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6 **New Castle Town Council Meeting**  
7 **Tuesday, July 19, 2016, 7:00 p.m.**  
8

9 **Call to Order**

10 Mayor A Riddile called the meeting to order at 7:00 p.m.  
11

12 **Pledge of Allegiance**  
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14 **Roll Call**

15 Present	Councilor Metzger
16	Councilor Owens
17	Councilor Hazelton
18	Mayor A Riddile
19	Councilor Leland
20	Councilor G Riddile
21 Absent	Councilor Breslin

22

23 Also present at the meeting were Town Administrator Tom Baker, Town Clerk  
24 Melody Harrison, Town Planner Tim Cain, Town Attorney David McConaughy, Town  
25 Engineer Jeff Simonson and members of the public.

26 **Meeting Notice**

27 Town Clerk Melody Harrison verified that her office gave notice of the meeting in  
28 accordance with Resolution TC-2016-01.  
29

30 **Conflicts of Interest**

31 There were no conflicts of interest.  
32

33 **Agenda Changes**

34 Town Administrator Tom Baker asked the council to add the 2016 Mosquito Control  
35 IGA with Garfield County to the end of the agenda. In addition, he wanted to add a  
36 discussion item regarding a support letter for a LoVa Trail Planning Grant to CDOT.  
37

38 **Citizen Comments on Items not on the Agenda**

39 Anne Guettler, Garfield RE-2 School Board Member. Ms. Guettler introduced Brent  
40 Curtice, the new Superintendent.  
41 Mr. Curtice greeted the council and invited them to contact him any time. He said  
42 the next school board meeting would be on August 8, and he welcomed their  
43 attendance. Ms. Guettler said that in the past, the school board met annually with  
44 the council, and they wished to do that again. Mayor A Riddile said he and Councilor  
45 Leland had discussed that with Superintendent Curtice and looked forward to the  
46 opportunity.

1 Councilor Leland said that the town was working hard to obtain funding for the  
2 LoVa Trail and mentioned that it would add importance to the grant applications to  
3 have the district's support.  
4 Mayor A Riddile gave Mr. Curtice and Ms. Guettler invitations to the Pyro Memorial  
5 Dedication ceremony in September. Councilor G Riddile invited them to the  
6 spaghetti dinner for the River Center.  
7 Mr. Curtice thanked the council.

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10 **Consultant Reports**

11 Consultant Attorney – present for agenda items.  
12 Consultant Engineer – not present.

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15 **Items for Consideration**

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18 **Consider Resolution TC-2016-13 – A Resolution of the New Castle Town  
19 Council Approving a Conditional Use permit for a Mobile Vending Cart or  
20 Stand on Town Property Located in the Commercial-1 Zone District**

21 Town Planner Tim Cain said that the application for conditional use permit for a  
22 mobile vending cart had gone to the Planning & Zoning Commission. He said the  
23 P&Z had recommended approval to the council. There had been no public  
24 opposition to the application.

25 The application was for the use of Ritter Plaza, Thursday through Sunday, and  
26 would require an encroachment permit by the code. Planner Cain said that because  
27 of the limited hours of operation, he asked the council to consider waiving the \$150  
28 annual fee.

29 The application included a 10'x10' tent, located in the NW corner of the plaza, a  
30 table and few chairs and the ice cream cart. In the first year, the applicant will sell  
31 water-based products and will consider adding dairy products later.

32 The applicants will be required to clean up every evening by 9:00 p.m., including  
33 mopping the area.

34 Bronwyn Rittner and Simon Rittner introduced themselves to the council. Ms.  
35 Rittner showed the council photographs of the cart and freezer. She said they would  
36 serve water-based items such as Bomb Pops, but wanted to graduate to ice cream  
37 and shaved ice in the future. The name of the business will be Simon's Cool Spot.  
38 Ms. Rittner felt it would encourage people to hang out in the downtown. She said  
39 they would be sensitive to the other businesses in the area.

40 Councilor Owens asked Simon if the cart was his idea, and he said it was both his  
41 mother and him.

42 Ms. Rittner said that if the application was approved, Simon would join the  
43 Chamber of Commerce, and could then be one of the youngest chamber members  
44 in the country.

45 Councilor Hazelton said he opened his first business on the same corner when he  
46 was fifteen. He opened a game room, and told Simon not to extend credit to his  
47 friends.

48 Councilor Leland said the council had one other request to use the Plaza in the past,  
49 and the concern was free access to the plaza. The tent was small, and free access  
would not be a problem.

1 Councilor Owens asked about bicycle parking in the plaza, and Simon said there  
2 were two bicycle racks in the front of the plaza, and one in the back, so bike  
3 parking would not be a problem.

4 **MOTION: Mayor A Riddile made a motion to approve Resolution TC-2016-**  
5 **13 – A Resolution of the New Castle Town Council Approving a Conditional**  
6 **Use permit for a Mobile Vending Cart or Stand on Town Property Located in**  
7 **the Commercial-1 Zone District including a waiver of the encroachment**  
8 **fee. Councilor Metzger seconded the motion.**

9 Discussion: Attorney McConaughy said that that the standard language in a  
10 resolution to approve a conditional use permit included a CUP agreement. He felt  
11 that a signature line on the resolution would suffice as the agreement for the  
12 application.

13 **The motion passed unanimously.**

14  
15 **Consider Ordinance TC-2016-05 – An Ordinance of the New Castle Town**  
16 **Council Vacating a Portion of the Right of Way for N 7<sup>th</sup> Street**

17 Planner Cain explained that the property had been willed to Mr. and Mrs. Tacker. He  
18 said that in an attempt to clear up the title, Mr. Tacker had the property surveyed,  
19 and the surveyor found a plat from 1893 that showed an unnamed street. He  
20 showed a current plat to the council, and described the lot in question and the area  
21 involved in the ROW vacation.

22 Sam Phelps 826 1/2 Grand Avenue, Glenwood Springs. Mr. Phelps said the home  
23 was built in 1938. The property had never been conveyed until Mr. Tacker inherited  
24 it, therefor it had never been surveyed until Mr. Phelps was hired. He discovered  
25 that the home sat in the right of way of the 1893 plat. He said the situation was  
26 common throughout Coryell Town.

27 Councilor Owens asked if the easement would be permanent, and Mr. Phelps said it  
28 would.

29 **MOTION: Mayor A Riddile made a motion to approve Ordinance TC-2016-5 -**  
30 **An Ordinance of the New Castle Town Council Vacating a Portion of the**  
31 **Right of Way for N 7<sup>th</sup> Street. Councilor Leland seconded the motion and it**  
32 **passed on a roll call vote: Councilor Hazelton: yes; Councilor Owens: yes;**  
33 **Councilor Metzger: yes; Mayor A Riddile: yes; Councilor G Riddile: yes and**  
34 **Councilor Leland: yes.**

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37 **Consider Ordinance TC-2016-04 – An Ordinance of the New Castle Town**  
38 **Council Approving Lakota Ridge Senior Apartments LLC’s Final PUD**  
39 **Development Plan Application**

40 Carly Johannsson, Director of Real Estate Development for Community Resources &  
41 Housing Development Corporation (CRHDC) introduced JV DeSousa, the project  
42 Architect, and Leslie Means, Property Manager of the existing Senior Housing.  
43 Ms. Johannsson told the council that CRHDC was a 501 C-3 non-profit housing  
44 developer. Ms. Johannsson described the various types services CRHDC provided,  
45 including employee, low-income housing and senior housing, as well as lending and  
46 real estate services.

