

**New Castle Town Council Meeting
Tuesday, October 6, 2015, 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 Councilor Breslin Councilor Stuckey
Absent	Councilor Leland

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Town Finance Director Lyle Layton, Police Chief Tony Pagni, Police Officer Al Walker, Town Planner Tim Cain, Town Attorney David McConaughy and members of the public.

Meeting Notice

Town Clerk Melody Harrison verified that her office gave notice of the meeting in accordance with Resolution TC-2015-1.

Conflicts of Interest

Councilor Stuckey asked to be recused from the marketing strategy item. The council agreed.

Agenda Changes

There were no agenda changes.

Citizen Comments on Items not on the Agenda

Rick Davis, 818 Ute Circle Lakota. Mr. Davis provided the council with photographs of trash from construction sites that had blown into open space and neighborhoods. He felt that the council should know that some contractors were not managing their sites as well as could be. Mayor Gordon said that Planner Cain had been taking care of the situation. Planner Cain said he visits construction sites once per week to make certain that they kept within town guidelines for site cleanliness. Mr. Davis suggested that contractors could place fencing around their job sites to help contain debris, and planner Cain thought this was a good idea.

LaRue Wentz, 136 N. 4th Street. Ms. Wentz thanked the town for their help in repairing the roof of the jail. She said that Recreation Director Larry McDonald had gotten framed posters of historic New Castle baseball teams for the museum. Ms. Wentz also thanked everyone who had written a letter of support for the museum's grant application.

Ms. Wentz said the Community Market had enjoyed a fourth successful year, and the museum had a record crowd during Burning Mountain Festival because the announcers kept mentioning them. There had also been a record number of people at the library book sale because of all the publicity.

Mayor Gordon thanked Ms. Wentz for her work at the museum, along with Lorraine and Joe McNeal.

John Lee of Innermountain Distributing. Mr. Lee said that the new stop sign at the T-intersection at the bridge and CR 335 was great. He also thanked the town for the new pavement on CR 335. Mr. Lee said that as a golfer, he was excited that the clubhouse in Lakota has begun construction.

Mr. Lee offered that the town could purchase bottled Eldorado water from Innermountain Distributing close to cost. Not only would the town be supporting a local business, but the water is a Colorado Proud product.

Mr. Lee said the main reason he was at the meeting was to report to the council that the Pyro Memorial Fund was now a 501 c-3 non-profit organization with a board of directors, of which he was the chair. Also on the board were Art Riddile, John Pellan and Bill Wentzel.

Mr. Lee said he had spoken to the sculptor and he would be working full time on the project very soon. Mr. and Mrs. Dubois will be involved with the sculpture, but not the fundraising portion of the project.

Mr. Lee said he had made some connections with a CU Alumni to assist with social media. He also said he found someone to help with the brochure, and when those are complete, they will be given out to local businesses and sent out on social media. The account at Alpine Bank name is FBO – Future Benefit of Pyro Memorial Fund.

Councilor Riddile said that he had spoken to the RE-2 school district and they could not contribute, but they would be happy place information about the fundraising in their newsletters.

Mayor Gordon thanked Mr. Lee for being a man of his word and for coming to council with an update.

John Bunn, 286 W. Main Street – Master John Bunn asked the council to consider installing a pedestrian sign on Main Street because the drivers disregard the small signs that are in the crosswalks. Mayor Gordon thanked him for his suggestion.

Consultant Reports

Consultant Attorney – present for agenda items

Consultant Engineer – not present

Code Enforcement – nothing to report.

Items for Consideration

Recess Town Council Meeting, Convene as Local Liquor Licensing Authority

MOTION: Councilor Breslin made a motion to recess the town council meeting and to convene as the local liquor licensing authority. Councilor Means seconded the motion and it passed unanimously.

Silver Club Saloon Liquor License Renewal Hearing

Mayor Gordon opened the public hearing at 7:19 p.m.

Town Attorney David McConaughy asked the Town Clerk to inform the council how notice of the public hearing was provided.

Town Clerk Melody Harrison told the council that public notice was accomplished by placing a 22" x 36" notice poster in the front window of the Silver Club Saloon on September 24, 2015. Public notices were placed in the three posting boards in town: On the front of the town hall building, at Alder Park and at the Post Office. Notices were provided to the applicant and his attorney via e-mail and postal mail. At the time the notice was posted at the club location, Clerk Harrison also attempted to hand-delivered a notice to Mr. Seth Graby, but he was unavailable. A man who identified himself as Steven, the bar manager, accepted the notice. Clerk Harrison noted for the record that the renewal application identified Seth Graby as the operating manager of the bar, and no one else.

Mayor Gordon asked if there were persons willing to testify. Several people indicated they wished to testify. Mayor Gordon asked them if they swore and affirmed to tell the truth, and the audience agreed by saying I do.

Attorney McConaughy gave the authority, staff and audience instructions on how to proceed. He said the question to consider was whether the liquor license for the Silver Club Saloon should be renewed. Liquor licenses were renewed annually, and the authority should vote for a renewal unless they find good cause not to. He said there was a memo in the packet defining "good cause" as either a violation of the liquor code or, evidence that the licensed premises had been operated in a manner that adversely affected the public health, welfare or safety of the immediate neighborhood in which the establishment was located. Evidence must include a continued pattern of fights, violent activity or disorderly conduct.

Attorney McConaughy said the authority should decide yes or no if those things had occurred. Additionally, anything the applicant stated on the record, either written materials or verbally during the hearing will become part of the application and what the applicant will be bound to.

Clerk Harrison told the authority that additional documents from the applicant's attorney, Mr. Tim Graves, had been placed in the online, electronic and paper packets earlier in the day, as well as an updated report from New Castle Police Officer Al Walker.

Officer Walker told the authority he had done a search of the police database and found that there were approximately 68 incident reports related to the Silver Club Saloon. Most of those were routine bar checks performed by the police department. Sixteen of the incidents included noise complaints, one drug investigation, liquor violations, disturbances, trespass, suspicious events and hazards. Sgt. Walker stated that there had been incidents at the Silver Club that did not result in the filing of formal cases.

The formal cases that were followed included the following:

Case #14N0406 occurred on 10-21-2014 and involved an unreported disturbance/criminal mischief inside the bar. There was a disturbance involving

three bar patrons fighting or nearly fighting with each other. One bar patron allegedly fled the bar from the other two bar patrons who were threatening him and called 911. On 11-05-2014 the bar owner, Seth Graby, complained to an officer that his pool table had been damaged and nothing was being done about it. Mr. Graby was advised that something could have possibly been done, had the incident been reported at the time by the bar.

Case #14N0456 occurred on 12-07-2014, and involved a physical altercation between the bar owner, Seth Graby, and a bar patron. Mr. Graby admitted to punching the bar patron, but was not charged due to conflicting statements from other bar patrons.

Case #14N0464 occurred on 12-13-2014 and involved a minor child (approx. 12 years old) being allowed into the bar on a busy Saturday night, playing pool with approximately 40 other bar patrons while alcohol was actively being served.

Case #14N0461 occurred on 12-14-2014 and involved an intoxicated bar patron being loud and aggressive with an officer on a routine bar check. The bar owner, Seth Graby, was notified of the intoxicated patron and refused to address the problem, allowing the intoxicated patron to remain in the bar.

Case #14N0489 occurred on 12-28-2014 and involved over service of a bar patron that ended up falling down and injuring himself, requiring ambulance transport to the hospital.

