could get
16 marijuana elsewhere. Mr. Weerts agreed, saying you could go to Coal Ridge High School and
17 get what you wanted in the parking lot. He felt it should be visible and regulated rather than
18 acting like it is not here because that doesn't work. He voiced concern that the will of the
19 people was not being considered properly.
20

21 Scott Gerdes, 624 Lariat Loop. Mr. Gerdes said that a temporary ban would be the most
22 appropriate action, giving the Council time to get more information on retail sales of
23 marijuana and how to proceed.
24

25 Commission Chair Apostolik said that he would like to see what the state regulations were
26 before making any decision. He wanted to continue the discussion provide more opportunity
27 to get more New Castle citizens to come voice their opinions. He also said he wanted New
28 Castle to create their own rules rather than waiting for other communities to create
29 regulations. Councilor Stuckey agreed, and said he thought they needed to hear more
30 information and listen to more citizen opinions.
31

32 Val Harju, 642 E. 1st Street. Ms. Harju said she works for Alpine Bank and it is true that
33 medical marijuana retailers can not open bank accounts. She also said the town may want to
34 find out if marijuana retailers can file federal tax returns. She said she was opposed to
35 allowing retail sales of marijuana in New Castle.
36

37 Wesley Fullenwider said he came to the meeting against the retail sale of marijuana, but
38 after listening to the discussion, he would be in favor of retail sales of marijuana with the
39 right regulations in place.
40

41 Ms. Ringer suggested the council initiate an education program on marijuana to help
42 maintain a sense who we are as a town.
43

44 Town Planner Tim Cain said that on the November ballot the voters will decide if there would
45 be a fifteen percent excise tax on the sale of marijuana for the construction of schools, and a
46 ten percent sales tax.
47

48 Mr. Nealy said he was in favor in democracy. 92% of the town voted, 58% of those voted for
49 it.
50

Chair Apostolik asked if there were any other comments before the council made a motion.

1
2 One citizen said he came to the meeting against the retail sale of marijuana, but after
3 listening to the discussion, he would be in favor of retail sales of marijuana with the right
4 regulations in place.

5
6 Art Harvey, New Castle resident. Mr. Harvey said he is against the retail sale of marijuana in
7 New Castle. The young people should be taught not to use marijuana and allowing it in the
8 community would encourage people to use it. He did say he would be in favor of medical
9 marijuana use if it provided a level of comfort to someone in pain.

10
11 Commissioner Graham said he wanted to wait and see what the state did with the rules.

12
13 Commissioner Borgard said that since it is legal the people should be able to use marijuana.

14
15 Commissioner Slack said financially the sales tax that could be generated he does not it will
16 make up for the money needed to draft the regulations.

17
18 Commissioner/Mayor Breslin said as a business and homeowner on Main Street he is
19 sympathetic to the rights of businesses, however he agreed with Commissioner Slack
20 that the expense of creating regulations would be a lot, and he wanted to see what the
21 state rules will be.

22
23 **MOTION: Mayor Breslin made a motion to direct staff to proceed with drafting**
24 **an ordinance to ban the retail sale of marijuana within New Castle. Councilor**
25 **Metzger seconded the motion.**

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

30 **The motion passed with Councilor Stuckey voting no.**

31
32
33 **MOTION: Councilor Riddile made a motion to adjourn the council meeting.**
34 **Councilor Metzger seconded the motion and it passed unanimously.**

35
36 The meeting adjourned at 9:17 p.m.

37
38 Respectfully Submitted,

39
40
41
42 _____
43 Mayor Frank Breslin

44
45
46 _____
47 Town Clerk Melody Harrison

1
2
3
4 **New Castle Town Council Meeting**
5 **Tuesday, July 2, 2013, 7:00 p.m., Town Hall**
6

7 **Call to Order**

8 Mayor Breslin called the meeting to order at 7:00 p.m.
9

10 **Pledge of Allegiance**

11
12 **Roll Call**

13 Present	Councilor Russi
	Councilor Riddile
	Councilor Metzger
	Mayor Breslin
	Councilor Gordon
	Councilor Leland
	Councilor Stuckey
20 Absent	None