47 Regarding the proposed Lakota Ridge Senior Apartments, Ms. Johannsson said that  
48 the financing CRHDC would utilize was funding through Colorado Housing Finance  
49 Authority (CHFA) in the form of a low-income tax credit fund. The funding was

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1 extremely competitive, and the Lakota project had previously been denied funding,  
2 but she said they were hopeful CHFA would grant the funding in August. Ms.  
3 Johannsson explained that all of the units in the project would be available to  
4 seniors who earned 60% of the area median income or below.  
5 They would also institute an age-restriction of 55 and older.  
6 Ms. Johannsson said that the property the project would be located on was a town-  
7 owned piece that CRHDC had a lease-purchase agreement on, and once funded,  
8 they would pay the town \$197k.  
9 Indicating a map of the property in the power point presentation, Mr. JV DeSousa  
10 showed the council where the buildings would be placed on the property. He said  
11 that the buildings and parking would follow the topography, and that would create a  
12 series of level paths and parking areas, which was important for seniors. The  
13 project included forty one-bedroom units and ten two-bedroom units for a total of  
14 fifty. In addition, the project included fifty parking spaces, which was double the  
15 code requirement.  
16 The driveway into the project would also serve as access for the adjacent property  
17 when it developed.  
18 Mr. DeSousa described the various features of the project on a series of slides.  
19 He said that part of the discussion would be regarding a trail/sidewalk access from  
20 the senior housing to the sidewalk on the fire station property. Mr. DeSousa said  
21 part of the problem for CRHDC was that the CHFA funding did not allow for off-site  
22 improvements. Administrator Baker felt that it could be late 2017 or 2018 before  
23 the senior housing project was complete, so sidewalk would not be needed until  
24 then. He felt that the town could find a way to complete the trail gap, likely using  
25 conservation trust funds.  
26 Mr. DeSousa continued, saying said that they had met with the design review  
27 committee for Lakota Canyon Ranch and had made design changes in response to  
28 their comments, even though the project was not subject to the HOA rules. He also  
29 said they had done some reconfiguration in response to the fire departments need  
30 for emergency response vehicle access.  
31 Mr. DeSousa showed the council various slides depicting several elevations of the  
32 different buildings and views to give them an idea what the visual impact would be.  
33 He also showed them floor plans of the two different units as well as the on-site  
34 community center.  
35 Ms. Johannsson said that the presentation to CHFA would be on August 18, and  
36 they should know by mid-September if the project would be funded. She felt the  
37 competition was steep, but she felt that the project was strong. Ms. Johannsson  
38 invited council members to join her at the CHFA presentation. She said that PUD  
39 approval and perhaps having some pre-qualified tenants would be very favorable at  
40 the presentation as well.  
41 Mr. DeSousa said that the previous year CHFA emphasized that telling the story of  
42 New Castle was very important because it would carry a lot of weight with the CHFA  
43 board. Councilor Leland suggested they include information about the progress the  
44 town had made with trails, because that was essential to New Castle and had no  
45 age limits.  
46 Ms. Johannsson said once the project was funded, construction could begin in April  
47 or May of 2017. In the meantime, CRHDC would secure a tax credit syndicator, a  
48 construction lender and close on the property. Mr. DeSousa and his team will

1 produce construction drawings and obtaining the building permits. Generally, the  
2 construction period would be about 11 months.

3 Ms. Johannsson explained the income limits for the 60% AMI, as well as the 50, 40  
4 and 30%, and what the units would cost.

5 Ms. Johannsson said the facility would have a full-time staff member and a full-time  
6 maintenance person.

7 The council and applicant discussed several additional items such as building  
8 heights, regulations regarding the occupancy of the units, and the advantages of  
9 having the senior housing project in New Castle. Ms. Johannssen felt that the  
10 project construction would bring some great economic advantages to New Castle.  
11 Councilor Leland said he had read the soils report and did not necessarily  
12 understand it, but wanted to be certain that the foundations of the buildings would  
13 be engineered to the characteristically poor soils. He wanted to add a condition to  
14 the ordinance that the top soils would be removed before excavation, preserved  
15 and then replaced. Mr. DeSousa agreed that could be done, although it may  
16 present a challenge when storing the soils. Ms. Johannsson said that they would  
17 have more thorough soils analysis as funding allowed. She also said that a general  
18 contractor had been hired, and that general would reach out to local contractors for  
19 other look.

20 Councilor G Riddile sked if CRHDC would be willing to formalize a soft-surface trail  
21 through the property. Ms. Johannsson said she wanted to have discussion with  
22 management before committing to that.

23 Planner Cain told the council that there had been a public hearing before the  
24 Planning & Zoning Commission for preliminary and final PUD approval and there  
25 had been no opposition to the project. The proposed use was a use by right in the  
26 zone district. The number of units did exceed the allowable number of units, and  
27 that was something to keep in mind. Snow storage had been included in the layout  
28 of the project in response to concerns by Public Works Director John Wenzel.

29 Planner Cain pointed out that the conditions in the P&Z resolutions recommending  
30 approval were essentially the same, and they included that the applicant would  
31 provide construction drawings that were in compliance with requirements of the  
32 Public Works Director, John Wenzel; from the Town Engineer and from the Colorado  
33 River Fire & Rescue Fire Marshall, Orin Moon. In addition, Colorado Parks and  
34 Wildlife requested a buffer, and CRHDC would provide that. CRHDC should maintain  
35 a weed-free environment, and lighting should be downcast. At the time of building  
36 permit all tap fees and water rights dedication fees need to be paid.

37 Administrator Baker said that the council had made some decisions regarding fees  
38 in 2015, and that Planner Cain would show them an outline of actual costs, and the  
39 requested waivers.

40 Planner Cain reviewed the fees and waivers using a chart he had created. The total  
41 fee waivers were slightly more than \$314,000.00.

42 Regarding the tap fee calculations, Councilor Leland and Administrator Baker  
43 clarified that the code was structured so that a 600 square foot, less impactful unit  
44 could have a lower EQR. Although the proposed units were 700 square feet, they  
45 were deed-restricted senior units. Staff had made a finding that the units in fact,  
46 met the spirit of the code for a .6 EQR unit and would be less impact on the water  
47 and sewer treatment plants.

48 Attorney McConaughy said staff was still waiting for the letter from Warrior  
49 Acquisitions stating that the Senior Apartments would not be annexed into the HOA.

1 He said Warrior had stated that to him, but that it would be good to have it in  
2 writing.

3 Attorney McConaughy reviewed the ordinance and the development agreement for  
4 the council, noting the missing exhibits that would have to be provided by the  
5 developer before second reading.

6 Ms. Johannsson said that CRHDC did not have any issues except that they typically  
7 provided a performance bond and payment bond equal to one-hundred percent of  
8 the cost estimates, rather than one-hundred ten percent. She asked if that would  
9 be acceptable.

10 Attorney McConaughy said that information would have to go to the town engineer,  
11 and if the figured included contingencies, perhaps. The letter of credit or  
12 performance bond was supposed to include a ten percent contingency. He also said  
13 that any other security besides a letter of credit was more difficult to call, and  
14 although the town had previously accepted other types of security, the preferred  
15 form was a letter of credit. He said it could be discussed between first and second  
16 reading. Attorney McConaughy said that staff was recommending approval on first  
17 reading, keeping in mind that there were some blanks that needed to be completed  
18 before second reading.