Case #15N0093 occurred on 03-16-2015 and involved a disturbance in the unmonitored lounge area in the back area of the bar, which went unreported by the bar, as required. The bar owner, Seth Graby, was very uncooperative with the responding officer when asked what the suspects looked like. Mr. Graby responded by saying "they are like all the town's residents with arms and legs." Mr. Graby was charged in that case with failing to report disorderly conduct and public nuisance.

Case #15N0096 occurred on 03-17-2015 and involved another fight between a bar patron, the bartender, and the bar owner, Seth Graby. The bar patron was charged with disorderly conduct based on witness statements.

Case #15N0122 occurred on 04-18-2015 and involved a female bar patron who was trespassed from the establishment at the request of the bar.

Case #15N0267 occurred on 08-01-2015 and involved the sale of alcohol during prohibited hours (after 0200).

Case #15N0323 occurred on 09-13-2015 and involved the theft of a cell phone inside the bar, by an underage person who allegedly presented a fake ID. The underage person was served alcohol by the bar.

Case #15N0333 occurred on 09-24-2015 and involved a Silver Club patron allegedly fighting with a female party in the alley behind the bar. The intoxicated male party had a warrant for his arrest, and was combative with the arresting

officer. The male party was arrested for the warrant, as well as for obstructing and resisting arrest. The bartender did assist the arresting officer in some capacity.

Case #15N0297 occurred on 08-30-2015 and involved a DUI traffic accident. The arrestee was a patron of the bar that night, and had been reportedly "choked out" by the bar owner, Seth Graby. Witnesses reported the arrestee and Seth Graby had been engaging in horseplay. The arrestee's blood alcohol level is not yet available, pending the results of the blood test.

Case #14N0397 occurred on 10-17-2014 and involved a resident that lived near the Silver Club Saloon, confronting a male party that possibly resided at 366 W. Main St (Silver Club) for walking his dog in the alley way and allowing his dog to defecate in the alleys behind the bar without cleaning it up. The resident discovered the following day that a window had been broken out of his vehicle. Officer Dominguez questioned the owner of the Silver Club, Seth Graby. Mr. Graby reported witnessing a confrontation between two "unknown" males regarding picking up dog feces. We later learned the "unknown" male party with the dog was identified as Steven J. Graby, a relative of Seth Graby.

Case #15N0211 occurred on 06-27-2015 and involved a DUI traffic stop. The driver appeared to be highly intoxicated and reported that he did his drinking at the Silver Club Saloon. The driver was arrested for suspicion of DUI and refused to submit to a chemical test.

Case #15N0213 occurred on 06-29-2015 and involved a resident that lives nearby the Silver Club Saloon finding items from his yard had been broken and stolen. The resident found a bottle of some type of alcohol in his yard when he discovered the damaged/stolen property, and suspected patrons of the Silver Club Bar may have been involved.

Case #15N0224 occurred on 07-05-2015 and involved a patron of the Silver Club Saloon, leaving the bar via the access to the back alley, and breaking and entering multiple vehicles and stealing property from the vehicles, damaging the vehicles in the process.

Case #15N0269 occurred on 08-02-2015 and involved another disturbance/fight near the Silver Club Saloon. The responding Officer spoke to the bartender, who advised the Officer that two male patrons were about to engage in a fight, but other bar patrons stopped the fight. The Silver Club Saloon did not appear to be the reporting parties of the incident.

Case #15N0334 occurred on 09-24-2015 and involved a car parked/blocking the private driveway of a resident living next door to the Silver Club Saloon. The owner of the vehicle had been arrested the previous night by a New Castle Officer on a warrant, and for obstructing and resisting the Officer trying to make a lawful arrest. The offender had been a patron of the Silver Club Saloon the previous night.

Officer Walker also reviewed some of the incidents in which cases were not filed:

On 09-03-2015 at approx. 2218 hrs. Officer Polen and Dominguez made contact with the bar on a noise complaint. There was a band playing, the bar was warned and asked to keep the door closed.

On 09-04-2015 at approx. 2306 hours, I received a noise complaint about the bar. They were again playing very loud music and leaving the front door of the establishment open. I had to ask/remind the bartender to keep the front door of their establishment closed to contain some of the noise. I also observed the back gate which accesses North Alley from the Silver Club Saloon remains unlocked allowing access to the bar from the alley way, and to the best of our knowledge the rear patio area of the bar remains unmonitored.

On 09-20-2015 at approx. 0005 hrs., I received another noise complaint about the bar. I parked across the street and listened to the loud music coming from the bar. After a minute or two, I was observed sitting across the street and the door was closed.

Attorney McConaughy said that one of the definitions of disorderly conduct included making unreasonable noise in a public place or near a private residence that the person has no right to occupy. The town code, in the nuisance section, references the state statute for unreasonable noise definitions, which had a fifty-five decibel limit at twenty-five feet away. Attorney McConaughy asked Officer Walker if he had ever attempted to measure, with respect to the noise complaints, how many decibels were being generated. Officer Walker said he had not, and he did not believe the department owned a decibel meter, so the officers' practice was to simply ask the bar to close the door to contain the noise. No charges were filed for the noise complaints.

Councilor Breslin asked if any of the New Castle officers had ever felt they were in danger, or a hostile environment inside the bar. Officer Walker said he was certain that Officer Reynolds felt unsafe the night he encountered the resistive/combatative subject. Officer Walker said for himself, it was an unfriendly environment, particularly on nights when the officers were on duty alone. It was daunting to enter the bar alone.

Attorney McConaughy said that the unregistered manager Clerk Harrison mentioned was similar to the case several months ago when the authority ordered a show-cause hearing on the establishment during which a gentlemen showed up to represent Silver Club, and it turned out he was also an unregistered manager. These and the cases summarized by Officer Walker are the incidents relative to the criteria in the liquor code mentioned in his memo.

Attorney McConaughy turned the floor over to the Silver Club Saloon's attorney, Tim Graves.

Mr. Graves introduced himself to the authority, and apologized for Seth Graby's absence from the hearing, stating that Mr. Graby had a medical condition related to his military service, and high-anxiety situations such as the hearing trigger his

PTSD. Mr. Graby's wife is in attendance, and Mr. Graves said she was acting on Mr. Graby's behalf and that he may defer to her to answer to certain questions.

Mr. Graves also extended his well wishes to Councilor Leland for a speedy recovery.

Mr. Graves began by reading the bar's protocol for unruly patrons, which was included in the renewal application:

The Saloon has the following procedure for unruly patrons. If a patron appears to be intoxicated, the bar tender will offer them a water or other non-alcoholic drink, as well as making an effort to secure a safe ride from other patrons. If the patron becomes unruly, they are asked to leave, and if need be, are escorted out by bar personnel. If the patron refuses to leave, the police are called. The bar tender also keeps a detailed report of all incidents in a notebook behind the bar. The Saloon takes steps to have all bar personnel trained in the TIPS Certification program. Training for TIPS Certification is currently scheduled for September 23, 2015, at the Saloon. Training is to be conducted by Tom Regan Consulting. Since the Saloon opened in 2012, there have been ten citations to patrons of the Saloon.

Mr. Graves spoke with Tom Regan Consulting and verified that all bar staff had been certified. He directed the authority to review the last page of the packet, which was Seth Graby's Serve Safe Alcohol certification. The examination date was September 24, 2015. Mr. Graves stated that he had asked Mr. Regan why Serve Safe and not the TIPS certification, and that Mr. Regan said that the Serve Safe program is certified by the Colorado Department of Revenue, and is accepted throughout Colorado as a replacement for the TIPS program. Mr. Graves said that Mr. Regan had further informed him that the town staff had used his services for the Serve Safe Alcohol Program and that Mr. Regan stated that both the TIPS and Serve Safe programs were virtually identical; the only difference was the name.

