

**New Castle Town Council Meeting
Tuesday, August 5, 2014, 7:00 p.m.**

Call to Order

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

Pledge of Allegiance

Roll Call

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

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Human Resource Manager Mike Edgar, Finance Director Lyle Layton, Town Planner Tim Cain, Town Engineer Jeff Simonson, Town Attorney David McConaughy and Assistant Town Attorney Hailey Carmer.

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 had a conflict with item H, the website discussion.

Agenda Changes

The open records policy was moved to regular agenda so Attorney McConaughy could speak to the council about it. The council agreed.

Citizen Comments on Items not on the Agenda

There were no citizen comments.

Consultant Reports

Consultant Attorney – present for agenda items. Attorney McConaughy introduced Haley Carmer, the new attorney with Garfield & Hecht. He said she just graduated from the University of Utah Law School and just took the Colorado Bar exam.

Consultant Planner – not present

Consultant Engineer – present for agenda items

Items for Consideration

Consider a Motion to accept the 2013 Audit as presented by J. Cutler and Associates

MOTION: Councilor Leland made a motion to approve the 2013 Audit as presented. Councilor Stuckey seconded the motion and it passed unanimously.

Consider Resolution TC-2014-22 - Approving a Contract with Gould Construction for the Pedestrian Bridge.

Engineer Simonson told the council that the final bid amount came to \$2,116,706.65. This number included a worst-case scenario for the expenses related to traffic control. Included in the contract were the Union Pacific Rail Road (UPRR) Right of Entry Agreement provisions. Also, there were some UPRR insurance requirements that may cost a bit more than anticipated, and could be discussed later in the agenda. Attorney McConaughy said the contract is a standard contract that cross-references bid documents. The reason it is being approved by resolution is that there were some post-bid negotiations that altered the final documents from the original bid. He apologized for a numbering error on the resolution, and said that staff will correct the resolution number and the cross-referenced resolution numbers in the body of the document.

MOTION: Councilor Breslin made a motion to approve Resolution TC-2014-22, A Resolution of the New Castle Town Council Approving a Construction Contract with Gould Construction for Construction of the Pedestrian Bridge Crossing, as amended. Mayor Gordon seconded the motion and it passed unanimously.

Mayor Gordon thanked Mr. Greg Russi for his years of hard work working on the pedestrian bridge project. He also thanked Engineer Simonson, Attorney McConaughy, the staff and council for all their efforts.

Consider Resolution TC-2014-23 - Approving a Memorandum of Understanding and a Special Use Permit with the Colorado Department of Transportation for the Pedestrian Bridge

Engineer Simonson explained that the special use permit was required by CDOT for the bridge project, and the memorandum of understanding defines who is responsible to own and maintain the bridge. He reminded the council that one of the cost-saving changes was the elimination of bridge lighting, that lights at the intersection would be utilized, and solar lights would be installed later if needed.

MOTION: Councilor Riddile made a motion to approve Resolution TC-2014-23, a Resolution of the New Castle Town Council Approving a Maintenance Agreement with the Colorado Department of Transportation Regarding the Pedestrian Bridge Crossing. Councilor Metzger seconded the motion and it passed unanimously.

Consider Resolution TC-2014-24 - Approving a Pedestrian Bridge Crossing Agreement with Union Pacific Rail Road

Attorney McConaughy told the council that the agreement was a standard Union Pacific Rail Road (UPRR) agreement that UPRR was not inclined to change. He noted that the

map included in the agreement by UPRR was outdated and the resolution clarified the current mapping of the area. He said there is a \$10k license fee included, as well as inspection fees. Because work is being done within twenty-five feet of live railroad tracks, UPRR must have an on-site inspector at \$1,250.00 per day. UPRR estimated ten days, but Engineer Simonson felt that two or three days was all they would need. Engineer Simonson said they would try to negotiate the fees with UPRR.

MOTION: Mayor Gordon made a motion to approve Resolution TC-2014-24, a Resolution of the New Castle Town Council Approving a Pedestrian Bridge Crossing Agreement with Union Pacific Railroad Company. Councilor Means seconded the motion and it passed unanimously.

