

**New Castle Town Council Meeting
Tuesday, July 5, 2016, 7:00 p.m.**

Call to Order

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

Pledge of Allegiance

Roll Call

Present	Councilor Metzger Councilor Owens Mayor A Riddile Councilor Breslin Councilor Leland Councilor G Riddile
Absent	Councilor Hazelton

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Police Chief Tony Pagni and members of the public. Town Clerk Melody Harrison told the council that Councilor Hazelton had send an e-mail requesting his absence be excused.

MOTION: Mayor A Riddile made a motion to excuse Councilor Hazelton. Councilor Leland seconded the motion and it passed unanimously.

Meeting Notice

Town Clerk Melody Harrison verified that her office gave notice of the meeting in accordance with Resolution TC-2016-1.

Conflicts of Interest

There were no conflicts of interest.

Agenda Changes

Clerk Harrison told the council that staff wanted to remove item E, which was the ballot question related to Senate Bill 16-152 Broadband Opt-Out. Staff would bring it back to council at the next meeting with more thorough information. The council agreed.

Citizen Comments on Items not on the Agenda

There were no citizen comments.

Consultant Reports

Consultant Attorney – present for agenda items.

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Consultant Engineer – not present.

Items for Consideration

Representative Bob Rankin

The council greeted State Representative Bob Rankin. Rep. Rankin thanked the council for the opportunity to speak with them. He also thanked the council for their service to their community, stating that town councils and committees were where things were accomplished.

Rep. Rankin described his tenure as a representative, and of the various committees he was involved in.

Rep. Rankin told the council that one issue he was concerned about was severance tax. Over the past nine years, the state had swept over \$400m of severance tax monies into the state's general fund. He said that fifty percent of severance funds went to the Department of Natural Resources to fund their programs. The remaining fifty percent went to the Department of Local Affairs (DOLA), and they distributed it in two ways. One was a direct distribution, and that was based on how many residents in the county worked for oil & gas. The other was through a grant program. Rep. Rankin said that severance taxes were down approximately sixty percent, which meant that the direct distributions would be down. Additionally, the Supreme Court had ruled in favor of one oil company in terms of deductions they could take from the severance taxes they pay, based on their property taxes. It looked as though it could equal one-hundred million dollars, but the department could not provide an estimate. Unfortunately, the August grant cycle for the DOLA grants was on hold. Rep. Rankin said that because he represented a county that was more affected than any other county by oil and gas, he was working to remove the hold on the grants. He said the Joint Budget Committee would hold a special meeting in July to discuss it.

Rep. Rankin told the council he was also concerned about insurance rates, primarily private insurance. People were having their policies cancelled, and rates were expected to increase twenty percent. Garfield County fell into the most expensive of the nine rate regions in Colorado. He said he and a bipartisan group were proposing a bill to create a single, state-wide rate for insurance throughout Colorado. There were states that had it, and they would work hard towards achieving the single rate.

Rep. Rankin said that he was concerned about education funding. He felt that the distribution was not fair to the districts in Garfield County, and that the school finance system was not balanced throughout Colorado. He wanted the distribution formula reconsidered, to provide an equal opportunity to children equally across the state.

Rep. Rankin told the council that he wanted the legislature to consider a Medicaid Reform. The reason was because there were over one million Medicaid members in the state, and the cost of the program increased approximately 8% annually, but revenue from the program was only 3 to 4%. There was not enough revenue to match the growth of Medicaid, so Medicaid ate into the budgets for education and transportation. Rep. Rankin felt that it was an unsustainable problem and he said he would push for the legislature to address it.

Rep. Rankin said the last issue that he was working on was economic development for the area.

Mayor A Riddile asked what Rep. Rankin's thoughts were for Medicaid reform. Rep. Rankin said the main idea was an affordable care cooperative, where an organization such as Rocky Mountain Health Care was paid to manage the entire western region. Managing Care reduced emergency room and unnecessary medical expenses dramatically. A small number of Medicaid members used the majority of Medicaid dollars. He said he would propose four Medicaid Reform bills to the 2016-2017 legislature.