Mr. Graves stated that problems of over-service and serving underage patrons had been addressed, that the bar staff was now trained and were instructed on proper procedures by the Colorado Department of Revenue.

Regarding the noise complaints, Mr. Graves addressed them individually.

E-mail from Patty Ringer: Mr. Graves summarized it by saying she complained of loud noise at all hours, smoking outside, fights, patrons trespassing on neighboring property, bright blinking neon lights in the bar window, trash on the sidewalk, a general disregard for others and a refusal to accept responsibility for the climate they created that caused the problems.

Mr. Graves said that the bar recognized that when there was a band playing and the front door was open, the noise spilled out onto the Main Street area, potentially to the neighbors. To address the issue, the saloon agreed to keep the front door closed at all hours where there will be music playing, either by a live band or via the jukebox/PA system in the bar. The police department has asked for the same. The simple closing of the door will alleviate the problem.

Regarding trespassing onto neighboring property, Mr. Graves said the saloon did not have the ability to walk every patron home at the end of the night. The bar does have the responsibility to make sure the patrons are not over-served, and the Serve Safe Alcohol program they are guaranteeing over-service will never happen again. However, Mr. Graves said they could not control the actions of their patrons once they leave the premises. He felt that any damage done to the 300 block of Main Street was all being blamed on the Silver Club Saloon. If one of their patrons does something after they leave the saloon, there was nothing the saloon could do about it. Dog feces found in the back alley was simply not the saloon's fault as they do not control the alley. The alley is property of the city. It is the responsibility of the police to police the alley, not the saloon.

Mr. Graves said they did everything in their power to keep patrons from entering the alley from the patio, and to that end, the saloon installed an alarm on the back door that goes from their smoking patio out into the alley. The door needs to remain unlocked for fire safety reasons, however, the alarm goes off inside the bar area if the door is opened from the inside or outside. This will alert bar personnel that something is going on out back and they will go out there to make certain everything is under control. Further, it was reported that the patio area was unmonitored. Mr. Graves stated that he walked the premises with Mr. Graby who showed him the security cameras installed. Mr. Graves referenced photos in the packet of the two security cameras. One camera is located directly above the front door of the bar, and has a view of the entire bar area inside. The second camera is just above the door exiting into the smoking area, and views the entire smoking area. The cameras are projected into the private office of Mr. Graby, they are sent to the cell phone of Mr. Graby and to a portable iPad device at the bar, so the bartenders can monitor while they are tending bar.

Mr. Graves said there had been accusations of fights in the smoking area, and he said the camera system would ensure that any incident that happens in the back patio area will immediately be stopped and the protocol mentioned earlier will be followed to end things peacefully, without police intervention. The staff will separate parties, get them to stop drinking and offer them some water. Until it is absolutely necessary they will not call the police. The bar does not want to see the citizens of New Castle and its patrons arrested; they do not wish to bring that onto the town and their patrons or on to the police. They do not want fights to happen, but when they do happen, they want them done right away. He stated that the protocol in the application would be followed.

E-mail from Ed and Ann Andzel: Mr. Graves summarized it by saying that the complaints were of patrons vomiting in the outdoor trash receptacle, noise and loud music, smoking in the back patio area under an awning, smoking marijuana in the alley, loud fights in the night, vomit and feces on the sidewalk out front.

Mr. Graves reiterated that the back door would be alarmed. Servers have all been certified in the Serve Safe program, and the bar is promising to keep the doors closed during shows or when there is loud music being played over the PA system in the bar. Concerns over incidents happening in the alley: Mr. Graves stated that it

was not the saloon doing those things, so it is not activities the saloon can stop. The saloon has taken measures to keep their patrons inside and the measures will work, however once patrons leave the bar, they are out of control of the saloon's control.

E-mail from Thora Einarsdottir and Olafur Johannssen: Mr. Graves summarized it by saying that the complaints were of noise, the bar doors being left open while music is playing. Attached were several pages of what appeared to be decibel meter readings.

Mr. Graves said the saloon has promised to keep the doors closed. Regarding the decibel reader, Mr. Graves said the device had not been authenticated in any way, and they have no idea what kind of a device it was, when it was last calibrated, how accurate it was or what its error percentage may be, so unfortunately the readings cannot be relied upon. Because the veracity of the readings cannot be verified, Mr. Graves asked that they be disregarded.

Referring back to the second e-mail that noted the saloon closing the door when the police officer walked up: Mr. Graves said that there was no way to know the conscious thoughts of the person that closed the door; there was no way to know if there was malicious intent or someone simply noticed the door was open. He said nothing could be inferred into the mental state of the person who closed the door, so all that could be considered was that the door was closed. Problem solved.

Mr. Graves said he wanted to address the individual cases read into the record. First, he stated that the case numbers don't tell how the case ended, whether there was an admission of guilt, or if they were dismissed or if they were even prosecuted. Mr. Graves reminded the authority that in America, one of the great tenants of freedom is innocence until proven guilty. Reading through the cases, Mr. Graves reminded everyone that unless it says someone had been proven guilty, it must be presumed they are innocent.

Mr. Graves offered comments on the reported cases as follows:

Case #14N0406 occurred on 10-21-2014 and involved an unreported disturbance/criminal mischief inside the bar. There was a disturbance involving three bar patrons fighting or nearly fighting with each other. One bar patron allegedly fled the bar from the other two bar patrons who were threatening him and called 911. On 11-05-2014 the bar owner, Seth Graby, complained to an officer that his pool table had been damaged and nothing was being done about it. Mr. Graby was advised that something could have possibly been done, had the incident been reported at the time by the bar.

Mr. Graves pointed out that the report indicates that the patrons were "nearly fighting" and stated that there had not been an actual fight. The bar followed its protocol, was able to stop any violence before it started, and did not contact the police because there was no incident to report. The bar did not wish to get in trouble for something that did not happen.

Case #14N0456 occurred on 12-07-2014, and involved a physical altercation between the bar owner, Seth Graby, and a bar patron. Mr. Graby admitted to punching the bar patron, but was not charged due to conflicting statements from other bar patrons.

Mr. Graves said that again there was an unruly patron that was removed without police involvement. Nothing more, nothing less.

Case #14N0464 occurred on 12-13-2014 and involved a minor child (approx. 12 years old) being allowed into the bar on a busy Saturday night, playing pool with approximately 40 other bar patrons while alcohol was actively being served.

Mr. Graves said that the synopsis does not include a time stamp, and there was no indication of whether the child was being supervised by a parent or guardian. There was no indication whether the child was harmed in any way, however the saloon realizes the gravity of the situation and in the future will make a concerted effort to ensure that any minor children who enter the bar are asked to leave as soon as recognized.

Case #14N0461 occurred on 12-14-2014 and involved an intoxicated bar patron being loud and aggressive with an officer on a routine bar check. The bar owner, Seth Graby, was notified of the intoxicated patron and refused to address the problem, allowing the intoxicated patron to remain in the bar.

Mr. Graves stated that during the presentation by the New Castle officer, an editorial statement was added that the patron was allowed to continue consuming alcohol, however, Mr. Graves said there was no indication of that in the report. Mr. Graves contended that the patron stayed until Mr. Graby could secure a safe ride home for the patron. He said Mr. Graby was trying to make sure everyone got home safely that evening.

Case #14N0489 occurred on 12-28-2014 and involved over service of a bar patron that ended up falling down and injuring himself, requiring ambulance transport to the hospital.