21
22 Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody
23 Harrison, Police Chief Chris Sadler, Town Planner Tim Cain, Human Resources Manager
24 Mike Edgar, and members of the public.
25

26 **Meeting Notice**

27 Town Clerk Melody Harrison verified that her office gave notice of the meeting in
28 accordance with Resolution TC-2013-1.
29

30 **Conflicts of Interest**

31 There were no conflicts of interest.
32

33 **Citizen Comments on Items NOT on Agenda**

34 Theresa Hamilton, Garfield RE-2 Director of School-Wide Services, and Anne Guettler, RE-
35 2 School Board Member greeted the council. Ms. Guettler told council they were speaking
36 on behalf of the school board about a community engagement program they were putting
37 together called Discover RE-2. Ms. Hamilton said that Discover RE-2 was modeled after
38 similar programs in Mesa District 51 and St. Brain in Cherry Creek. They said they were
39 looking for people to attend regular meetings. In those meetings they would get a deeper,
40 broader knowledge of the district. Discover RE-2 members would assist RE-2 in educating
41 the community about district operations. Ms. Hamilton and Ms. Guettler invited anyone
42 interested in the program to contact them.
43

44 **Consultant Reports**

45 Consultant Attorney – Consultant Attorney David McConaughy told the council that
46 Warrior Golf had missed two deadlines. June 1, 2013 a road repair plan had been due,
47 and on July 1, 2013 a \$100k deposit had been due. He said he had received
48 communications from a Warrior representative asking if it was okay that they were late,

1 but not a proper request for extension of the deadlines. He suggested council wait until
2 the next council meeting to see if Warrior submitted the items they were required to.

3 Consultant Planner – not present

4 Consultant Engineer – not present

6 **Staff Reports**

8 Town Planner – Town Planner Tim Cain told the council that the AI Gold's application for
9 the senior vision program had been accepted, and there would be a visioning session in
10 October 2013 at the Housing Now Conference. The session will include people from all
11 lifestyles, and the anticipated result was a design for a senior housing project in New
12 Castle. Councilors Stuckey and Gordon both volunteered to attend the charette.

13 Administrator Baker thought the session may also include a financial component for grant
14 funds.

16 **Agenda Changes**

17 There were no agenda changes.

20 **Items for Consideration**

22 **Consider Letter of Interest from Leslie Taylor for Appointment to the Planning & Zoning Commission**

24 Mr. Leslie Taylor introduced himself to the council. He said he was an independent
25 insurance adjuster. He said his experience included storm adjusting as well as casualty
26 adjusting which caused him to have extensive experience with county and city codes. He
27 felt his experience would be an advantage on the planning & zoning commission. He said
28 he and his wife had recently moved back to New Castle.

29 **MOTION: Councilor Riddile made a motion to appoint Leslie Taylor to the**
30 **Planning and Zoning Commission. Councilor Metzger seconded the motion and it**
31 **passed unanimously.**

33 **Rifle Regional Economic Development Corporation Discussion**

34 Administrator Baker reminded the council that at the last meeting they began a discussion
35 that was triggered by the invoice received by the town from the Rifle Regional Economic
36 Development Corporation (RREDC) for membership dues. He said it was a policy
37 discussion whether the town would pay the invoice or not.

38 Mayor Breslin said he had heard several compelling arguments for and against the RREDC.
39 He was discouraged that the RREDC had not provided more to the town about Enterprise
40 Zone benefits the AGNC had outlined.

41 Councilor Russi did not feel the town should renege on the commitment made to RREDC
42 during the 2013 budget discussion the previous fall.

43 Councilor Leland said the RREDC had hired Dennie Talbott on a six-month contract and he
44 thought that she would provide a bit more focus on New Castle.

45 Councilor Riddile asked why the discussion was back to the council if the decision to join
46 the RREDC had been made and approved in the budget discussion last year. Administrator
47 Baker said that the town had received an invoice from RREDC for membership dues, and
48 it prompted the discussion. Councilor Riddile said he felt the town should pay the invoice
49 and reconsider their membership during budget discussions for 2014, but not now.

1 **MOTION: Councilor Russi made a motion to pay the invoice from the RREDC. The**
2 **motion died for lack of a second.**

3 Councilor Stuckey said he felt the RREDC had not shown they had New Castle's best
4 interest in mind, but he was encouraged they had hired a New Castle resident as the
5 director. He said he would vote no because RREDC had not worked well for New Castle.
6 He felt they had misrepresented their services.