19 **Councilor Leland made a motion to approve Ordinance TC-2016-04 – An**  
20 **Ordinance of the New Castle Town Council Approving Lakota Ridge Senior**  
21 **Apartments LLC’s Final PUD Development Plan Application on first reading.**  
22 **Mayor A Riddile seconded the motion and it passed on a roll-call vote:**  
23 **Councilor Metzger: yes; Councilor Hazelton: yes; Councilor Leland: yes;**  
24 **Mayor A Riddile: yes; Councilor Owens: yes and Councilor G Riddile: yes.**

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### 27 **Consider Date for the 2016 Council Retreat**

28 After a brief discussion, the council agreed to hold the retreat on September 17,  
29 2016.

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### 32 **2016 Mosquito IGA**

33 Administrator Baker told the council that the IGA was the standard agreement that  
34 the council signed every year.

35 **MOTION: Councilor Leland made a motion to approve the 2016 Mosquito**  
36 **Control IGA with Garfield County. Councilor Metzger seconded the motion**  
37 **and it passed unanimously.**

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### 40 **Support Letter for LoVa Trail Transportation Alternatives Program (TAP)** 41 **Grant Application**

42 Administrator Baker said that the council had previously passed a resolution in  
43 support of the TAP Grant for the LoVa Trail, but Greg Russi was asking for a letter  
44 of support as well. The letter was not yet drafted because there was an expectation  
45 that the remaining \$5k needed for the match would be approved by the City of  
46 Glenwood Springs in a few days. The letter would be drafted afterwards.

47 Administrator Baker said that the council could authorize the mayor and  
48 administrator to review the letter and authorize the mayor to sign the letter if they  
49 were satisfied. They could call a special meeting the following week. He did not feel

1 it was a controversial issue because the council had already approved a support  
2 resolution.

3 **MOTION: Councilor Metzger made a motion to authorize the Mayor to**  
4 **review and sign the LoVa Trail TAP Grant letter. Councilor Leland seconded**  
5 **the motion and it passed unanimously.**

### 8 **Staff Reports**

9 Town Administrator – Administrator Baker said that on August 11, 2016, Garfield  
10 Clean Energy, in partnership with Xcel Energy, would hold their first stakeholders  
11 meeting from 11am to 3pm at the Community Center for a county-wide energy  
12 efficiency and clean energy plan. He encouraged the council to attend if they could.  
13 Councilor Leland said it was called the “Partners in Energy Program”. Administrator  
14 Baker said on August 10 there was a joint meeting with the P&Z to discuss the  
15 comprehensive plan. Administrator Baker said that he, Roaring Fork Mountain Bike  
16 Association and the contractor selected to do the BLM Cultural Clearances had  
17 signed the contract, so that work would begin soon.

18 Town Clerk – Clerk Harrison told the council that the panic buttons had been  
19 repaired. She said that sampling garden at the community market had gone very  
20 well. Clerk Harrison said that she and Councilor Metzger had looked at chambers to  
21 decide how the Mayor’s pictures should be rehung. She asked the council if they  
22 would be okay with the pictures being hung on the north wall of chambers because  
23 the wall was slightly larger, and there was less activity on that side of the room.  
24 The council felt that would be fine. Clerk Harrison said her deputy, Mindy Andis  
25 would be graduating from Clerk’s school on Friday and she would be attending.  
26 Clerk Harrison thanked the council for giving her department the opportunity to  
27 attend school.

28 Town Planner – not present

29 Public Works Director – not present

### 31 **Commission Reports**

32 Planning & Zoning Commission – Councilor Metzger said all they had done was the  
33 ice cream stand application.

34 Historic Preservation Commission – nothing to report

35 Climate Action Advisory Committee – nothing to report.

36 Senior Program – nothing to report

37 RFTA – Mayor A Riddile said that they had talked extensively about an integrated  
38 transportation system plan, which was similar to a circulator bus.

39 AGNC – nothing to report.

40 GCE – Councilor Leland said that Heather McGregor will retire but will continue to  
41 serve as a consultant. Alice Laird and Erica Spearhawk will continue on with GCE.  
42 The Partners in Energy will hold the first of three meetings, and it will be a large  
43 project. The meetings will be in New Castle, which will be good for the town. GCE  
44 will also do a building review in each town. Councilor Leland said it would be good  
45 to know that the town was doing what it could to remain energy efficient with the  
46 water treatment plant expansion. Administrator Baker said he believed the  
47 engineers had taken energy efficiency into consideration, but he would check with  
48 Engineer Simonson.

1 **Council Comments**

2 Councilor G Riddile gave the council tickets to the River Center spaghetti dinner.

3 Councilor Leland said he received a call from Ms. Flenniken with Xcel Energy and  
4 knew other councilors had received calls as well. Administrator Baker said that he  
5 and the town attorneys met with Ms. Flenniken by phone. They discussed having  
6 another meeting with the council and were scheduled on the August 2 agenda. Xcel  
7 would not pursue the petition process, but instead wanted to look at the franchise  
8 agreement and consider changes that would make it more acceptable to the council  
9 to allow the 20-year franchise question to be placed on the November ballot. Staff  
10 consulted with Mr. Ken Feldman who specialized in franchise agreements, to make  
11 sure that the proposed franchise was thorough. Administrator Baker said that if  
12 there was no franchise agreement, the town would not receive the 3% franchise fee  
13 which was approximately \$100k annually. The town could create an occupancy fee  
14 that would be charged to Xcel, and it would not require voter approval. He said Xcel  
15 would insist that an occupancy fee was a TABOR issue that needed to go to the  
16 voters. So either way, it would go to the voters. Councilor G Riddile said that if the  
17 voters did not approve a twenty-year contract, then the issue would be at an  
18 impasse. Administrator Baker said he would get more information for the council.

19 Mayor A Riddile said he had received a letter from a citizen regarding the need for a  
20 crosswalk at Faas Ranch Road, across Castle Valley Boulevard. Administrator Baker  
21 said he would get costs and bring the item back at the next council meeting.

22 Mayor A Riddile asked about the gavel for Bob Gordon. Clerk Harrison said it was in  
23 her office/ Administrator Baker said he would contact the Gordons and find out  
24 when they could attend a council meeting.

25 Mayor A Riddile said that CRHDC had emphasized that someone should attend the  
26 presentation to CHFA. Administrator Baker said that Town Planner Tim Cain would  
27 be the logical person to attend. Councilor G Riddile said he would check his work  
28 schedule and see if he could go.

29 Councilor Hazelton thanked the council for excusing his absence. He said his family  
30 had taken a trip in their RV, and it made him think that the council could discuss RV  
31 accessibility in the town at a future meeting.

32 Councilor Metzger asked if anyone knew when the RFTA park and ride would be  
33 ready. Councilor G Riddile said he would look into it.

34 Councilor Metzger asked if the staff or council thought it was time to have an on-  
35 staff building inspector. Administrator Baker said staff had been reviewing the  
36 needs, and did not feel the town was quite ready, although they understood it  
37 would be important once the senior housing project began, and would consider a  
38 staff inspector.

39 Councilor Metzger said the Kamm lot looked great with the resurfacing, but felt that  
40 no one should be allowed to store vehicles on it

41 Councilor Metzger said that she thought the town-owned lots should be put on the  
42 market. Administrator Baker said staff had obtained an opinion of value, and the  
43 discussion will be at the August 16, 2016 council meeting.