Mr. Graves stated there was no excuse for the incident. All the bartenders have since been trained on Safe Service and this will not happen in the future.

Case #15N0093 occurred on 03-16-2015 and involved a disturbance in the unmonitored lounge area in the back area of the bar, which went unreported by the bar, as required. The bar owner, Seth Graby, was very uncooperative with the responding officer when asked what the suspects looked like. Mr. Graby responded by saying "they are like all the town's residents with arms and legs." Mr. Graby was charged in that case with failing to report disorderly conduct and public nuisance.

Mr. Graves stated that the back patio area was now monitored and a security camera installed. He said that Mr. Graby was uncooperative at that time was because he had not witnessed the incident, and could not report something he had not seen. Mr. Graby's "smart-alec" comment was out of frustration because he had

been asked four or five times what the person looked like, and after saying he did not know for our five times he got smart. Mr. Graves stated that this incident was the one that led to the show-cause hearing in April. Mr. Graves reminded the authority that punishment had been handed down for this and some of the other incidents mentioned, and punishment had been served.

Case #15N0096 occurred on 03-17-2015 and involved another fight between a bar patron, the bartender, and the bar owner, Seth Graby. The bar patron was charged with disorderly conduct based on witness statements.

Mr. Graves said that Mr. Graby was unable to peacefully resolve the situation, and unable to peacefully remove the patron and when he realized the situation was out of his control he contacted the police.

Case #15N0122 occurred on 04-18-2015 and involved a female bar patron who was trespassed from the establishment at the request of the bar.

Mr. Graves was uncertain why this case was being cited against the saloon because they had contacted the police as necessary.

Case #15N0267 occurred on 08-01-2015 and involved the sale of alcohol during prohibited hours (after 0200).

Mr. Graves said that Mr. Graby told him there had been a live show that night. After the band was done playing and all the patrons had gone home, a band member asked the bartender for a drink. The bartender poured the drink, but never gave it to the person, and no money was exchanged. The drink was subsequently poured out. Mr. Graves said that the staff had all been trained in the Serve Safe Alcohol program since the incident and know what to do in future situations.

Case #15N0323 occurred on 09-13-2015 and involved the theft of a cell phone inside the bar, by an underage person who allegedly presented a fake ID. The underage person was served alcohol by the bar.

Mr. Graves stated that he personally had never seen a fake ID but that the bar staff had all been through the Serve Safe Alcohol program, and in fact had spent 45 minutes learning about fake IDs and how to spot them.

Case #15N0333 occurred on 09-24-2015 and involved a Silver Club patron allegedly fighting with a female party in the alley behind the bar. The intoxicated male party had a warrant for his arrest, and was combative with the arresting officer. The male party was arrested for the warrant, as well as for obstructing and resisting arrest. The bartender did assist the arresting officer in some capacity.

Mr. Graves said a security camera now monitored the smoking area and the back door was alarmed. The alley itself was not within the control of the saloon.

Case #15N0297 occurred on 08-30-2015 and involved a DUI traffic accident. The arrestee was a patron of the bar that night, and had been reportedly "choked out"

by the bar owner, Seth Graby. Witnesses reported the arrestee and Seth Graby had been engaging in horseplay. The arrestee's blood alcohol level is not yet available, pending the results of the blood test.

Mr. Graves said there was no blood alcohol content available and no evidence of harm to anyone, therefore he could not see how Mr. Graby could be held responsible for a DUI traffic accident when there is no timeline of the person who was allegedly served and allegedly arrested to prove that he actually got drunk at the Silver Club. He felt the person could have gone to another establishment or a private residence and continued to drink alcohol there.

On 09-03-2015 at approx. 2218 hrs. Officer Polen and Dominguez made contact with the bar on a noise complaint. There was a band playing, the bar was warned and asked to keep the door closed.

Mr. Graves said that there was a band playing, and the bar was asked to keep the door closed. No further incident report that evening. That can only indicate that the bar closed the door and that remedy worked for everyone involved.

On 09-04-2015 at approx. 2306 hours, I received a noise complaint about the bar. They were again playing very loud music and leaving the front door of the establishment open. I had to ask/remind the bartender to keep the front door of their establishment closed to contain some of the noise. I also observed the back gate which accesses North Alley from the Silver Club Saloon remains unlocked allowing access to the bar from the alley way, and to the best of our knowledge the rear patio area of the bar remains unmonitored.

Mr. Graves stated that the front door will remain closed, and the back area is currently monitored and secured.

On 09-20-2015 at approx. 0005 hrs., I received another noise complaint about the bar. I parked across the street and listened to the loud music coming from the bar. After a minute or two, I was observed sitting across the street and the door was closed.

Mr. Graves said that again, there was no way to know what was going on in the mind of the person who closed the door, or what their mental state may have been. There is also no way to know if there was malicious intent to close the door. It was a simple coincidence.

On 09-26-2015 at approx. 2211 hrs., Cpl. Burrows and Officer Polen received another noise complaint. The front door was again open, and the bar was advised again to keep the front door closed. The bar owner, Seth Graby, told Officers "What about the fucking train? That thing is loud as shit!"

Mr. Graves stated that the saloon promises to keep the door closed, and it should resolve the issue.

Case #14N0397 occurred on 10-17-2014 and involved a resident that lived near the Silver Club Saloon, confronting a male party that possibly resided at 366 W. Main St (Silver Club) for walking his dog in the alley way and allowing his dog to defecate in the alleys behind the bar without cleaning it up. The resident discovered the following day that a window had been broken out of his vehicle. Officer Dominguez questioned the owner of the Silver Club, Seth Graby. Mr. Graby reported witnessing a confrontation between two "unknown" males regarding picking up dog feces. We later learned the "unknown" male party with the dog was identified as Steven J. Graby, a relative of Seth Graby.

Mr. Graves said that Sergeant Walker had identified Steven J Graby as Seth Graby's father and that is correct, however, Mr. Seth Graby cannot report seeing someone whom he cannot identify. If he cannot identify someone because their back was turned or the lighting was poor, then he simply cannot identify them. Holding him to a standard that he cannot meet is unreasonable. The fact that Steven J. Gray is a relative of Mr. Seth Graby is irrelevant. All that matters is that Mr. Seth Graby could not identify him. Mr. Graves mentioned again that the alleyway is not the property of the bar and it not the bar's responsibility to police.

Case #15N0211 occurred on 06-27-2015 and involved a DUI traffic stop. The driver appeared to be highly intoxicated and reported that he did his drinking at the Silver Club Saloon. The driver was arrested for suspicion of DUI and refused to submit to a chemical test.

Mr. Graves said there was no proof of over-service by the saloon, there is no way to know what happened that night, and there is no timeline. There are too many holes in the story to say the responsibility lays with the Silver Club Saloon.

Case #15N0213 occurred on 06-29-2015 and involved a resident that lives nearby the Silver Club Saloon finding items from his yard had been broken and stolen. The resident found a bottle of some type of alcohol in his yard when he discovered the damaged/stolen property, and suspected patrons of the Silver Club Bar may have been involved.

Mr. Graves said this case was nothing but an allegation, and it appears that anything that happens within the 300 block of Main Street is being laid at the feet of the Silver Club Saloon.

Case #15N0224 occurred on 07-05-2015 and involved a patron of the Silver Club Saloon, leaving the bar via the access to the back alley, and breaking and entering multiple vehicles and stealing property from the vehicles, damaging the vehicles in the process.