7 Councilor Metzger said that Rifle and New Castle were different in that New Castle was a
8 bedroom community that would not attract bigger businesses. She thought the RREDC
9 and the council needed to realize this fact.

10 Councilor Russi said he thought the town should follow through with their commitment to
11 the RREDC. He recalled that council had done a study to determine what it would cost to
12 hire consultant and it was more than \$100k. He felt the RREDC was a great advantage
13 from a financial standpoint.

14 **MOTION: Councilor Russi made a motion to approve payment to the RREDC.**
15 **Councilor Leland seconded the motion.**

16 Discussion: Councilor Gordon said he thought the consultant cost was more that Councilor
17 Russi said, and that membership in the RREDC should be reconsidered during the 2014
18 budget discussions. Mayor Breslin said the cost was low and the town had no one else for
19 this type of work. To pay \$5000.00 for nothing was not right. If they decided to approve
20 payment, then he thought they would have to hold the RREDC to a standard. Councilor
21 Metzger thought there should be some sort of agreement on services in writing so there
22 was some standard to hold them to. Councilor Russi agreed, saying those written
23 standards or expectations should be forward-looking.

24 **The motion passed with Councilors Stuckey and Metzger voting no.**

25
26 **Ordinance 2013-5 – An Ordinance of the New Castle Town Council Prohibiting**
27 **Retail Marijuana Stores (first reading) (8:00 p.m.)**

28 Attorney McConaughy briefly reviewed the ordinance for the council. He noted that the
29 state rules had been published July 1 and there was an ambiguous rule regarding off-site
30 storage of marijuana products that would allow for warehousing of product in town limits.
31 He suggested the council consider this and amend the ordinance motion to ban or allow
32 warehousing in town as they saw fit, because the ordinance as written would only ban
33 retail stores.

34
35 **MOTION: Councilor Riddile made a motion to approve Ordinance 2013-5, An**
36 **Ordinance of the New Castle Town Council Prohibiting Retail Marijuana Stores on**
37 **first reading. Councilor Gordon seconded the motion.**

38 Discussion: Councilor Russi though it appropriate to review the ordinance in one year. He
39 had reviewed the new rules in detail, and summarized those rules for the council. He said
40 they were quite comprehensive and significant. Regardless, he said there would be
41 marijuana use in town, and though the town should take advantage of the possible tax
42 benefits. A year would give other jurisdictions a chance to create local restrictions and
43 New Castle could observe those.

44 Mayor Breslin said he was concerned about the expense of drafting regulations for the
45 town. He also was concerned about the possible legal repercussions to the town clerk and
46 other staff for issuing licenses, which is against federal law. The fact that a business can
47 not have bank account was a problem.

1 Attorney McConaughy said Councilor Russi had summarized the new rules well. He noted
2 that the licensing fees from the state were quite hefty, and half that amount would be
3 remitted to the town if New Castle enacted a local licensing scheme.

4 He gave the council some petitions against retail sales that needed to be part of the
5 record.

6 Councilor Leland said that the petitions should have been part of the legal record for the
7 June 26, 2013 meeting and council had mistakenly not done that.

8 Councilor asked for a summary of the petitions. Clerk Harrison said the first three pages
9 were signatures on the same letter against retail sales. The last page was a letter from
10 the Talbots against it as well.

11 Councilor Riddile was concerned about the inability for a retail business to have a bank
12 account or file proper federal taxes.

13 Councilor Stuckey thought the council should consider the financial opportunities to the
14 town, and agreed that allowing retail sales within the town would not necessarily increase
15 usage. He agreed it should be reconsidered in a year.

16 Mayor Breslin said if they banned it, it could always be reconsidered at a later date, but if
17 they allowed retail sales now it would be difficult to close a shop down.

18 Councilor Gordon said if marijuana was such a good idea, it should not have taken so long
19 to do research and develop rules. To him, it was a red flag.

20 Councilor Metzger said she had spoken with a local FBI agent who said the cost to a
21 municipality to deal with the added crime.