44 Councilor Metzger asked what was being done to recruit another P&Z member.  
45 Administrator Baker said the seat had been advertised.

46 Councilor Metzger said that the electronic message board had old information on it  
47 and should be turned off. Administrator Baker said he would take care of it.

48 Councilor Metzger asked if Eagle Falls Drive would be paved, and Administrator  
49 Baker said that would be a developer responsibility.

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1 Councilor Metzger said she had received a letter from a Mr. Williams regarding  
2 pedestrian access and asked if anyone had responded. Administrator Baker said he  
3 had not responded, but he would.  
4 Councilor Hazelton clarified that if the meeting had gone until 10:00 p.m. a motion  
5 would have been needed to continue. Clerk Harrison said that the municipal code  
6 stated that council meetings were from 7:00 p.m. to 10:00 p.m., and a motion was  
7 needed to go past 10:00 p.m., and meetings could not go past 11:59 p.m. in any  
8 case. To begin a meeting earlier than 7:00 p.m., a motion was needed at the  
9 meeting prior.  
10 Councilor Leland explained that meetings could not go past 11:59 p.m. because  
11 midnight began a new day, and the meeting was required to take place only on the  
12 date it was noticed for.

13  
14 **MOTION: Mayor A Riddile made a motion to adjourn. Councilor Metzger**  
15 **seconded the motion and it passed unanimously.**

16  
17 The meeting adjourned at 9:51 p.m.

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20 Respectfully submitted,

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Mayor Art Riddile

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26 \_\_\_\_\_  
27 Town Clerk Melody Harrison, CMC

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**New Castle Town Council Meeting  
Tuesday, August 2, 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
	Councilor Hazelton
	Mayor A Riddile
	Councilor Leland
	Councilor G Riddile
Absent	None

Also present at the meeting were Town Administrator Tom Baker, Town Clerk Melody Harrison, Town Finance Director Lyle Layton, Accounting Assistant Debbie Guccini, Public Works Director John Wenzel, Assistant Town Attorney Haley Carmer 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-2016-1.

**Conflicts of Interest**

There were no conflicts of interest.

**Agenda Changes**

Clerk Harrison apologized to the council, and asked to remove the July 19, 2016 minutes from the consent agenda. The council agreed.

**Citizen Comments on Items not on the Agenda**

There were no citizen comments.

**Consultant Reports**

Consultant Attorney – present for agenda items.  
Consultant Engineer – not present.

1 **Items for Consideration**

2  
3 **Consider a Motion to Accept the 2015 Audit as Presented by J. Cutler &**  
4 **Associates.**

5 Mayor A Riddile thanked Finance Director Lyle Layton and Accounting Technician  
6 Debbie Guccini for their good work. Councilor Leland thanked John Cutler and  
7 Associates.

8 **MOTION: Councilor Leland to accept the 2015 Audit as presented by J.**  
9 **Cutler and Associates. Mayor A Riddile seconded the motion and it passed**  
10 **unanimously.**

11  
12  
13 **Consider Resolution TC-2016-14 -Xcel Energy Franchise Ballot Question**

14 Assistant Town Attorney Haley Carmer reminded the council that at the July 5  
15 meeting Xcel Energy presented a resolution requesting that the council refer the full  
16 franchise ordinance to the voters because voter approval is required for any  
17 franchise agreement over five years in length. Xcel was requesting a twenty-year  
18 franchise. The previous franchise agreement between the town and Xcel had been  
19 for twenty-five years and expired in November.

20 Attorney Carmer said she had done some research since the last meeting, and  
21 found that twenty-year franchise agreements were standard for Xcel. In addition  
22 the agreement had been negotiated further. The resolution that was before council  
23 had been changed in that it asked if the council could approve a twenty-year  
24 franchise agreement. Attorney Carmer suggested a change in the ballot question  
25 language to ask for authorization to approve up to a twenty-year franchise term.  
26 Mayor A Riddile asked if the resolution was to authorize the council to negotiate the  
27 contract, and Attorney Carmer said no, that it was asking for authorization to  
28 negotiate the twenty-year term, not the contract.

29 Administrator baker said that the council already had the ability to negotiate  
30 contracts, the questions for the voters was whether the council would be authorized  
31 to negotiate the twenty-year franchise since the charter limited franchises to five  
32 years. Councilor Hazelton clarified that the authorization was limited to the Xcel  
33 franchise, and Attorney Carmer and Administrator Baker agreed.

34 Councilor Leland asked Attorney Carmer to read the full ballot language with her  
35 suggested changes. She read:

36 SHALL THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO BE  
37 AUTHORIZED TO GRANT A NON-EXCLUSIVE FRANCHISE TO PUBLIC SERVICE  
38 COMPANY OF COLORADO FOR A TERM OF UP TO TWENTY YEARS FOR USE OF  
39 TOWN STREETS AND OTHER PUBLIC PROPERTY AND EASEMENTS WITHIN THE  
40 TOWN TO FURNISH, SELL, TRANSMIT, TRANSPORT AND DISTRIBUTE ELECTRICITY  
41 AND NATURAL GAS TO THE TOWN AND TO ALL RESIDENTS OF THE TOWN  
42 Kelly Flenniken, Xcel Energy Western Slope Area Manager. Ms. Flenniken introduced  
43 herself to the council and said she was very glad to be able to speak to the council  
44 again about the twenty-year franchise. She said she had spoken to several of the  
45 councilors about the issues, and had further negotiated the agreement with  
46 Attorney Carmer. She felt the process had gone well.

47 Councilor Leland said that the franchise agreement that was expiring was  
48 essentially the same as the proposed one, and that the issue currently was the  
49 charter limitation that had taken effect after that last franchise was signed. Ms.  
50 Flenniken said it was essentially the same.

1 Councilor Hazelton asked Ms. Flenniken to explain the ten and fifteen year  
2 reevaluation. Ms. Flenniken said that there was a statute that provided an  
3 opportunity for communities to reevaluate their relationship with the franchisee.  
4 Attorney Carmer said that the ten and fifteen year reevaluation was not to  
5 renegotiate the franchise, it was only to terminate the franchise relationship.  
6 Councilor Owens asked if the town would have the opportunity to pursue another  
7 energy source were it available. Ms. Flenniken said the franchise was non-exclusive,  
8 and if there were another provider the town could switch.  
9 Joe Durango, Attorney representing Xcel Energy. He said that the town could switch  
10 to another provider if there were one, but at this time there was not another. Ms.  
11 Flenniken said that Xcel was working hard to provide other options and  
12 opportunities to their customers.  
13 Ms. Flenniken said that if the council voted no, Xcel Energy would continue to  
14 provide gas and electric service to the town. Xcel would not run a citizen initiative  
15 on their own to place the question on the ballot. Without a franchise agreement,  
16 Xcel would not collect a franchise fee, and would not remit fees back to the town.  
17 Xcel would also not be allowed to collect the one-percent fund which was a fund to  
18 underground overhead lines. The town would then have to adjust its budget to  
19 accommodate the lost revenue which averaged about \$99k per year.  
20 Ms. Flenniken said they had been very successful when on the ballot in other  
21 jurisdictions and was confident.  
22 Councilor Leland said if the council approved the resolution they would not be  
23 allowed to lobby for it. He asked Ms. Flenniken if Xcel would make sure to get  
24 information about the ballot question to the voters, and Ms., Flenniken assured the  
25 council they would do that.  
26 Councilor Hazelton said that the cost of the ballot question would be borne by Xcel,  
27 and Ms. Flenniken agreed that it would.