Councilor Metzger asked Rep. Rankin to explain the bill on snow tires, which he did, and said he would not propose it again.

Mayor A Riddile told Rep. Rankin of the Pyro Memorial Dedication on September 10, 2016 and gave him an invitation.

The council thanked Rep. Rankin for coming. Rep. Rankin gave each councilor his business card and told them to contact him if they needed anything.

Tour De Farm Funding Request

Administrator Baker introduced Sharie Prow with Mount Sopris Conservation District. He said it was the second year for the event, and there were three farms on the route. Administrator Baker said that staff recommended a contribution of \$250.00.

Ms. Prow explained that the Conservation District had partnered with LiveWell and other organizations for the Tour De Farms for the second year. The event was to educate local people on their rural community and healthy eating. The ride will start and end in New Castle, and lunch will be at one of the local restaurants with some of the food donated by the local farms. The first ride had been done in Carbondale in 2015, and there were 49 participants. The goal for the 2016 tour was sixty participants. Ms. Prow described the route and what farms would be visited.

Councilor Metzger said she had reviewed the proposed budget, and saw that \$500 would be spend on t-shirts, and \$250 on glasses. She felt that buying t-shirts and glasses was not appropriate because the items were not useful, and particularly because they were asking for a contribution from the town. Ms. Prow said the glasses were commemorative and had logos on them. She agreed that New Castle's logo could be put on the glasses.

Greg Russi, 271 Buckthorn Road. Mr. Russi told the council that he had taken the tour in 2015, and the educational component was quite amazing. He said they learned about sustainable agriculture. When he heard that the 2016 ride would be in New Castle he thought it a fabulous opportunity for the town since New Castle felt they were the organic capital of the area. He felt the focus should be the education piece.

Ms. Prow said that the ride would showcase large and small acreage farms.

MOTION: Councilor A Riddile made a motion to approve a contribution to the Tour De Farms of \$250.00 with the condition that the town logo was

placed on the commemorative glasses and t-shirts. Councilor Leland seconded the motion and it passed with Councilor Metzger voting no.

Consider Resolution TC-2016-9 – Regarding Xcel Energy Request for Ballot Question

Kelly Flenniken, Area Manager for Xcel Energy, and Dudley Spiller, Attorney for Xcel Energy introduced themselves to the council.

Assistant Town Attorney Haley Carmer told the council that Xcel was asking for the council to refer a measure to the ballot to approve a twenty-year franchise agreement. The New Castle Home Rule Charter allowed the council to approve a franchise agreement for up to five years, and the voters could only approve a franchise agreement for up to twenty years. Attorney Carmer said she and Mr. Spiller had worked through the franchise agreement which set all the terms and conditions of the franchise, benefitting both the town and Xcel. Attorney Carmer said that the current franchise agreement expired in November. Xcel generally maintained twenty-year agreements with the municipalities throughout the state. Because the council could not approve the twenty years, Xcel was asking the council to voluntarily refer the issue to the voters via ordinance. If the council denied the request, Xcel could move forward with an initiative process to place the issue on the November ballot.

Attorney Carmer said that the only remaining issue was the twenty-year term because she and Mr. Spiller had substantively negotiated the agreement itself. If Xcel had moved forward with the initiative process, they would use their standard franchise agreement, not the negotiated one.