Consider Awarding the Bid for the Pedestrian Trail Project

Engineer Simonson told the council that bids had been received the week before, from Heyl Construction, Gould Construction, Hudspeth and Associates, and Johnson Construction. The engineers' project cost estimate was \$808,936.00. The bids ranged from \$794k to \$871k. The apparent low bid was Johnson Construction, and the contractor his firm recommended. He said Johnson Construction had been in the area for a long time, and that they built the Rifle Creek Trail.

Attorney McConaughy told the council that all the rights of way agreements were in place, and that the deadline for completing the project was December 31, 2014.

MOTION: Councilor Stuckey made a motion to approve awarding the bid for the pedestrian trail project to Johnson Construction. Councilor Metzger seconded the motion and it passed unanimously.

Open Records Policy

Councilor Leland asked about the \$30.00 per hour fee charged by the clerk's office. Attorney McConaughy told the council that the recent state statute limited the fee a town could charge to \$30.00 per hour, and required that the first hour be free. Councilor Leland said that a recent records request required the town to hire Executech to perform research and retrieval at a much higher rate. He asked if the town could charge the consultants rate. Attorney McConaughy said the town would only charge the \$30.00, and the rest of the consultant's cost would be absorbed by the town.

MOTION: Councilor Leland made a motion to accept the Open Record Policy as presented. Councilor Riddile seconded the motion.

Discussion: Councilor Breslin said he spoke with Joe at Executech to find out what their policy was in regard to protecting personal e-mail content. There did not seem to be a specific policy, and Joe suggested that passwords be changed after the research was complete. Attorney McConaughy felt password protection was a good point, and thought a contract provision with the IT company was a good answer. With an open records request like the town received, any councilor who used their personal e-mail for town business opened their personal account to the open records process. Only e-mails specific to town business could be revealed, but the researcher could possibly view all e-mails in the personal account.

Councilor Leland pointed out that town e-mail accounts were set up for each councilor specifically for the purpose of official town business. Anyone who used a personal account will have to change his or her password after the research is complete.

Mayor Gordon asked if just anyone could ask for records, for any reason. Attorney McConaughy said yes, anyone could ask for records. Administrator Baker said that records requests require a specific topic and timeline, they are not blanket requests for everything. Attorney McConaughy said that every citizen has a right to request records. There had been a request made on the governor's records that was simply a fishing expedition, and the case ruled that every citizen has a right to make the request, but there are limits. Private messages are not part of the public record. Attorney McConaughy said the request to the town is on hold because the requestor is away on vacation.

The motion passed unanimously.

Councilor Breslin asked if the council would agree to a discussion at the next council meeting to consider hiring a photographer to take some progression photographs of the pedestrian bridge and trail projects. The council agreed it would be a good idea.

Bureau of Land Management Scoping for Existing Oil and Gas Leases

Greg Larson, Bureau of Land Management (BLM). Mr. Larson told the council that the BLM was working on an environmental impact statement (EIS), looking at a series of sixty-five leases issued on the White River National Forest between 1995 and 2007. The Town of New Castle indicated interest and was granted cooperating agency status, ensuring participation in the planning and production of an EIS. The reason the EIS is being done to reanalyze the decision to issue the leases, and the BLM is producing their own EIS. The reason cooperating agencies are invited to join is because the agency either has some special expertise or jurisdiction bylaw that may be affected by the project. New Castle was invited because the town has special expertise on the socio-economic conditions, transportation and local conditions. New Castle is invited to participate to what level is desired by the council. It will include meetings, perhaps four per year, as well as review/input of the socio-economic documents. The process is expected to take two years. The first meeting will be on August 14 at 9:00 am. Mr. Larson suggested the town send a representative to the meeting, and that person could provide the council with a summary and some policy choice options. Councilor Breslin felt it was important that New Castle be involved and the council agreed.

Mr. Larson provided staff with a copy of the proposed memorandum of understanding as well as a desk guide to cooperating agency relationships. He said the first meeting was open to everyone, but for the BLM to begin sharing the documents, an MOU must be signed.

The council thanked Mr. Larson. Administrator Baker said either Planner Cain or himself would attend the meeting and bring the MOU back to the council.