28 **Mayor A Riddile made a motion to approve Resolution TC-2016-14 as**  
29 **amended by Attorney Carmer. Councilor Owens seconded the motion and it**  
30 **passed unanimously.**

### 31 32 **Discussion: Crosswalks**

33 Administrator Baker said he had received letters from concerned citizens about  
34 crosswalks. The first concern was at the north end of the pedestrian bridge, and  
35 what staff understood was that RFTA would install that as part of the park and ride  
36 project.

37 The second concern was at N Wildhorse. Public Works Director John Wenzel said  
38 there had been a crosswalk there, and it had been reinstalled.

39 A crosswalk will be installed a Faas Ranch Road, and lane definitions had been done  
40 creating a bike lane on the east side of Castle Valley Boulevard for those who chose  
41 to stay on that side of the road.

42 Another concern in the letter was the speed limits on Castle Valley Boulevard, and  
43 he said that reducing the speed on the uphill from 30mph to 20mph would only  
44 cause tension between the residents and the police. Director Wenzel added that the  
45 30mph in that area was important in the winter because a lower speed could  
46 prevent vehicles from being able to go up the hill.

47 The letter also voiced concern about bikers who were rude to hikers on the trails,  
48 and Administrator Baker felt that education was key rather than limiting certain  
49 trails to hikers only.

50 Referring to a map of the town, Administrator Baker showed the council where  
51 there were crosswalks around town. He noted that there was a crosswalk needed at

1 Castle Valley Boulevard and Highway 6&24. The cost would be approximately  
2 \$2,250.00.

3 Administrator Baker asked council to consider authorizing funds for crosswalk at  
4 Castle Valley Boulevard and Highway 6&24. Funds could come from several  
5 different budgets.

6 **MOTION: Councilor G Riddile made a motion to approve funding of**  
7 **\$2,250.00 for a crosswalk at Castle Valley Boulevard and Highway 6&24.**  
8 **Councilor Hazelton seconded the motion and it passed unanimously.**

9

10

11 **Consider Recommendation from Parks, Open Space, Trails & Recreation**  
12 **Committee (POSTR) To Award the Landscape Architect Contract for the**  
13 **Lakota Sports Park**

14 Director Wenzel explained to the council that he was looking for an approval from  
15 council to enter into a contract with Zerhren & Associates, Inc. for the landscape  
16 and architectural design for the Community Sports Park..

17 Director Wenzel said there had been more interest in the project than expected and  
18 they had done several site tours, and ultimately received three proposals. He said  
19 Zerhren & Assoc. was quite experienced in the field. POSTR had met to review the  
20 three finalists and determined that Zerhren had the most desirable proposal.

21 Director Wenzel said that regarding the budget implications, the proposed fee was  
22 \$24,990.00. He said the Conservation Trust fund currently had \$131k in it, \$99k  
23 that was already committed to the project in matching funds. This left a balance of  
24 \$32k. Conservation Trust fund was a restricted fund that could only be used for  
25 parks, open space and recreation type of purposes.

26 Director Wenzel said the project would have a spring 2017 start date.

27 **MOTION: Councilor Leland made a motion to approve awarding the**  
28 **landscape architect contract for the Lakota Sports Park to Zerhren &**  
29 **Associates, Inc. subject to attorney review before signing. Mayor A Riddile**  
30 **seconded the motion and it passed unanimously.**

31

32

33 **Consider Community Proposal for Pump Track**

34 Adam Cornely, 150 Little Bear Peak. Mr. Cornely, Chairman of New Castle Trails,  
35 told the council that the trails group existed to encourage people to get outside and  
36 enjoy New Castle. The group had built the Alder Park Trail reroute and the  
37 Prendergast Trail. To date the group had invested 275 volunteer hours, and had a  
38 core group of about 12 people.

39 Mr. Cornely said that with the help of the town, they had been able to coordinate  
40 the cultural surveys on the BLM land as well.

41 Mr. Cornely said that there were not a lot of trails in New Castle that were  
42 appropriate for younger riders, so New Castle Trails was suggesting the  
43 development of a pump track. He described it as being a track with small, rolling  
44 berms built of dirt that would give the younger riders a place to practice their skills.  
45 Mr. Cornely said New Castle Trails met with POSTR and the two groups had  
46 identified a piece of land at VIX Park that would be a good location for the proposed  
47 track. He suggested that the initial track be small and geared towards younger kids.  
48 Because the proposed location was approximately one acre, the track could be  
49 expanded if it was successful.

50 Mr. Cornely said they were not asking for money or assistance from the town, and  
51 if the council approved, they believed they could complete the track in 2016.

1 Mr. Cornely showed the council a power point presentation and video presentation  
2 of their pump track proposal. Public Works Director John Wenzel said that the piece  
3 of property had been improved at the time of the park construction, but there was  
4 nothing on the space where the pump track was being proposed.

5 Mr. Cornely and the council discussed the options for park rules, hours, helmet  
6 requirements. They also talked who would design and construct the track.

7 Mayor A Riddile told Mr. Cornely that he was impressed with New Castle Trails and  
8 everything they were doing for the town. He asked Mr. Cornely how he envisioned  
9 the implementation of the pump track. Mr. Cornely said that since the group was  
10 done with the Prendergast Trail, they were ready to begin their next project. He felt  
11 that within the next three weeks they would have draft design that would go to  
12 POSTR meeting for review. After that, they would locate the dirt needed and begin  
13 construction.

14 **MOTION: Mayor A Riddile made a motion to authorize New Castle Trails**  
15 **begin design and construction of a Pump Track east of the baseball field at**  
16 **VIX Park. Councilor Owens seconded the motion and it passed**  
17 **unanimously.**

18  
19 The council had a brief discussion about trail and track etiquette and what they felt  
20 may be needed in the future. They agreed that education was key in helping  
21 maintain the trails systems for everyone's enjoyment.

22  
23  
24 **Consider Ordinance TC-2016-05 – An Ordinance of the New Castle Town**  
25 **Council Vacating a Portion of the Right of Way for N 7<sup>th</sup> Street (second**  
26 **reading)**

27 **MOTION: Councilor Leland made a motion to approve Ordinance TC-2016-**  
28 **5, An Ordinance of the New Castle Town Council Vacating a Portion of the**  
29 **Right of Way for N 7<sup>th</sup> Street on second reading. Mayor A Riddile seconded**  
30 **the motion and it passed on a roll-call vote: Mayor A Riddile: yes; Councilor**  
31 **Owens: yes; Councilor Metzger: yes; Councilor Leland: yes; Councilor**  
32 **Hazelton: yes and Councilor G Riddile: yes.**

33  
34  
35 **Consider Ordinance TC-2016-04 – An Ordinance of the New Castle Town**  
36 **Council Approving Lakota Ridge Senior Apartments LLC's Final PUD**  
37 **Development Plan Application (second reading)**

38 Attorney Carmer explained that there was a change in paragraph 4 in which the  
39 council needed to decide whether they wanted to require or not require Community  
40 Resources & Housing Development Corporation (CRHDC) to construct a trail across  
41 the ROW on the Columbo property. Administrator Baker told the council that the  
42 funding from CHFA was not allowed to be utilized for off-site improvements. He felt  
43 that the town could figure out a way to finance the trail with a GFMLD mini grant  
44 and conservation trust funds. In addition, it would be one more way to show  
45 CRHDC that the town was partnering with them. The council agreed. Councilor  
46 Hazelton also said that it was important from a safety standpoint to provide the  
47 trail. The council agreed that paragraph 4 should say 'shall not'.