Ms. Flenniken addressed the council saying she would try to address the concerns regarding a long-term agreement. First, she said the franchise agreement set forth the terms and conditions under which Xcel will use Town streets and other Town property for placing utility facilities serving the citizens of New Castle. The agreement assured a cooperative, reliable and efficient working relationship. Ms. Flenniken said it was important that the agreement provided for the long-term commitment of both parties. Utilities provide a capital-intensive service with long-term investment windows. The absence of formalized, long-term agreements such as franchise agreements would prompt lenders to charge higher interest rates, and, in general, cause utilities to sacrifice some of the efficiency of long-term planning. The result would most certainly be higher customer bills and less reliable service. Twenty-year agreements provided certainty to ensure that neither side had to piecemeal a plan or make investment decisions that would adversely impact rates. In addition, Ms. Flenniken said that the franchise agreement called for a three percent franchise fee to be paid to the town. The fee was a direct income to New Castle that came from sales within town. Towns that did not have franchise agreements do not receive a franchise fee. The Town of New Castle had received over \$94K in 2015. She said the documents in the packet itemized other taxes that Xcel paid to the town as well.

Ms. Flenniken said that Xcel had to refer a franchise agreement to the voters in the City of Pueblo in 2016. The situation was similar to New Castle's, and the measure was approved with seventy percent of the voters in favor.

Councilor Breslin told Ms. Flenniken and Mr. Spiller that the town had a solar array on the public works building. He said that Xcel obligated the power generated by

the array to remain on site. Councilor Breslin asked if it would be possible to renegotiate it so the power could be used off site at the town's wastewater plant. Ms. Flenniken said she did not have an answer to that question, but would get one for the council.

Councilor Breslin asked what would happen to rates if the Crain Power Plant were shut down. Ms. Flenniken said she did not believe there were any plans to shut Craig down. Mr. Spiller said that the rates were set by the Public Utilities Commission (PUC) and neither he nor Ms. Flenniken could answer the question.

Councilor Leland asked Attorney Carmer to brief the council on the negotiated points in the franchise agreement.

Attorney Carmer said one of the first things was improving the coordination process so that there was more communication between the town and Xcel. The other main item was related to the use and protection of town property and public utility easements. There was also a provision for undergrounding utilities in alleyways and access easements.

Attorney Carmer asked what would happen if the voters did not approve a twenty-year contract. Mr. Spiller said he did not know what the Company would do, but they could operate without a franchise, which was within the PUC law. He said they could negotiate something else and try again with the voters. Mr. Spiller said that the company had not made any decision about what would happen if the voters did not approve the twenty-year franchise agreement.

Councilor Leland said that if Xcel was allowed to operate without a franchise, then they would not pay the town the 3%. Mr. Spiller said that there was an obvious public relations and political component to everything Xcel did. It was not a forgone conclusion that if the franchise was defeated by the voters, that Xcel would simply operate without a franchise. It was also not a certainty that Xcel wouldn't operate without a franchise either. Councilor Leland said that without a franchise, Xcel would not have the right to use public land. Ms. Flenniken said the relationship would become very transactional. Councilor Leland said the town would have to charge Xcel rent and it could become very complicated. Mr. Spiller said it was a very grey area, and one that Xcel did not want to approach.

Administrator Baker said that he felt the dilemma was that at the time of the creation and voter approval of the home rule charter, there were very strong feelings about the five-year limit to franchise agreements.

Mr. Spiller said he could not understand what the opposition was to the twenty-year agreement and how anyone thought it would change the use of public rights of way. The use would always be the same, and the franchise agreement term was to set forth a platform that ensures Xcel and the town would coordinate their activities. Ms. Flenniken said she was in regular contact with Public Works Director John Wenzel. She said that part of her job was to establish a good, positive working relationship with the communities she represented.

Councilor G Riddle asked if Xcel had ever needed to initiate a petition in Colorado. Mr. Spiller said not that he knew of.

Councilor Leland confirmed that the town was still on the LED streetlight upgrade program, and Ms. Flenniken agreed.

Councilor Leland said that what could change in twenty years was Xcel, their employees and public relations policies. The five-year limit was a protection for the town. Mr. Spiller said he felt the five year limit was wasn't to prevent Xcel from having a twenty year contract, rather, he felt the people were saying that they

wanted to be the ones who would decide on a twenty year contract. Mr. Spiller said it was the responsibility of the PUC to regulate Xcel, not the town. The PUC would not let them do shoddy work and provide poor service.