Mr. Graves said that back door is now secured, and the back area monitored. There was nothing in the report to indicate over-service or intoxication of this person, and once the person leaves the property of the saloon, they are no longer the saloon's responsibility.

Case #15N0269 occurred on 08-02-2015 and involved another disturbance/fight near the Silver Club Saloon. The responding Officer spoke to the bartender, who advised the Officer that two male patrons were about to engage in a fight, but other bar patrons stopped the fight. The Silver Club Saloon did not appear to be the reporting parties of the incident.

Mr. Graves said that again, there was a peaceful solution to a situation that could have gone violent. The protocol was followed and no injury or harm was received by anyone, and a possible violent situation averted.

Case #15N0334 occurred on 09-24-2015 and involved a car parked/blocking the private driveway of a resident living next door to the Silver Club Saloon. The owner of the vehicle had been arrested the previous night by a New Castle Officer on a warrant, and for obstructing and resisting the Officer trying to make a lawful arrest. The offender had been a patron of the Silver Club Saloon the previous night.

Mr. Graves said there was no indication of intoxication or over-service by the saloon. The issue is that someone, a citizen or visitor parked their car in the wrong spot and left it there over night. This was certainly not the fault of the saloon simply because he visited the establishment. The person probably visited other businesses in town that day and were not reported as being involved.

Mr. Graves said that the saloon had been punished for permitting disorderly conduct and for being a designated public nuisance. Their license was suspended for seven days. During that seven day period the saloon did not mope and wring it's hands and try to figure out what to do. Instead, they took remedial action to fix the problems presented. They took the opportunity to make security improvements and other improvements, including aesthetic renovations. They served their time, and revoking their license would be double punishment for the same crime.

Mr. Graves said that denial of the renewal application would mean certain death for the saloon. Their entire business relies on the renewal of the application. Denial will mean more than the closing of a business. It will also mean lost jobs, lost tax revenue for the city and state. Denial means that the market would not get to decide when businesses should stay open or should close. The power is taken from the market and placed in the hands of the liquor authority.

Mr. Graves stated that he was not saying that the city should not protect its citizens. He was saying that the saloon was here to work with the town and the citizens to ensure that the business could stay open, that the citizens were protected, and that everyone had a fun place to go on Friday nights. Mr. Graves said that the Silver Club Saloon was excited about the future and all they wanted was to continue to operate and grow their business, and to serve the citizens of New Castle. The saloon has had issues in the past and has remedied those problems as the evidence showed. Mr. Graves said the saloon would continue with those remedies in the future, and he encouraged everyone to make direct contact with Mr. Seth Graby because he is reasonable and is ready and willing to work with them, approach Mr. Graby and everything would be fine.

Councilor Breslin asked how long the alarm had been installed on the back door. Mr. Graves said that he may have to defer to Mrs. Graby for answers, but said that he understood the alarm system had been purchased just after the suspension but had been working on obtaining the proper knowledge to install the technology. Mrs. Graby said it had been installed the previous Saturday. Councilor Breslin asked if the installation of the cameras was the same, and Mrs. Graby said it was.

Councilor Means asked if the security cameras recorded. Mr. Graves said they did, and the recordings were kept for up to one month. The protocol was for the bar to review the tapes every week, decide if anything needed to be kept permanently, and those would be transferred to another storage device for permanent retention. The recordings would be made available to the police department upon request.

Councilor Breslin asked Sergeant Walker if he had inspected the incident log book shown in the photographs provided. Sergeant Walker said he had not personally seen the book, but knew that it was there, and that other officers had seen the book. Mr. Graves said he had seen the book, and had cross-referenced an incident in the police report to the logbook and it was in there.

Mayor Gordon asked if Mr. Graves actually believed that when a person leaves the bar and vomits on the sidewalk in front of the bar, and goes to the bathroom that it had nothing to do with the bar. Mr. Graves said his opinion was irrelevant in the case, but that that bar was taking steps to ensure that it doesn't happen in the future, by use of security cameras and securing the back door. Mr. Graby felt that keeping the front door closed would alleviate most of the problems on the front sidewalk as well.

Councilor Riddile asked about the 3/16/15 incident where Mr. Graby was charged with disorderly conduct and public nuisance and asked whether Mr. Graby appeared in court and if so, what were the results? Mr. Graves said that Mr. Graby told him the case was still pending.

Councilor Stuckey asked how the authority could know that the front door would remain closed when the police department had asked for that over and over again, but it's still a problem. Mr. Graves reminded the authority that everything stated by the applicant during the hearing would become a part of the application and a condition of the liquor license. Mr. Graves said that his agreement to keep the door closed constituted a condition on the license. The authority can take action against the license if there is a reported event of the door being open.

Mayor Gordon said he was having difficulty with the lack of responsibility. He said there was no business the authority wished to shut down, but everything they were hearing was the same as when Silver Club was suspended. Mr. Graves said he was not the applicant's attorney at the earlier hearing and was not up to speed on the facts of it, but he assured the authority that the saloon was not denying responsibility, but they did feel there were unfair allegations against the saloon. Mr. Graves pointed out that the incident involving Mr. Graby's father and the dog excrement was irrelevant to the liquor license. All anyone knew was the he possibly resided at the saloon, and that he is the father of Mr. Graby. Otherwise, there is no

connection at all. It has nothing to do with the operation of the liquor license, and the fact that it was cited in the reports makes the applicant feel he was working against a stacked deck. Mr. Graves said that not everything in the reports was related to the bar.

Mayor Gordon said that it was stated several times that the bar cannot control what happens outside the bar, in the alley, but Mayor Gordon felt they could control how patrons leave the bar. Mayor Gordon further stated that there had been hope the business could have been great, and that he envisioned a place like Cheers where people could go and have a good time. The number of incidents there was a great expense to the citizens of New Castle.

Mr. Graves asked for suggestions on how the bar could control patrons upon exiting the bar. Mayor Gordon said, "Quit serving your patrons a bit sooner, so they don't run outside and throw up." Mr. Graves said the bar staff had been trained and there was significant time spent on the subject of over-service, and Mr. Graves stated that over-service had been a problem in the past. This was unacceptable. Mr. Graves said efforts had been taken to educate, and the bartenders will use that education in the future to ensure that over-service was not an issue.

Councilor Metzger said that to her recollection, Mr. Graby had never appeared before the authority, that a manager had always come. Mr. Graves said he did not know. Councilor Metzger said she felt that running a bar would be more stressful and more likely to aggravate Mr. Graby's medical condition than coming to a council meeting. She felt it was irresponsible that Mr. Graby had not shown up and that it made it appear he was not trying very hard to show himself as being a good citizen. Mr. Graves apologized on behalf of Mr. Graby and said it was not a tactic to avoid responsibility, it was simply a serious medical condition.

Councilor Stuckey asked when the bar was closed for their suspension. Mr. Graves said the suspension was handed down (April 7, 2015) and then there was a thirty-five day appeal period, so the suspension would have been mid-May. Councilor Stuckey asked when the security equipment was purchased. Mr. Graves did not know, but stated that Mr. Graby spent the suspension time researching technology, but had run into some financial difficulties while trying to make sure he purchased high-quality items. Councilor Stuckey said he was amazed that the equipment was only recently installed, and while he understood research and time to install, it took from May to October to get it done. That is a significant amount of time, particularly considering the situation. Mr. Graves said he could not change the past, and could not speak to the delay. If the equipment had been installed sooner, it may have avoided some of the problems. He said they could only make efforts to improve going forward.