22 **The motion passed on a roll call vote: Councilor Gordon: yes, Councilor Leland:
23 yes; Mayor Breslin: yes; Councilor Riddile: yes; Councilor Russi: yes; Councilor
24 Metzger: yes; Councilor Stuckey: yes.**

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27 **MOTION: Councilor Russi made a motion to amend the ordinance to include a
28 review of the ordinance in one year. Councilor Stuckey seconded the motion.**

29 Chip Nealy - 14 Riverview #308. Mr. Nealy told the council that democracy was
30 government by the people, and the people of New Castle were 57.5 percent to approve
31 legalizing marijuana. Councilor Riddile clarified that 57.5 percent was to legalize
32 marijuana, not to allow retail sales in New Castle. Mr. Nealy thought that the voters
33 assumed local sales would happen. He said that the will of the people was to legalize, and
34 the council's job was to do the will of the people. He said the council should stand for
35 democracy and do what the people want, otherwise it was tyranny of the minority. Mr.
36 Nealy thanked the council for their time.

37 **The motion passed on a roll call vote: Councilor Riddile: yes; Councilor Metzger:
38 yes; Councilor Stuckey: yes, Councilor Russi: yes; Mayor Breslin: yes; Councilor
39 Leland: yes; Councilor Gordon: yes.**

40 41 **AGNC Request**

42 Administrator Baker told the council that the Associated Governments of Northwest
43 Colorado (AGNC) sent a letter to the secretary of the interior regarding royalties from oil
44 and gas drilling. The AGNC suggested it might be useful for members to endorse the letter
45 with their own correspondence.

46 **MOTION: Councilor Gordon made a motion to direct staff to draft letter and to
47 authorize Mayor Breslin to sign the letter. Councilor Leland seconded the motion
48 and it passed unanimously.**

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Consent Agenda

Minutes of the June 18, 2013 council meeting

June Bills of \$372,997.01

Coryell Ditch Water Lease Agreement

Council made a correction to the minutes.

MOTION: Councilor Gordon made a motion to approve the consent agenda as amended. Councilor Riddile seconded the motion and it passed unanimously.

Committee Reports

Planning & Zoning – nothing to report

Climate Action Advisory Committee – nothing to report

Historic Preservation – nothing to report

POSTR – nothing to report

Staff Reports (9:20 p.m.)

Town Administrator – Administrator Baker told the council that the River Center had planned a spaghetti dinner fundraiser on August 2, 2013 in Burning Mountain Park. He also told the council that Clerk Harrison and Building Inspector Bruce Stolbach had been working with Sam Garcia on his building permit and certificate of occupancy. He described the occupancy and fire exit issues, and how staff had worked out a solution. Administrator Baker said the public chat session with the police department had been gone well, and they planned to have four or five chat sessions done before the end of the year. He told the council that the Castle Valley Home Owners Association had placed flowerpots on the west end of Castle Valley Boulevard, and intended to do more. Similar flowerpots will be placed outside the recreation center. He told council that Rosie Ferrin was planting flowers and fruit trees on her downtown property and staff would be working with her on her water billing to see if there was a way the town could help there. Perhaps metering water use on the landscaping would work. Last, Administrator Baker said he had been working with Bob Gibson and Warrior Golf on raising awareness about New Castle.

Town Clerk – Clerk Harrison told the council that Cutler and Associates, the town auditor, would be presenting the 2012 audit results at the August 6 council meeting. Because they would be returning to Denver the same evening, they requested a, early meeting start time of 6:30. Clerk Harrison asked the council for a motion to begin the meeting early.

MOTION: Councilor Riddile made a motion to begin the August 6 council meeting at 6:00 p.m. Councilor Russi seconded the motion and it passed unanimously.

Public Works Director – not present

Council Comments

Councilor Metzger said the garage sale signs around town were getting worse and wondered if there should be a permit process for garage sales. Administrator Baker said staff could raise their awareness and begin removing posted signs, because the code already limited them to on-premises signs posted for three days. Information about this would also go out in the next water bills.

Councilor Leland said he drafted a business incentives list and he would continue to work on it. The list was in the information folder in the DropBox for council to review.

1 Councilor Gordon said that the motorless parade and events like the River Center
2 spaghetti dinner and the dinner in Lakota were true economic development events. He
3 wanted the town to promote events like these.