Administrator Baker posed a hypothetical scenario in which the town wanted increase the franchise fee to accommodate a voter-approved measure to assist with energy-efficiency, and asked how the franchise agreement would handle that. Mr. Spiller said that the franchise agreement set the fee at 3% and that could not change. He felt that most communities did not want the fee to go up, because it showed on the consumer bills, and consumers did not like increases. Additionally, Xcel would not be allowed to treat different communities differently. There was a single, state-wide rate, and an increase would have to be across the board. He said all the franchises were the same everywhere.

Administrator Baker asked if there were broad community support for an increase in the fee, and that came during the term of the franchise agreement, if it could be considered. Mr. Spiller said if there company-wide there was consensus, then it was likely an amendment could be done.

Administrator Baker said that the franchise fee could really only be negotiated at the renewal of the franchise agreement, and although the fees were typically only discussed at renewal. He felt that the energy situation was very fluid, and there could be community need to reconsider the franchise fee. Mr. Spiller said the town could always proposed a tax to the voters.

Ms. Flenniken said Xcel had a program called Partners in Energy, and she was working on the program with Garfield Clean Energy, and they were looking at a county-wide program. Ms. Flenniken said the LED lights would also be installed in 2016.

MOTION: Mayor A Riddile made a motion to approve Resolution TC-2016-9, A Resolution of the Town of New Castle Town Council Referring to the Voters of New Castle on November 8, 2016 a Measure to Approve an Ordinance Granting an Electric and Gas Franchise to Public Service Company of Colorado for a Period of 20 Years. Councilor Metzger seconded the motion. Councilors Metzger, Leland and Breslin voted yes. Mayor A Riddile, Councilors Owens and G Riddile voted no. The motion failed.

Mayor A Riddile thanked Xcel Energy for coming in.

Consider Resolution TC-2016-10 – Supporting a Grant Application for the LoVa Trail, and Request to Use LiveWell Funds for the Grant Match

Administrator Baker told the council that there was an opportunity to get the Canyon Creek to South Canyon portion of the LoVa Trail planned. Staff also had ideas on how to obtain the match funds.

Using a large map, Greg Russi and Town Engineer Jeff Simonson indicated the areas where Glenwood Springs intended to place their section of the LoVa Trail from West Glenwood to South Canyon. He clarified the three sections of trail according to the funding programs and agencies managing the fund applications.

Mr. Russi said he had located a grant program with CDOT called Transportation Alternative Program (TAP) in which there were funds of approximately 1.5 million

designated for western Colorado. The trail segment for New Castle was actually not New Castle land, but Garfield County Land, and it did not make sense for New Castle to take on the responsibility for it, so the answer was a partnership. This would be particularly helpful at construction because the town would not be able to obtain the necessary construction funding alone. Partnering with RFTA, Garfield County and Glenwood Springs was the most appropriate and effective way to get the monies needed. LiveWell had allowed the town to reallocate grant monies towards the project, and Mr. Russi said he has asked both Glenwood and RFTA for \$5k each. If the county chose to contribute \$5k, the town would only have to contribute \$20 to total the \$35,020.00 match for the TAP grant.

Engineer Simonson reviewed some of the engineering aspects of the trail, including the possible locations for the trail and the various requirements for permitting, and engineering for each.

Administrator Baker said that if the council approved using the LiveWell funds, it would leave the trail from River Park to the pedestrian bridge unfunded. He said staff felt they could apply for a mini-grant for that in August. Staff also felt that committing the LiveWell funds to the LoVa Trail showed the town's commitment to LoVa.