48 Attorney Carmer told the council that CHRDC was uncomfortable with the code  
49 requirement of 110% security, and wanted to provide only 100%. She said that the  
50 financial details would be determined once CRHDC had funding, and once the cost  
51 estimate of the improvements had been determined. The council did not need to

1 decide immediately, because the requirement for the 110% security was in the  
2 development agreement, which could be amended at a future date.  
3 Planner Cain said that he had not received the letter from Warrior Acquisitions  
4 allowing Lakota Senior Apartments to opt-out of the master HOA. Attorney Carmer  
5 said that the opt-out of the HOA was really a matter between Warrior and Lakota  
6 Senior Apartments, and the town did not really have a stake in it, although if they  
7 were required to pay HOA dues, it could affect the affordability of the apartments.  
8 Attorney Carmer said the last change was in section 5-E-II of the ordinance – the  
9 date of the engineer’s letter was updated to July 28, 2016.

10 Councilor Leland said that he had received a form to complete stating that the  
11 project was consistent with the comprehensive plan. He said he had completed it,  
12 and written a strong support letter as well. Councilor Leland said that he would not  
13 usually vote to approve a development application that had so many missing  
14 pieces, but he would vote for it for several reasons: Because the council had  
15 developed a good relationship with the developer; and because it was a project the  
16 council had encouraged from the beginning; and because CRHDC needed  
17 confirmation from the town for their funding.

18 **MOTION: Mayor A Riddile made a motion to approve Ordinance TC-2016-4 -**  
19 **An Ordinance of the New Castle Town Council Approving Lakota Ridge**  
20 **Senior Apartments LLC’s Final PUD Development Plan Application with the**  
21 **amendment that the town ‘shall not’ require trail construction off-site and**  
22 **updating section 5-E-II date to July 28, 2016 on second reading. Councilor**  
23 **Metzger seconded the motion and it passed on a roll-call vote: Councilor**  
24 **Owens: yes; Councilor G Riddile: yes; Councilor Hazelton: yes; Councilor**  
25 **Metzger: yes; Councilor Leland: yes and Mayor A Riddile: yes.**

26  
27  
28  
29 **Consider Motion to Begin the August 16, 2016 Council Meeting at 6:30 p.m.**  
30 **MOTION: Mayor A Riddile made a motion to begin the August 16, 2016**  
31 **council meeting at 6:30 p.m. Councilor Metzger seconded the motion and it**  
32 **passed unanimously.**

### 36 **Consent Agenda**

37 Minutes of the July 5, 2016 council meeting  
38 ~~Minutes of the July 19, 2016 council meeting~~ Removed  
39 July bills of \$1,275,702.91  
40 Mountain Waste Contract  
41 Resolution TC-2016-15 - Broadband Opt-Out Ballot Question

42 **MOTION: Mayor A Riddile made a motion to approve the consent agenda as**  
43 **presented. Councilor Leland seconded the motion and it passed**  
44 **unanimously.**

### 48 **Staff Reports**

49 Town Administrator – Administrator Baker gave his report during the committee  
50 meeting.  
51 Town Clerk – Clerk Harrison told the council that the Colorado Municipal League  
52 was looking for members for 2016. She also said that the council would see a

1 special event liquor license for Burning Mountain Festival and for a modification of  
2 premises of Hogback Pizza's liquor license at the next meeting. Clerk Harrison told  
3 the council that petitions would be available on August 9 for those persons  
4 interested in running for mayor.

5 Town Planner – nothing to report

6 Public Works Director – Director Wenzel updated council on the capital projects his  
7 department was working on. Streets improvements are complete, and they were  
8 closing out the grant with the FMLD. The streetscape project was nearly complete,  
9 only a few punch-list items remained. A pre-bid meeting was held the previous  
10 week for the water treatment plant improvements and it was well-attended. Bids  
11 for the project were due August 12.

12 Mayor A Riddile thanked Director Wenzel for all the hard work done by his  
13 department.

### 14 **Commission Reports**

15 Planning & Zoning Commission – Councilor Metzger said P&Z had begun some work  
16 on the comprehensive plan. There would not be a joint council and P&Z meeting  
17 until October. Councilor Metzger said the P&Z still needed one more seat filled, and  
18 she asked if the seat was being advertised. Clerk Harrison offered to put the open  
19 seat in the newspaper, and Mayor A Riddile said that would be a good idea.

20 Historic Preservation Commission – nothing to report

21 Planner Cain said the building next door (the Oddfellow Building) had been bought  
22 by the people who had attended council some time back – the proposed changes to  
23 the building will have to go to HPC for approval.

24 Climate Action Advisory Committee – nothing to report

25 Senior Program – Councilor Metzger said there was nothing to report for Senior  
26 Programs, but there would be a meeting on Thursday with Hilltop Retirement  
27 Homes of Grand Junction, and they would be looking at some property in Castle  
28 Valley.

29 RFTA – Mayor A Riddile said that at the next meeting, Larry Dragon would go in  
30 front of the RFTA Board of Directors to make a presentation on the LoVa Trail,  
31 trying to get RFTA to buy into being the entity to manage maintenance and  
32 operation of the trail.

33 AGNC – nothing to report

34 GCE - Councilor Leland reminded the council that on August 11, at the new Castle  
35 Community Center from 11 to 3, there would be the first of three Partners in  
36 Energy meetings.

37 Downtown Group – Councilor Leland said that the Downtown Group would like to be  
38 ready for Museum on the Street signs to be installed. They will come to council to  
39 present on September 6.

### 40 **Council Comments**

41 Councilor Leland said that Thursday, August 4, the three candidates for the Director  
42 of the Library will be at the New Castle Branch from 5-6 pm.

43 Councilor Leland said he would be out of town August 16-24.

44 Councilor Leland said that the schools taught local history in 4<sup>th</sup> grade. They wanted  
45 to present something at the Founders Day celebration, so they needed to know who  
46 the honored family would be. Administrator Baker said the women at the museum  
47 were interested in the selection process, so he should consider speaking to them.

48 Councilor Leland asked the town clerk for the municipal code sections related to  
49 parking or storing vehicles. Clerk Harrison said the section were lengthy and she  
50  
51

1 would read them if the council wished, or said she would put the information in the  
2 DropBox for the council to review. The council agreed.  
3 Councilor Leland said that Larry McDonald was retiring and he had done such a  
4 great job with the recreation department, he felt Larry should be honored.  
5 Administrator Baker agreed that Larry would be honored.  
6 Councilor Leland has seen a little of what Administrator Baker and Mayor A Riddile  
7 had done since receiving the news about Frank the evening before, and he thanked  
8 them for their extraordinary effort.  
9 Councilor Hazelton said he was concerned about speeding on town streets,  
10 particularly since school was starting soon. He thought the council could discuss it  
11 at the next meeting.  
12 Councilor Owens agreed that speeding was a problem.  
13 Councilor Metzger said that the clubhouse in Lakota was coming along slowly.  
14 Councilor Metzger said the RFTA Park and Ride was looking great. Administrator  
15 Baker said there would be a ribbon cutting for the Park and Ride, and he would let  
16 the council know when that would be.  
17 Mayor A Riddile read a thank you card from Larry McDonald's mother.  
18 Mayor A Riddile showed the council the crystal gavel that had been ordered in  
19 honor of Bob Gordon.  
20 Mayor A Riddile said he wanted to do the same for Frank Breslin and give it to his  
21 children, Sarah and Tom. The council agreed.

