

RESOLUTION NO. TC-2016-15

A RESOLUTION OF THE NEW CASTLE TOWN COUNCIL
REFERRING TO THE VOTERS OF THE TOWN OF NEW
CASTLE A BALLOT QUESTION CONCERNING SENATE
BILL 05-152.

WHEREAS, the Town of New Castle (“Town”), is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town; and

WHEREAS, the members of the Town Council of Town of New Castle (the “Council”) have been duly elected and qualified; and

WHEREAS, in 2005, the Colorado General Assembly adopted Senate Bill 05-152 (“SB-152”), codified as C.R.S. § 29-7-101, *et seq.*, which limits local governments’ ability to compete with the private sector with respect to high-speed internet, telecommunications, and cable services; and

WHEREAS, SB-152 includes a provision that allows local governments such as the Town to provide the services described in C.R.S. § 29-7-102 upon submitting a question regarding the same to the electorate; and

WHEREAS, allowing the Town to become a cable television service, telecommunications service, and/or internet service provider for Town residents and businesses presents an opportunity for economic development for the Town; and

WHEREAS, pursuant to Article V of the Town Charter, Town Council may, on its own motion, submit an ordinance or any other matter to the electorate; and

WHEREAS, the Town desires to opt out of SB 152 and to voluntarily refer a ballot question regarding the same to Town voters at the November 8, 2016 election.

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

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of Town Council.
2. Ballot Question. The Town Council hereby voluntarily refers the following ballot question, certified in substantially the form set forth below, to the registered electors of the Town and said ballot question shall appear on the ballot of the Town of New Castle at the November 8, 2016, general election:

WITHOUT INCREASING TAXES, SHALL THE TOWN OF NEW CASTLE, NOW OR IN THE FUTURE, HAVE THE LEGAL ABILITY TO PROVIDE ANY AND ALL SERVICES

CURRENTLY RESTRICTED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES, SPECIFICALLY INCLUDING "ADVANCED SERVICE," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES" AS DEFINED BY THE STATUTE, AS WELL AS NEW AND IMPROVED BANDWIDTH SERVICES BASED ON BEST AVAILABLE TECHNOLOGIES, UTILIZING CURRENT AND NEW COMMUNITY-OWNED INFRASTRUCTURE, INCLUDING ANY EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR SERVICE PROVIDERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS AND RESIDENTIAL, COMMERCIAL, OR OTHER GOVERNMENTAL USERS WITHIN THE TOWN OF NEW CASTLE, WHETHER SAID SERVICES ARE PROVIDED BY THE TOWN OF NEW CASTLE ALONE OR IN PARTNERSHIP WITH OTHER GOVERNMENTAL, PRIVATE, OR FOR-PROFIT OR NONPROFIT CORPORATE ENTITIES?

3. After Election. If a majority of the votes cast approve the ballot question certified in Section 2 above, the Town, acting through the Council, shall be authorized to proceed with such necessary actions to implement the provisions of the question.

4. Contest. Pursuant to § 31-10-1308(2), C.R.S. and § 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

5. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

6. Effective Date. This Resolution shall be effective immediately upon adoption. The Town Clerk is directed to take any and all actions necessary to ensure that the above-certified question is added to ballot for the November 8, 2016 general election.

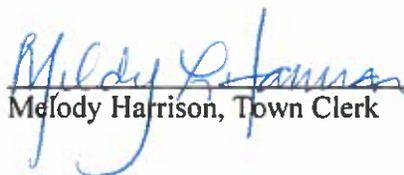
INTRODUCED, PASSED AND ADOPTED by a vote of 6 to 0 at a regular meeting of the Town Council of the Town of New Castle, Colorado, on August 2, 2016.

TOWN OF NEW CASTLE TOWN
COUNCIL



Art Riddile, Mayor

ATTEST:



Melody Harrison, Town Clerk