4 Councilor Stuckey asked who he had to talk to to get the new tennis court and park plans.
5 Councilor Russi thought a new charette should be done on it. A plan existed, but needed
6 to be updated.

7 Councilor Stuckey said he and his wife volunteered to redesign the entryway to –
8 volunteered to redesign entryway landscaping at Lakota, and it would be partially on town
9 property and he wanted to coordinate with what would be done in the park. Councilor
10 Russi said he thought conservation trust funds could be used for that. He said he had the
11 park plans and could get them to Councilor Stuckey. Consultant Engineer Jeff Simonson
12 will be brought in on the project.

13 Councilor Russi asked the council if council would be willing to entertain a letter regarding
14 oil shale royalty rates.

15 Mayor Breslin asked if background checks could be done by staff. Clerk Harrison said she
16 had been looking into it, but had not yet gotten complete information, but would get back
17 with council on it.

18 Mayor Breslin asked if a business's EQR requirements would be affected by using Ritter
19 Plaza. Councilor Leland said no, that rental of the plaza included water and electricity.

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22 **MOTION: Councilor Riddile made a motion to adjourn. Councilor Gordon**
23 **seconded the motion and it passed unanimously.**

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25 The meeting adjourned at 9:35 p.m.

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29 Respectfully Submitted,

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33 _____
34 Mayor Frank Breslin

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36 _____
37 Town Clerk Melody Harrison
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**ADDENDUM TO SITE LEASE AGREEMENT
FOR WIRELESS INTERNET FACILITIES**

This Addendum ("Addendum") is made this 31 day of May, 2013, by and between the Town of New Castle, Colorado, a Colorado municipal corporation (the "Town"); and JAB Wireless, Inc., a Colorado corporation, d/b/a Skybeam ("JAB").

WITNESSETH:

WHEREAS, on September 21, 2004, the Town and Sopris Surfers entered into a Site Lease Agreement for Wireless Internet Service Facilities ("Site Lease"); and

WHEREAS, Sopris Surfers sold its assets to JAB and requested assignment of its interests and obligations under the Site Lease to JAB; and

WHEREAS, the New Castle Town Council approved the requested assignment in August of 2006; and

WHEREAS, as part of the assignment JAB agreed to be bound by the terms and conditions of the Site Lease; and

WHEREAS, the parties desire to amend certain portions of the Site Lease to permit greater ease in tracking lease payments, subject to the terms and conditions set forth herein.

NOW, THEREFORE, the following provisions of the Site Lease are hereby amended as follows:

1. Article 2.2 is amended as follows:

ARTICLE 2.2 Rent

The Base Rent provided for in paragraph A is hereby adjusted to one hundred fifty dollars and no cents (\$150.00) per month for the remainder of calendar year 2013. Every year on January 1 the amount of the Base Rate shall be increased by 3%.

Paragraph "C" of Article 2.2 is eliminated in its entirety.

The remainder of Article 2.2 remains unchanged.

2. Article 12.1 is amended to adjust the mailing addresses for notice as follows:

ARTICLE 12.1 Notices

JAB: JAB Wireless, Inc.
619 SW 14th Street

Loveland, CO 80537

Town
Town of New Castle
Public Works Director
450 W. Main Street
PO Box 90
New Castle, CO 81647

With a copy to
David D. Smith
Garfield & Hecht, P.C.
420 Seventh Street, Ste 100
Glenwood Springs, CO 81601

3. There is added a new Article 12.13 as follows:

ARTICLE 12.13 TABOR Compliance. No provision of this Addendum shall be construed or interpreted: i) to directly or indirectly obligate the Town to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by the Town to or in aid of any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

4. There is added a new Article 12.14 as follows:

ARTICLE 12.14 No Waiver. The parties hereto understand and agree that Town is relying on and does not waive or intend to waive by this Agreement or any provision hereof, the monetary limitations and any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 *et seq.* as amended from time to time or otherwise available to Town.

5. All other provisions of the Site Lease not specifically amended herein shall remain in full force and effect.

WHEREFORE, the parties hereto have executed this Addendum on the day and year first written above.