22  
23 **MOTION: Mayor A Riddile made a motion to adjourn. Councilor Hazelton**  
24 **seconded the motion and it passed unanimously.**

25  
26 The meeting adjourned at 8:56 p.m.

27  
28  
29 Respectfully submitted,

30  
31  
32  
33 \_\_\_\_\_  
Mayor Art Riddile

34  
35  
36 \_\_\_\_\_  
Town Clerk Melody Harrison, CMC

37

## INTERGOVERNMENTAL AGREEMENT CONCERNING 2016 GENERAL ELECTION

THIS AGREEMENT is made effective this \_\_\_\_ day of \_\_\_\_\_, 2016, between the Garfield County Clerk and Recorder ("Clerk") and \_\_\_\_\_ ("Political Subdivision"), jointly the "Parties."

WHEREAS, Political Subdivision desires to refer one or more candidates, contests, issues or questions on the Garfield County Ballot for the November 8, 2016 General Election (the "Election"), in accordance with the Uniform Election Code of 1992, as amended from time to time, § 1-1-101 *et seq.*, C.R.S.; and

WHEREAS, § 1-7-116(1), C.R.S., as amended, requires Clerk to act as the coordinated election official and conduct the Election on behalf of Political Subdivision and similarly situated participating entities, and;

WHEREAS, § 1-7-116(2), C.R.S., as amended, requires Clerk and Political Subdivision to enter into an agreement concerning the conduct of the Election, which agreement must be signed no later than seventy (70) days prior to the Election; and

WHEREAS, Clerk agrees to perform the services specified below in connection with the Election in consideration of Political Subdivision's timely payment of costs and performance of its other obligations as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth herein, the Parties agree as follows:

### I. Duties of the Clerk

Clerk shall perform the following duties in connection with the preparation for and conduct of the Election, and such other duties as the parties may hereafter mutually agree in writing:

#### A. Contact Officer

Jean Alberico, Garfield County Clerk & Recorder (Tel: (970) 384-3700 x1820); Email: [jalberico@garfield-county.com](mailto:jalberico@garfield-county.com), is the "Designated Election Official" and primary contact with Political Subdivision for all purposes relating to the Election.

#### B. Preparation for Election

1. Clerk shall manage all voter registration records and correspondence in substantial compliance with the Election Code of 1992, §§ 1-1-101 to 1-13-803, C.R.S., as amended ("Election Code"); the Election Rules promulgated by the Colorado Secretary of State, as amended; and policy directives of the Colorado Secretary of State, if applicable.

2. Clerk shall supply, deliver and set up all voting equipment and other items necessary to conduct the Election, in substantial compliance with applicable provisions of the Election Code and the Election Rules.
3. Clerk shall appoint eligible electors as election judges, arrange for their compensation and provide any necessary election judge training in advance of the Election, all in substantial compliance with applicable provisions of the Election Code and Election Rules;
4. Clerk shall include on the ballot all content timely certified by Political Subdivision in accordance with law; contract for the printing of ballots, ballot envelopes and other printed materials reasonably necessary to conduct the Election; and arrange for payment to the printing vendor(s).
5. Clerk shall publish notice of a Voter service and polling center election no later than twenty days before the Election, pursuant to § 1-5-205(1), C.R.S., as amended, which notice shall satisfy the publication requirement for all political subdivisions participating in the Election pursuant to § 1-5-205(1.4), C.R.S., as amended.
6. Clerk shall perform all required acceptance testing, hardware diagnostic testing and logic and accuracy testing of Garfield County's voting system and components in substantial compliance with applicable provisions of the Election Code, the Election Rules, and the Conditions for Use applicable to Garfield County's voting system as certified by the Secretary of State.

#### **C. Conduct of Election**

1. Clerk shall designate the proper number and locations of Voter service and polling centers, early voting centers, and mail ballot drop offs. All voting locations will be accessible to electors with disabilities, in substantial compliance with applicable provisions of the Election Code and Election Rules.
2. Clerk shall provide for the security and processing of all mail ballots, and for the verification of electors' signatures on the self-affirmation forms printed on the mail ballot return envelopes, in substantial compliance with applicable provisions of the Election Code and Election Rules.
3. Clerk shall issue mail ballots to and accept voted mail ballots from military and overseas voters in substantial compliance with the deadlines and delivery methods mandated by applicable provisions of federal and state law, including the Election Code, the Election Rules and the Uniformed and Overseas Citizens Absentee Voting Act, all as amended.
4. Clerk shall provide for the security and reconciliation of official ballots supplied for or cast during early voting and at the mail ballot processing center and Voter service and polling centers, in substantial compliance with applicable provisions of the Election Code and Election Rules.

5. Clerk shall provide provisional ballots for use by electors eligible for issuance of the same pursuant to § 1-8.5-101, C.R.S., as amended; provide for the security, timely verification and counting of verified provisional ballots; and provide a telephone number or website address for the use of electors casting provisional ballots to determine whether their provisional ballot was counted; all in substantial compliance with applicable provisions of the Election Code and Election Rules.
6. Clerk shall provide properly trained members of election staff to prepare for, conduct and assist with the reconciliation and canvass of the Election in substantial compliance with applicable provisions of the Election Code and Election Rules.
7. Clerk shall conduct any required post-election audit in substantial compliance with applicable provisions of the Election Code and Election Rules.
8. Clerk shall conduct any mandatory or permissive recount in substantial compliance with applicable provisions of the Election Code and the Election Rules.
9. Clerk shall appoint canvass board members, oversee the conduct of the canvass and certify official results of the Election in substantial compliance with applicable provisions of the Election Code and Election Rules.
10. Clerk shall preserve all election records relating to the Election for at least twenty-five months, in substantial compliance with the Election Code and the Election Rules.

#### **D. Election Costs**

1. Clerk shall keep accurate accounts of all costs incurred to prepare for and conduct the Election, including but not limited to costs incurred for supplies, printing, ballot insertion and mailing, legal and other notices, temporary labor, compensation of election judges, and other expenses attributable to Clerk's conduct of the Election on behalf of Political Subdivision.
2. Clerk shall charge and allocate to Political Subdivision its pro rata share of the direct costs of the Election, and all direct and indirect costs and expenses that are directly attributable to Political Subdivision's failure or omission to timely perform any of its obligations under this Agreement, without regard to whether Political Subdivision rescinds its intent to participate in the Election, as more particularly set forth in section II.C of this Agreement.
3. In the event an interested party is not liable for payment of costs incurred in connection with a mandatory or permissive recount of, or election contest relating to, one or more candidate contests, ballot issues or ballot questions certified by Political Subdivision, Clerk shall charge any and all direct and indirect costs and expenses reasonably incurred by Clerk to conduct or participate in any such recount or ballot contest. If more than one political subdivision participating in the Election is involved in any such recount or election contest, the costs thereof shall be prorated between Political Subdivision and such other participating entities.

4. Clerk shall submit to Political Subdivision an invoice for Political Subdivision's pro rata share of direct and indirect costs incurred in connection with Political Subdivision's participation in the Election within ninety days after the Election.