Update: La Roca Clean-Up

Planner Cain explained that LaRoca sent the letter in the packet, asking council for an extension on the clean-up of their property. He said he has not spoken with anyone from LaRoca about options. The letter states that they are trying to sell the property. Planner Cain said council could provide an extension, or they could continue with the enforcement process. Councilor Leland said that LaRoca did not have the funds to do the clean-up. If staff did the clean-up and liened the property for the cost, they would not be able to sell the property because the asking price was already more than its current value. Mayor Gordon agreed, and said the property was in the condition it was because LaRoca did not have any money. Councilor Stuckey asked how many times the town had asked LaRoca to

clean up the area, and Planner Cain said that to his knowledge, the town had never asked LaRoca to do anything. Councilor Stuckey asked how long the materials has been sitting on the property. Planner Cain thought perhaps fifteen years. Councilor Stuckey said he thought LaRoca should be held to the same standard that Lakota and Castle Valley was held to, particularly because it was at the West entrance to the town. He felt the town should do something, otherwise LaRoca will do nothing to clean up the property. Councilor Breslin felt that LaRoca should put together some sort of an advertising package that showed a rendering of the building that lay on the property, to help market it. After a brief discussion, the council decided on a plan of action that extended through the end of the year. At that time, the council will determine if further action is needed.

MOTION: Councilor Stuckey made a motion to approve the following plan: LaRoca will have thirty days to demonstrate

- 1. That they have created a sales/marketing package.**
- 2. That the property had been assessed.**
- 3. That they have a contract with a realtor to sell the property, and the property is being widely advertised.**

If LaRoca does what is asked, the council will extend the demand for clean-up until December 31, 2014. Councilor Breslin seconded the motion and it passed unanimously.

Website Discussion

Councilor Stuckey asked to be recused. The council agreed. Councilor Stuckey left council chambers at 8:19 p.m.

Councilor Leland explained how much more expansive the new site is, and how the increases came about with various staff and council suggestions. He said the ideas kept coming in, and he and Ms. Stuckey integrated as many of the additions as possible. Administrator Baker said a number of things were expanded as the site was being developed. Ms. Stuckey provided staff with a detailed memo on the work done and hours spent creating the new site. He said he had the opportunity to meet with Ms. Stuckey along with Mayor Gordon and Councilor Leland. The team that developed the site provided the town with a discounted hourly rate, as well as a reduced their billable hours by about fifty percent. Staff recommends that the council approve additional funding of approximately \$9,520.00 for the new website. Funds could come out of the economic development line item, as well as the general fund reserve.

Website maintenance and work will be budgeted for 2015, and there will be some money saved once we are no longer paying for the old site.

Councilor Breslin felt the new website was wonderful, and he said that Ms. Stuckey and her colleagues did a phenomenal job. He felt they had gone the extra mile in good faith and felt the council should approve the additional expenditure.

Councilor Metzger said she felt the new website mentioned the chamber too many times when there is no chamber at this time. Councilor Leland and Ann Stuckey said they would look at that. Councilor Leland asked the council and staff to contact them with anything they saw that needed editing. Ms. Stuckey also said that at the time information was being moved from the old site to the new, the chamber was in flux, and so the chamber information remained on the pages.

Councilor Riddile agreed that the new site was very nice, but felt that a fifty percent overrun in cost was a concern. He said he would approve the additional expenditure because staff was committed to the project, but hypothetically, if the town had a construction project that had a fifty percent cost overrun, council would question it. Councilor Means agreed with Councilor Riddile

MOTION: Councilor Leland made a motion to approve a budget increase for the new town website of \$9,520.00. Funds should be drawn first from the economic development line item, and second from the general fund. Councilor Breslin seconded the motion and it passed unanimously.

Councilor Breslin said he has seen some websites that were not as great as the towns', and people had paid a lot more for them. He felt the site New Castle was worth what was paid for it because it will be a great economic tool.

Ms. Stuckey said that another feature of the new site is that it works on all other platforms, such as iPhones and ThinkPads. The site collapses itself to accommodate the device it is being viewed on.

Councilor Leland felt that the local businesses needed to be informed of the business database on the new site so they could take advantage of the opportunity.

Councilor Metzger said the new site needed to be advertised to the citizens as well.

Ms. Stuckey suggested that Heidi Rice do another article for the town.

Councilor Stuckey returned to council chambers t 8:37 p.m.