Mr. Russi asked the council to review the Resolution because it committed the town to the \$35,020.00 match, and outlined where the funds would come from provided he was successful in securing the partnerships with other agencies. Councilor Leland said that he had spoken with the new Garfield RE2 School Superintendent, Dr. Curtace, and he indicated that the school district would also be in support of the trail. Councilor Leland felt they could be a financial partner at the time that the LoVa Trail was built near Coal Ridge High School.

Councilor G Riddile asked if the town was prepared in the event an environmental analysis was required. Engineer Simonson said that the planning process would define the scope of work.

MOTION: Mayor A Riddile made a motion to approve Resolution TC-2016-10, A Resolution of the Town of New Castle Town Council Supporting the Application for a Transportation Alternatives Program (TAP) Grant From the Colorado Department of Highways (CDOT) for Trails Planning and Design. Councilor Breslin seconded the motion.

Discussion: Mr. Russi said he may amend the resolution and bring it back to the council if the funding items change. Administrator Baker said that once they had firm commitments, if there were any adjustment to the funding they would come back to the council with another resolution.

The motion passed unanimously.

~~Consider Ballot Question Related to SB152 Broadband Opt Out~~ *Removed from the Agenda.*

Consider Matching Funds with the Board of County Commissioners for Public Safety Vehicles

Administrator Baker said that staff recommended authorizing a match of \$45,000.00 to the County's grant of \$45,000.00. The town will auction off vehicles to supplement the funding of two new vehicles for the police department.

Councilor G Riddile asked what the town's reserves were. Administrator Baker said they were approximately \$740k.

MOTION: Mayor A Riddile made a motion to approve an expenditure of \$45,000.00 matching the BOCC grant of \$45,000.00 for two new public safety vehicles, and supplementing the purchase with the police vehicle auction proceeds and the existing budget. Councilor Owens seconded the motion and it passed unanimously.

Kuersten Letters: Formal Letter Cancelling Contract & Letter of Appreciation

Administrator Baker thanked Councilor Leland for editing the letter of appreciation to the Kuersten family. He said that the council had worked hard to reach the wellness campus goal but that the market unfortunately would not support it. Administrator Baker asked the council to consider approving the letter from Attorney McConaughy cancelling the contract.

Councilor Leland said felt that because the council had entered into the option to buy contract by motion that they should move to end the contract as well. The council agreed.

MOTION: Councilor Leland regretfully made a motion to end the option to buy contract with the Kuersten family. Mayor A Riddile seconded the motion and it passed unanimously.

Ordinance TC-2016-2 – 2015 Supplemental Budget (second reading)

MOTION: Councilor Leland made a motion to approve Ordinance TC-2016-2 – An Ordinance of the Town of New Castle, Colorado summarizing additional expenditures for the General Fund and adopting a supplemental budget for the Town of New Castle, Colorado, for the calendar year beginning on the first day of January, 2015 and ending on the last day of December, 2015 on second reading. Mayor A Riddile seconded the motion and it passed on a roll-call vote: Councilor Graham Riddile: yes; councilor Mary Metzger: yes; Councilor Frank Breslin: yes; Mayor Art Riddile: yes; Councilor Scott Owens: yes and Councilor Bruce Leland: Yes.

Consent Agenda

Minutes of the June 21, 2016 council meeting

June Bills of \$446,414.20

Resolution TC-2016-11 – Naming Hills

Resolution TC-2016-12 – Renaming S. B Avenue

MOTION: Councilor Breslin made a motion to approve the consent agenda. Councilor G Riddile seconded the motion and it passed unanimously.