Councilor Means asked how long it took to go through the Safe Serve Alcohol program. Mr. Graves deferred to Mrs. Graby for the answer. Mrs. Graby said the class was about three hours. Councilor Means said he found it interesting that the conditions that caused the suspension, and were addressed to the owner, were not taken care of until the week before the hearing. Councilor Means said that Mr. Graby was being represented as wanting to work with the town and the community,

but he did not see it, he said what he saw was a last-ditch effort. Mr. Graves said there had been a significant wait for the Serve Safe class because Mr. Regan is a highly sought-after instructor, and he did not know the date the bar had contacted Mr. Regan, but there had been a long wait.

Mayor Gordon called for comments from the citizens.

Attorney McConaughy instructed that comments should be directed to the authority rather than having citizens directly question the applicant.

Ann Andzel. Mrs. Andzel and her husband Ed live next door to the Silver Club Saloon, above Maud's on Main. Mrs. Andzel said she and her husband move to New Castle from New York. Living next door to the Club has caused them a great deal of grief, being awakened every night, by finding vomit and feces on the sidewalk, people gathering out front, people smoking under their awning, scary fights that make them wonder what will happen. Mrs. Andzel says she had called the police several times, and they do come, but often times the incidents are over by the time they arrive. She said by the time they wake up, it could be close to the end of whatever is going on.

Mrs. Andzel said she heard Mr. Graves say the bar had no responsibility for what people do when they leave the bar, yet they are installing cameras so that they have some responsibility for what's going on in the bar. She felt it was all smoke and mirrors, and that the situations will keep happening, and it will drive good people out of the town. Mrs. Andzel said she was good people, and New Castle was a good place, but next to the bar was not a good place. She did not feel a special piece of equipment was needed to know that it was just too damned loud. She also did not feel classes were going to help anything. People were not doing what they were supposed to.

Terri Ferguson, 121 N 1st Street. Ms. Ferguson moved to New Castle from Glenwood and loves the quiet in town. She met Seth and Amber Graby a few months ago. She said the Grabys knew they needed to make some changes, and the first thing they started with was their personnel. She said they knew they were responsible for their personnel and were trying to train them the correct way. Ms. Ferguson said she helped install the cameras, and there were more to come, because when people walk out of the bar they should not have been over-served. They also want to make sure that when people walk into the bar, they have not been over-served. She said the gate can only be exited in an emergency and the alarm will sound. The gate cannot be entered. Seth and Amber agreed that the door needs to be kept closed, and that will be implemented immediately and will not change. Ms. Ferguson said she knew the Grabys wanted to make positive improvements to the establishment to make things more pleasurable to all involved.

Oli Johannssen, 303 W Main Street. Mr. Johannssen said he lived directly across the street from the Silver Club, and had been in New Castle for several months. He said the noise level from the establishment was horrendous. The allowable noise level was 55 decibels at 25 feet, and they were measured at 100 feet, or four times the distance, at 90 decibels. Mr. Johannssen said they had the right to go to sleep in their own beds, and go to work the next morning having had more than a few

hours' sleep. He pointed out that there were a number of establishments in town, and none have the same problems, and he felt it was a clear pattern. He said he did not know what the solution was, and was not trying to run anyone out of business, but he felt something needed to change.

Charlie Ringer, 331 W. Main Street. Mr. Ringer said the first problem was the front door. The club had been told repeatedly, no matter who owned it for the past fifteen years, to keep it closed. It never, never happens. It does not matter if there is music playing or not. Fact is he has a direct view into the bar and can see all the way into the bar to the bandstand, and he can almost tell who is doing the screaming. Women's voices carry very well, and the noise isn't just the music, it's the people screaming, trying to be heard. If there is music playing they are screaming over the music. The door blocks the noise pretty well, but it is almost never closed. Mr. Ringer said he was the same distance away as their neighbors, and the only thing that drowns out the bar noise is the train. Once the bar closes, the noise continues outside. He agreed that once the bar closes it pretty much stops their responsibility for what happen out front, but it goes on and on. The patio out back was built so people could smoke there, back when the smoking laws were enacted. The smoking hasn't ever stopped out front, and he presumes the bar has never made an effort to tell people to smoke out back. Mr. Ringer said he was no stranger to drinking and bars, as he was in the Army and went to college, and when people get a little under their belt, they get to raise their voices. On Main Street at midnight the voices are loud. He said he had not kept a log, and his wife had called more often than he had, but they had called a lot over the years. He knew the current owner could not be held accountable for the sins of previous owners, but it seems to be the same thing for fifteen years. Mr. Ringer said he had video tape from a week ago, about twenty-five minutes of a normal night where there were ten to fifteen people out front (off and on), yelling at one another, having a good time, but yelling. They need to do that inside or out back.

Another item Mr. Ringer complained about was blinking lights – he was not familiar with the lighting ordinance, but understood there were no blinking lights allowed in windows on Main Street. He said he was really glad when the public notice went up in the window for the hearing because it blocked out a major portion of their ATM sign, which is red and is never turned off, and lights up their bedroom. Noise pollution, light pollution, aggravation.

Mr. Ringer asked about the smoking law – how that worked, if the fifteen feet from the building applied.

Patty Ringer, 331 W, Main Street. Mrs. Ringer said she kept coming up with homilies, like "Actions Speak Louder Than Words" or "Too Little, Too Late"

If the issues were new, she said she would feel differently, but it was not new.

There was a pattern of disregard for other people within the area, a chronic pattern of irresponsibility. Mrs. Ringer said she had nothing against Mr. Graby, and has spoken with him, in fact had recently walked over to talk with him while he was standing out on the sidewalk smoking a cigarette, which he threw on the sidewalk. She told him that Burning Mountain Festival was coming up and everyone downtown was going to clean their windows and areas to make it nice for the festival. Mr. Graby said it was a great idea, but Mrs. Ringer said he always told her what she wanted to hear, and never followed through. She felt the authority should

listen very closely to what is being shared with them. Mrs. Ringer shared a story that her neighbors next door were horrified at the activities at the bar. She encouraged them to call the police, but the problem was that the door may be closed, but 15-20 minutes later the door would be opened again, and the residents don't want to keep calling and calling the police. She said that the number of calls shown by the record is only a small percentage of the problem. Ms. Ringer asked that the authority consider the record of non-compliance when they made their decision.

Amber Graby, 1550 CR 293, Rifle. Mrs. Graby said she was Seth Graby's wife. Mrs. Graby said this was the first time she had attended a council meeting, and said she understood the concerns submitted. Mrs. Graby apologized for the issues not being taken care of as they should have been, and she said they knew there were issues. Mrs. Graby said they had taken some steps in purchasing the lock for the back door right when the suspension took place. She said they did not have the means to get it installed. The cameras did come later, but she said they were trying to comply and it was a matter of financial ability. She said she was unaware of the blinking light issue and it would be taken down. Regarding the door and the noise, she said she had issues with how loud it was in the bar and would work on that, particularly when there is live music. Mrs. Graby said that live music is a benefit for the community, and one of the things they do for the community is provide regular, live music for everyone's enjoyment. Mrs. Graby said they want to provide a safe environment for the community, and although they have had issues with over-serving, they are trying to resolve that with training, reprimands, fines and termination of employees if necessary. Mrs. Graby said they were very dedicated to making the necessary changes and making it a good establishment.