Consent Agenda

Minutes of the July 1, 2014 council meeting

Minutes of the July 9, 2014 council meeting

July Bills of \$ 766,844.22

Resolution TC-2014-20 - the Live Well/ HEAL Program

Resolution TC-2014-21 - Releasing the Alder Ridge letter of credit

New Castle Diner Liquor License Renewal

MOTION: Councilor Leland made a motion to approve the revised consent agenda. Mayor Gordon seconded the motion and it passed unanimously

Staff Reports

Town Administrator – nothing to report

Town Clerk – Clerk Harrison told the council that in the information folder in the DropBox were updates from the agencies that had received grants from the town.

Town Planner – present for agenda items

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

Council Comments

Councilor Metzger asked what was happening with the RFTA Park and Ride. Administrator Baker said he would find out from Mike Hermes and e-mail the information to the council. Councilor Metzger said she had saw an e-mail from the River Center asking for volunteers to weed the community garden. She asked who was receiving the food. Administrator Baker said the River Center received half the produce, and the other half went to the people that helped with the garden. He said that the River Center is a partner in the project and they said they could get volunteers if they were needed. The agreement with

LiveWell was that half the produce from the garden would be distributed to families in need. A weeding party will take place Saturday morning from 9 to 10 and everyone was invited. Councilor Metzger asked if the people receiving the food were invited to weed. Administrator Baker said the invitation was open to all, and that Lift-Up decided who would receive the food. The River Center will offer nutrition education in August and September. The original idea was to provide education on how to plant, care for and harvest a garden.

Councilor Breslin thought it would be a good idea to invite Dana Wood from LiveWell to the weeding party for a photo opportunity. The council agreed.

Councilor Breslin told the council that the AGNC had been pushing for compromises on four initiatives, for and against fracking. AGNC will bring the opposing parties together to try and keep the issue off the ballot. He felt the council should be prepared to talk with people about it, and he would information to the council that was obtained at the oil and gas symposium earlier in the year. they received at the conference earlier in the year.

Councilor Breslin reminded everyone that the county fair was this week in Rifle.

Councilor Breslin said there was an article in the Meeker newspaper about ATVs and golf carts on town streets, and felt it was something the council should discuss at the August 19 meeting

Councilor Leland said that after the solar garden workshop there were several people who seemed to be interested in appointment to the Climate Action Advisory Commission.

Councilor Leland said he heard that Ft. Collins public radio had broadcast a show on Undiscovered Colorado about coal seam fires in the Hogbacks. There is also a website. He said he would send the link to Administrator Baker to send to the council.

Councilor Leland said he and Administrator Baker had met with some consultants that were doing an audit on the Garfield County facilities. He said it was a pleasant meeting and they let the consultant know that there were available lots and the town would like to have a county facility here.

Councilor Leland said he had very interesting conversation with a New Castle resident about Brian Dominguez. Apparently, the resident had some trouble with their son, and Officer Dominguez was the officer who responded to a 911 call there. Officer Dominguez spoke to the young man in a way that got through to him. The resident said there has been some significant changes in the young man's behavior, and he attributed them to Officer Dominguez. Most remarkable, Officer Dominguez has been stopping by their house to check up with them regularly. The council felt this was very inspiring.

Councilor Stuckey said the High Trail had been discussed at HPC, and they had decided an appropriate name for the trail would be the Jolley Trail, because the Jolley family had owned the property for a long time.

Councilor Stuckey said that HPC discussed how much Mike Miller does for the town cemetery and regularly refuses compensation. They felt it would be appropriate to name the road in the cemetery Miller Road, to give him a permanent recognition. Councilor Breslin said that Mr. Miller had a Mennonite background, and it may be a good idea to speak with someone of the Mennonite faith to understand how that recognition might be bestowed upon Mr. Miller without upsetting his beliefs.

Councilor Stuckey said he had the pleasure of meeting Senator Michael Bennett while riding the BRT to Aspen. He said Sen. Bennett seemed down to earth. Councilor Stuckey said he spoke with one of Mr. Bennett's assistants, who suggested there were federal funds available that could assist the town with the trail from Glenwood Springs to New Castle. He offered to pursue that if the council agreed. The council agreed Councilor Stuckey should pursue it.

Mayor Gordon asked the council to look at the list posted on the wall of all the accomplishments the council and town has accomplished. He thanked them for their hard work and efforts.

Councilor Breslin said it was possible because the council and staff invited people to share their ideas and be involved. The 125th Anniversary was a good example.

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

The meeting adjourned at 9:04 p.m.

Respectfully Submitted,



Mayor Bob Gordon



Town Clerk Melody Harrison, CMC