Staff Reports

Town Administrator – Administrator Baker said that Mike Miller offered his thanks to the crew who mowed the cemetery for Memorial Day and July 4. He was very appreciative. He said he sent dates to the council to consider for the retreat, and asked that they let him know what worked best for them. Mayor A Riddile encouraged everyone to reply as soon as possible. Administrator Baker told

Councilor Metzger that he would provide the P&Z with some resources to brainstorm on the comprehensive plan prior to the joint meeting with the council. Councilor Breslin felt it may be appropriate to consider the south alley as an area to improve in the comp plan discussions. The council agreed. Administrator Baker said that Parks department staff would look at the weed issues on Mt. Medaris. Town Clerk – Clerk Harrison told the council that Councilor Metzger had asked about attendance requirements for the Planning & Zoning Commission. She said that the code was silent on attendance for P&Z members, although it did say there was a requirement that one meeting per month must be held. The code also said that a P&Z member may only be removed by the council for cause. Clerk Harrison said that the Mayor's pictures would be rehung in chambers, and that staff was looking for someone to do that. Councilor Metzger said her husband could look at it. Clerk Harrison said that Attorney McConaughy would provide a council orientation class at the next council meeting. She also said that the panic buttons in chambers and the admin office would be repaired the following day. Councilor Owens asked how the committee attendance issue could be helped. Administrator Baker said a code amendment could be done, but that in the meantime, Councilor Metzger could speak with the chair of P&Z. Town Planner – not present
Public Works Director – not present

Commission Reports

Planning & Zoning Commission – nothing to report
Historic Preservation Commission – 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 legislative session had ended well.
GCE – nothing to report

Council Comments

Councilor Metzger asked what the rules were regarding fireworks. Clerk Harrison told the council that fireworks were addressed in chapter 9.72 of the municipal code. Councilor Metzger passed out a letter that she had been sent regarding crosswalks. Administrator Baker said the item could come back for discussion at a future meeting. Councilor Metzger asked what would happen with Xcel. The council briefly discussed what Xcel's options were to obtain a twenty-year franchise agreement. Councilor Metzger gave everyone a copy of her report of the clean-up day organized by the Downtown Group. Administrator Baker said he had walked Rodreick Lane and it looked great. He said he knew that some rearranging had to be done to accommodate unforeseen complications, but that it had been done well, and Councilor Metzger should be proud of the accomplishment. Councilor Owens thanked the council for their patience with him. He asked if there was an affordable housing committee. Clerk Harrison said there was and that the committee met as needed. Administrator Baker said that P&Z had recently brought up affordable housing, and Mayor A Riddile said it had been discussed at the

Mayor's meetings as well. Councilor Owens said that the cost of living on the Front Range was easily 7% less than Garfield County, and, there was affordable health care there too. Administrator Baker said that the affordable housing should be part of the comprehensive plan discussions.

Mayor A Riddile reminded the council that they had been given a book on ethics, and he encouraged everyone to read it.

Mayor A Riddile passed out the lemonade stand schedule for the community market.

Councilor Breslin apologized to the council for his recent absences.

Councilor Leland said that he had seen a large group of people with flashlights coming down Mt. Medaris after the fireworks and it was neat to see.

Councilor Leland said that the Downtown Group and other volunteers had painted the gazebo and it looked very good.

Councilor Leland asked if everyone thought the council should wear their name badges for every event they went to and the council liked the idea.

Councilor Leland said he had received a strange letter regarding waterline responsibility, and it looked very official and as though the town had sent it. The truth was that it was an insurance company soliciting business for waterline insurance.

Councilor G Riddile said that he had recently experienced the need to call the police department and he not received a call back. He felt that they should return calls and asked that the issue be addressed. Administrator Baker said he would speak with the chief.

Councilor G Riddile said that the trail on Prendergast Hill was almost complete.

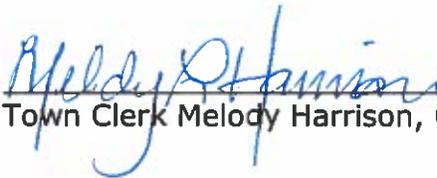
MOTION: Councilor Breslin made a motion to adjourn. Mayor A Riddile seconded the motion and it passed unanimously.

The meeting adjourned at 9:45 p.m.

Respectfully submitted,



Mayor Art Riddile



Town Clerk Melody Harrison, CMC