Kim Breslin, 181 W. Main Street. Mrs. Breslin said she lived directly across the street and heard the noise and fights and has been woken up in the middle of the night. Mrs. Breslin said she had lived there for forty years. She had a few suggestions for the authority. First, she wanted to know if anyone had considered the traffic down the alley to and from the liquor store. She said she had literally walked people home from the store, because they had to get one more twelve pack before they go home. She said she some walk the alley. She walks the alley going to her daughter's house on 5th Street. Mrs. Breslin said people getting home from work after a rough day and want a beer have limited parking. As everyone knows, there is a parking shortage downtown, and the first ones there get the best downtown parking spaces. Mrs. Breslin asked how anyone knew who's car was who's. It could be someone drinking at the Black Dog Saloon whose car is parked in front of the Silver Club. She said when she walked by the bar, people were always polite to her, and they have put as much time and effort and energy in their business as every other business in New Castle. They had been suspended, they have new management, they have educated their employees, they have installed securities, and new locks. Mrs. Breslin suggested a probation time, because that would give them time to prove themselves to the town.

Mr. Graves apologized to Mrs. Andzel, and assured her that it was no one's intention to drive her out of her home, or to make her life hell. He said the Silver Club was here to work with her.

Mr. Graves told Mr. Johannssen that he understood it could be difficult to live across the street from an establishment such as the Silver Club, and he appreciated it. He said that the Silver Club was here to work with him, and to ensure he could sleep at night and that the bar can stay open and everyone be happy. He encouraged Mr. Johannssen to speak with Mr. Graby about the issues, to ensure that the quiet enjoyment of his home could be continued.

Addressing Mr. and Mrs. Ringer, Mr. Graves said he knew that Mrs. Graby had already resolved the issue with the ATM sign, and told them that Silver Club was ready to work with them, but needed the opportunity to do so.

Attorney McConaughy cautioned the authority that they should withhold opinions or comments regarding how they may vote until the public hearing was closed. At this time they could ask any factual questions of the staff or applicant or the public. After that they should close the public hearing and then discuss a possible motion.

Councilor Stuckey asked what the options were and if a probationary period was acceptable. Attorney McConaughy said no, probation was not really allowed, although as said before, if they made a motion to approve the renewal, he suggested the motion be specific about what they heard that they are relying on in support of that. Also, Clerk Harrison and he would review the minutes and if there is a renewal motion, that the renewed license comes with a letter to remind the applicant of the promises they make and that the town would hold them to those promises. If the promises are not met, then the authority has grounds to bring them back in for further proceedings.

Mayor Gordon asked for clarification because it sounded like conditions to him. Attorney McConaughy said the motion should not include conditions. The motion is to approve or deny the application, but the application includes everything in the written materials, and everything stated by the applicant and its attorney on the record. Attorney McConaughy and Clerk Harrison will make sure the record is very clear. If there is anything that any of the authority specifically heard that they are relying on to make a motion either way, he encouraged them state it on the record prior to making the motion.

Councilor Riddile asked if Mr. Graby owned the building. Mr. Graves said that building was owned by SG Holding Company, a corporation of which Mr. Graby is the president.

Mayor Gordon closed the public hearing at 8:58 p.m.

Councilor Means said he was concerned that the Safe Serve classes were completed only two week ago, and just because they have the certificate does not mean they will follow the rules. There is no guarantee. The monitors were just put in last weekend, and the many promises to close the door have not been met. The many

fights inside and out, which include the owner punching and choking a person. Smoking has been an issue before and still seems to be occurring. It is a danger to the citizens and the police department. Councilor Means said that having been a Deputy Sheriff in Big Bear Lake, CA, he knows first hand how scary it is walking into a bar alone, being the only cop on duty. It's very easy to get hurt when things get out of control. Quoting a citizen: "Too Little, Too Late".

MOTION: Councilor Metzger made a motion to deny the Tavern Liquor License Renewal Application for the Silver Club Saloon. Councilor Means seconded the motion, and it passed 5 to 1 with Councilor Breslin Voting No.

Mayor Gordon said he disliked penalizing someone, but this was not a new owner. He asked if there was an appeal opportunity for the applicant. Attorney McConaughy said there was but he would have to look it up. He stated that the applicant would be provided due process.

Adjourn Local Liquor Licensing Authority, Reconvene Town Council Meeting

MOTION: Councilor Stuckey made a motion to adjourn the local liquor licensing authority and to reconvene the town council meeting. Councilor Metzger seconded the motion and it passed unanimously.

Discussion: Annexation of County Road 335

Town Administrator Tom Baker told the council that two years earlier the town had requested that they county commissioners repair CR 335, and that the town would commence annexation once the road was done. They county had completed the road, and the town now needs to move forward. There was some confusion regarding ownership of the land where the road is located. Both the county and Engineer Simonson were working on obtaining that information. Administrator Baker asked the council for their permission to move forward, and if there are significant costs, staff would come back to the council for further approval. Attorney McConaughy explained that the parcels west of Mr. T's appeared to own the land that CR 335 is on, and the town would have to obtain the land to properly annex the road. The first step would be to have survey work done on the road the town wants to annex, and that survey map laid over the parcel map. Also some title work will need to be completed. Then the town will need to approach those property owners and see if they are willing to cooperate. If they are great. If not, the county will have to decide if the land is worth condemning in order to annex it.

MOTION: Councilor Breslin made a motion to proceed with research with the county manager and attorney in order to proceed with annexation of CR 335. Councilor Stuckey seconded the motion and it passed unanimously.

Update: Kuersten Property

Administrator Baker told the council that he had a number of meetings regarding the property, and in this discussion with Elisabeth Borden, she suggested that the town might want to consider soliciting interest from organizations or developers who may be interested in coming to New Castle, prior to doing the preliminary demand analysis. Administrator Baker asked the council to allow him to spend as

much as \$2,500.00 with Elisabeth Borden to assist him in identifying additional firms and inquire if they have an interest in coming to New Castle to build senior care facilities.

MOTION: Councilor Breslin made a motion to appropriate up to \$2,500.00 for potential prospects for senior care facilities. Councilor Means seconded the motion.

Discussion: Councilor Metzger asked if it was possible to contact the Town of Eagle and ask them about the companies they interviewed. Administrator Baker said he would do that.

The motion passed unanimously.

Administrator Baker said there was a meeting scheduled with Augustana Care on November 3 at 1:00 p.m. Augustana asked for three items: Demographics, an estimate of a per square-foot construction cost, and a group of community members that could serve as a preliminary focus group to determine how much interest there was in the community. He told the council he would send a preliminary name list out to the councilors and they could add names. At the October 20 council meeting the list could be refined.

Councilor Stuckey said he had gone to a seminar and one of the panels was regarding public private partnerships. He was able to speak briefly with one of the panel members who is an attorney, and she said she would be willing to meet with the council for the cost of travel and a place to stay. He felt it may be good to have some information on alternative financing options. Councilor Means asked if it may be a little early to be looking at financing. Councilor Breslin said he was fascinated by the concept and thought it may be good to have the information. Administrator Baker said that Attorney McConaughy could do a primer for the council on public private partnerships. Attorney McConaughy said he was glad to do a presentation for the council.

Update: State Trails Grant

Administrator Baker told the council that Greg Russi was willing to write a planning grant for the LoVa Trail from New Castle South Canyon. The grant application is due November 5, 2015, so at the October 20 council meeting there will be support resolutions for a variety of grants: two GoCo grants: one for bridge lighting and one for the sports park, and the State Parks and Trails grant for planning. Part of that is a match of \$19,250.00. The council agreed they had indicated to Mr. Russi at a previous meeting that they would support him and the grant. Administrator Baker said the money would have to come from the general fund, because conservation trust funds cannot be used on land the town does not own.