TOWN OF NEW CASTLE COLORADO

By: _____
Frank Breslin, Mayor

ATTEST:

Melody Harrison, Town Clerk

JAB WIRELESS, INC.

By: *Gerald Schleiger*
Its: *Operations Manager*

STATE OF COLORADO)
) ss.
COUNTY OF *Larimer*)

Acknowledged, subscribed, and sworn to before me this *31* day of *May*, 2013,
by *Gerald Schleiger* as *Operations manager* of JAB Wireless, Inc.

WITNESS my hand and official seal.

My Commission expires:
7-1-2014

Valerie M Montoya
Notary Public

VALERIE M MONTOYA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054019887
MY COMMISSION EXPIRES JULY 1, 2014

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. TC 2013-16**

**A RESOLUTION OF THE TOWN OF NEW CASTLE TOWN COUNCIL
SUPPORTING THE APPLICATION OF A DEPARTMENT OF LOCAL AFFAIRS
(DOLA) GRANT FOR THE COMPLETION OF THE TOWN OF NEW CASTLE
PEDESTRIAN SAFETY ENHANCEMENTS AT THE I-70 EXIT 105 (PEDESTRIAN
BRIDGE)**

WHEREAS, the I-70 exit 105 bridge spans I-70, the Colorado River and the Union Pacific Railroad;

WHEREAS, the I-70 exit 105 bridge was constructed in 1971 with the intention of providing vehicle access to and from I-70 to ranchers, residents and businesses in the New Castle/Garfield County area;

WHEREAS, 42 years ago, when the bridge was designed and constructed, a bridge that allowed for two lanes of vehicle traffic seemed adequate for an area with modest travel needs;

WHEREAS, in 2013 the New Castle area population is now 10 times greater and residential settlement patterns, as well as commerce and industry exist on both the north and south sides of the interstate, railroad, river corridor;

WHEREAS, in 2013 with high energy prices, the need for multi-modal travel options, including pedestrian and bicycle, is essential for a community to have adequate connectivity, safe travel options and adequate quality of life;

WHEREAS, the exit 105 bridge is 25 – 27 feet in width, which is adequate for two vehicle traffic lanes but provides no shoulder for safe pedestrian and bicycle travel;

WHEREAS, the exit 105 bridge is the only bridge across the river, railroad and I-70 within four miles of New Castle;

WHEREAS, the New Castle Town Council has rated the pedestrian bridge a top priority in the 2011, 2012, and 2013 Strategic Plans;

WHEREAS, the Town of New Castle, DOLA and Garfield Federal Mineral Leasing District have invested over \$370,000 in project scoping, planning and design for the pedestrian bridge;

WHEREAS, the Town of New Castle, Garfield County and Garfield Federal Mineral Leasing District have committed over \$1.2M for construction of the pedestrian bridge;

WHEREAS, the New Castle area has many residents that due to age, access to automobile or income must travel by foot or bike to reach shopping, transit, employment, home or school;

WHEREAS, the Town recently conducted a mail survey of the residents on the north side of the I-70, river, railroad corridor: of the 18% who responded to the survey 63% would use a pedestrian bridge frequently or often and 30% would use the pedestrian bridge periodically. Respondents stated that the purpose of their trips on the pedestrian bridge would be as follows: 78% shopping, 89% recreation, and 26% work. Additionally, written comments on the returned survey speak to the danger and near miss events that pedestrians have already experienced while walking across the existing bridge;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF NEW CASTLE, COLORADO THAT:

Section 1: The Town Council supports the construction of the pedestrian bridge adjacent to the I-70 exit 105 bridge to eliminate very dangerous conditions for pedestrians and bicyclists;

Section 2: The Town Council estimates that the pedestrian bridge construction will cost \$2,031,000.

Section 3: The Town Council and Garfield County commit \$1,231,000 to the construction of the pedestrian bridge project, which is a match of 61% of project construction cost.

Section 4: The Town Council authorizes the submission of the DOLA grant with a request for \$800,000 of funding for the pedestrian bridge.

Introduced, Read and Adopted at a Regular Meeting of the Town Council of the Town of New Castle, Colorado, on July 16, 2013.

TOWN OF NEW CASTLE

ATTEST:

Frank Breslin, Mayor

Melody L Harrison, Town Clerk