Mayor Gordon said the state trail program called for sixteen trails by 2016, and the town had a good chance of being selected if the planning was complete.

Council Retreat Packet

Administrator Baker handed out the retreat packet and told the council the retreat would begin at 9:00 a.m.

Receive Draft of 2016 Budget

The council received the draft budget during the budget workshop.

Selection of Consultant for Marketing Strategy

Administrator Baker told the council the interview committee included Jerry Touslee, Bruce Leland, Mayor Gordon and himself. Councilor Leland had unfortunately had to excuse himself.

The committee had performed a two-step interview process. Phone interviews were done almost two weeks earlier, and in-person interviews on Thursday. He said the interviews went longer than expected and the committee has not yet had a chance to reconvene to consider a recommendation of a firm. He proposed that they come back to the council with a recommendation at the October 20 council meeting, then with a negotiated scope of work and budget at the November 3 council meeting. Alternatively, the council could empower the committee to make a selection, negotiate a scope and budget and bring that back to council on October 20. After a brief discussion, the council decided they wanted the committee to bring a recommendation on October 20, 2015.

Discussion Regarding Town Staff

Mayor Gordon said he asked for this agenda item because if an issue that came up at the last council meeting. A statement was made out of a lack of knowledge, that Public Works Director John Wenzel had badly miscalculated the streetscape bid. Mayor Gordon felt the council needed to be careful about making observations without having the facts. Bids always have a contingency amount included in them, and the amount the bid was short was less than the amount of the contingency. Engineer Simonson had solicited cost estimates from two different companies for the light poles, and neither company responded in a timely manner, so the figures were obtained from the previous streetscape project. That was where the shortfall came from. It was not that the staff had not made effort to obtain proper information. Unfortunately, the time between the grant being awarded to the town and the time that the bids needed to go out was a very short time period. In addition, the staff was working on three different grants at the time. Director Wenzel and Administrator Baker and Engineer Simonson save the town a lot of money because they help write the town's grants. Mayor Gordon felt the town had a great staff who worked hard.

Mayor Gordon said that Director Wenzel did a lot for the town by solving problems before they become problems. The public works department attitude is to get things done and they do it without recognition. He gave two examples: First, during Burning Mountain Festival, A-1 Traffic Control did not show up, so Director Wenzel and his crew immediately took care of traffic control. That actually saved the town \$3,400.00. Councilor Means said that during the volunteer breakfast, Director Wenzel filled in as a volunteer where they were short people.

Mayor Gordon said that with the current streetscape project there was an expectation that water would have to be turned off on Main Street, affecting the restaurants and other businesses. Director Wenzel ordered porta-potties and hand wash stations so Elk Creek Mining Company and Hogback Pizza could stay open. Mayor Gordon also said that Administrator Baker was a great town manager, that he attended more meetings than anyone in effort to keep the town progressing. Mayor Gordon said that the staff had told him that Administrator Baker thank them for their hard work, which made the staff want to work all the more. He inspires the staff and they love him.

Mayor Gordon asked the council to please find out all the facts, and to appreciate all the people on staff because they are all good people.

Consent Agenda

Minutes of the September 15, 2015 meeting

September Bills of \$421,648.47

MOTION: Councilor Breslin made a motion to approve the consent agenda. Councilor Riddile seconded the motion.

Discussion: Councilor Metzger asked how the council was supposed to let the Clerk know if there were errors in the minutes. Clerk Harrison said if the corrections are spelling and punctuation errors, they can be sent via e-mail before the meetings, but the content should be corrected at council. Councilor Breslin said he felt Clerk Harrison was an expert on encapsulating people's thoughts and comments and writes in a manner that creates an accurate historical record. He said he admired her skill.

The motion passed unanimously.

Staff Reports

Town Administrator – Administrator Baker said Councilor Riddile had called him and they discussed the new stop sign at the bridge and CR 335. People are not used to it being there and are not stopping. The town had received some complaints, but they heard a thank you from John Lee. He said staff is explaining to people who call the reason the sign was installed.

Town Clerk – Clerk Harrison explained to the council that the liquor license for Lazy Bear had been transferred to a new owner, Francisco Vasquez. The hearing for that license would be on the next council agenda. Yesterday, Liquor Enforcement sent a stipulation and order for a suspension of the liquor license for Lazy Bear.

Unfortunately, the previous owner had a violation in July, and accepted a suspension after transferring the license to the new owner. Because it is the license that is punished, that punishment transfers. Mr. Vasquez is concerned about the public perception of the suspension, and well as the council's opinion considering the council sits as the liquor authority. Clerk Harrison said she had spoken to liquor enforcement, the previous owner and Mr. Vasquez and was hoping the parties could agree to have the suspension changed to a fine that the old owner would pay.

MOTION: Councilor Riddile made a motion to allow the meeting to go past 10:00 p.m. Councilor Means seconded the motion and it passed unanimously.

Councilor Riddile asked Chief Pagni his thoughts on possible repercussions regarding a denied liquor license. Chief Pagni said he would be with the council every meeting.

Clerk Harrison told the council that the liquor license for Silver Club Saloon was valid through October 31, 2015.

Town Planner - not present

Public Works Director – not present

Commission Reports

Planning & Zoning Commission – nothing to report

Historic Preservation Commission – Administrative Assistant Ryan Muse told the council that the remaining portion of the Trimble Building had been historically designated.

Economic Advisory Committee – nothing to report

Climate Action Advisory Committee – nothing to report

Senior Program – nothing to report

RFTA – nothing to report

AGNC – Councilor Breslin said that the Coos Bay Gas processing plant intends to ship billions of cubic feet of natural gas to Asia.

GCE – nothing to report

Council Comments

Councilor Stuckey said he was supposed to attend the CML Policy Committee meeting on October 16 in Denver and he would not be able to make it. He asked if Councilor Breslin or someone else would be able to go.

Councilor Breslin said he would need to leave the council retreat at 11:45 because he had rehearsal with the symphony.

Councilor Metzger asked if the Garden School could be on the town website.

Councilor Metzger asked if Mr. Shrull would be coming to the next council meeting.

Councilor Means said he thought the council left that up to Mr. Shrull, and that the council would not require his attendance.

Mayor Gordon said Mr. Shrull was making progress on the building, and would probably be glad to report on it.

Councilor Metzger said she read in the Administrator report that Aaron Atkinson would be willing to consider assisted living. Administrator Baker said Mr. Atkinson had said that, but he was not sure how serious Mr. Atkinson was.

Councilor Metzger said she thought we should send information about the groundbreaking in Lakota should be in the newspaper.

Councilor Stuckey said the Lakota HOA will send short letter to homeowners that the groundbreaking had taken place. Administrator Baker said the newspaper had been invited, but no one had shown up. He said that staff would try to get it into the paper.

Councilor Riddile handed out water bottles from First Baptist Church in appreciation of the staff. They had also thrown an appreciation lunch for the staff.

Councilor Riddile told the council that he was a member of the Coal Ridge High School Booster Club and he asked the council if they would be interested in making a donation to the booster club. For \$500 they could get two banners with the town logo on it placed at the school. The council liked the idea.

MOTION: Councilor Riddile made a motion to approve a \$500.00 donation to the Coal Ridge Booster Club. Councilor Breslin seconded the motion and it passed unanimously.

Councilor Means voiced his appreciation to Administrator Baker, Director Wenzel and his staff, Chief Pagni and his staff and Clerk Harrison and her staff.

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

The meeting adjourned at 10:19 p.m.

Respectfully Submitted,



Mayor Bob Gordon



Town Clerk Melody Harrison, CMC