#### E. Ballot Issue Notice

1. Clerk shall prepare and mail a combined ballot issue notice in substantial compliance with Article X, Section 20 of the Colorado Constitution ("TABOR"), applicable provisions of the Election Code and Election Rules, and Attachment 1 to this Agreement.

#### II. Duties of the Political Subdivision

The Political Subdivision has designated \_\_\_\_\_  
whose mailing address is \_\_\_\_\_  
and whose phone number is \_\_\_\_\_  
and whose fax number is \_\_\_\_\_  
and whose email address is \_\_\_\_\_  
as its Designated Election Official ("DEO") for purposes of the Election, pursuant to C.R.S. §1-1-104(8).  
The DEO shall act as the primary liaison between the Political Subdivision and Clerk.

If the Political Subdivision encompasses territory within other counties, this Agreement shall apply only to that portion of the Political Subdivision situated within Garfield County.

The Political Subdivision shall perform the following duties in connection with the Election:

##### A. Preparation for Election

1. Except for legal notices that Clerk is required by specific provision of this Agreement to post or publish, or both, Political Subdivision shall be solely responsible for posting or publishing, or both, any other legal notices required of Political Subdivision pursuant to relevant provisions of state law, including without limitation any applicable provisions of the Uniform Election Code of 1992, C.R.S. §§ 1-1-101, *et seq.*, as amended; the Colorado Municipal Code of 1965, §§ 31-10-101, *et seq.*, as amended; the Special District Act, C.R.S. §§ -1-101 *et seq.*, as amended; the School District Organization Act of 1992, C.R.S. §§ 22-30-101 *et seq.*, as amended; or the Community College and Occupational Education Act of 1967, C.R.S. §§ 23-60-101, *et seq.*, as amended.
2. The Political Subdivision will review the address library report from the County Clerk's office for completeness and certify to the County Clerk by September 1, 2016 that all addresses currently in that political subdivision are included on the list.
3. Political Subdivision shall be solely responsible for determining whether a ballot issue, ballot question, candidate contest or candidate is eligible or properly certified for the ballot.
4. On or before the 70<sup>th</sup> day before the election (August 30, 2016) at 4:30 p.m., Political Subdivision shall deliver to Clerk a) a certified copy of the ordinance or resolution enacted or

adopted by its governing board authorizing Political Subdivision to participate in the Election according to the terms and conditions of this Agreement and identifying the person(s) authorized to execute this Agreement on its behalf, and b) a counterpart original of this Agreement, completed and executed by Political Subdivision's authorized representative.

5. If applicable, Political Subdivision shall notify and provide information to owners of property within Political Subdivision who are eligible to vote on ballot issues referred by Political Subdivision that they may apply to Clerk for issuance of a mail ballot specific to Political Subdivision, pursuant to §§ 1-7-104 and 1-8-104(3), C.R.S., as amended. If Political Subdivision allows eligible property owners to vote, Political Subdivision shall acquire the property ownership list referred to in § 1-5-304 C.R.S. as amended from the Assessor. The cost of the list is provided by statute and shall be paid directly to the Assessor by Political Subdivision. Political Subdivision's staff shall be solely responsible for building a list of eligible property owners and provide that list to the Clerk by September 23, 2016. Political Subdivision may contact the Clerk if access to voter registrations records is needed.
6. In accordance with Colorado law, Political Subdivision shall provide a certified copy to Clerk of all ballot content (candidate contests, ballot issues and ballot questions) referred by Political Subdivision for the Election in its exact and final form. Such certified ballot content shall be delivered to Clerk as an email attachment in **Notepad** format to [jalberico@garfield-county.com](mailto:jalberico@garfield-county.com) as well as on hard copy (paper), or in such other manner as the Parties may agree in writing, at the earliest possible time and in no event later than sixty days before the Election, or on or before the 60<sup>th</sup> day (September 9, 2016) before the election at 4:30 p.m., pursuant to § 1-5-203(3)(a), C.R.S., as amended. Please contact Edna Place at (970) 384-3700 X 1804 or [eplace@garfield-county.com](mailto:eplace@garfield-county.com) with any questions concerning this requirement. If ballot content is submitted in a format other than Notepad, Clerk will charge Political Subdivision in addition to any other costs set forth in this agreement for costs associated with Clerk's election staff to retype in Notepad format. All ballot content certified by Political Subdivision shall utilize the exact language and order as such ballot content is to appear on the printed official and sample ballots for the Election. Political Subdivision's certified ballot content shall be final upon transmission to and receipt by Clerk, and Clerk will not be responsible for making any changes after Political Subdivision's certification of its ballot content. Political Subdivision is encouraged to name a person willing to participate in the logic and accuracy testing required before ballot proofs can be sent to the printer.
7. Political Subdivisions shall designate a representative or agent to proofread and approve ballot content certified by Political Subdivision as it appears on ballot artwork before printing within one business day after receipt of ballot proofs from Clerk. Due to limited printing press availability and time constraints, the representative or agent designated by Political Subdivision must be available from 8:00 a.m. to 5:00 p.m. on weekdays (excluding legal holidays) from the 57<sup>th</sup> day before the election until 47<sup>th</sup> day before the election, or until Political Subdivision has submitted to Clerk its final approval of such preliminary ballot artwork and ballot content as well as acceptance of the audio ballot, whichever shall first occur.

Political Subdivision hereby designates \_\_\_\_\_  
whose phone number is \_\_\_\_\_

and fax number is \_\_\_\_\_  
and email address is \_\_\_\_\_  
as its representative or agent responsible for proofreading and finally approving the preliminary ballot artwork on behalf of the Political Subdivision.

8. If requested by Clerk, Political Subdivision shall designate eligible electors of Garfield County to participate in ballot counting, recounts, testing and auditing of voting equipment used in the Election, and the canvass, and to serve as election judges and on various boards and panels convened to oversee the Election. In the event Clerk does not request the Political Subdivision to designate eligible electors under this section, all election judges, boards and panels will be comprised of registered electors affiliated with the major political parties and nominated by the county chairpersons thereof; provided, however, that Clerk reserves the right to appoint unaffiliated electors or electors affiliated with minor political parties if the county chairpersons of the major political parties are unable or fail to nominate a sufficient number of registered electors affiliated with the major political parties.
9. If a new special district, Political Subdivision shall comply with § 32-1-306, C.R.S., including transmittal to the Clerk and Recorder in each county in which Political Subdivision is wholly or partially situated, certified copies of the findings of fact and conclusions of law, or other judicial decree or order, of the court exercising jurisdiction in the proceedings to organize and establish such special district, within thirty days after entry of the decree or order organizing and establishing such special district.
10. In the event that Political Subdivision cancels the Election or resolves not to participate in the Election, Political Subdivision shall give notice of such cancellation or resolution to Clerk immediately. Political Subdivision shall pay Clerk all amounts due hereunder, including without limitation production and mailing costs, incurred both before and after Clerk's receipt of such notice. The Political Subdivision shall provide notice by publication of the cancellation of its election, and a copy of the notice shall be posted in the office of Clerk, in the office of the Designated Election Official and, if the Political Subdivision is a special district, in the office of the Division of Local Government. Except for initiative, recall and non-coordinated elections, the Political Subdivision shall not cancel its participation in the Election after the twenty-fifth day prior to the election, pursuant to § 1-5-208(2), C.R.S., as amended.

#### **B. Conduct of Election**

1. Political Subdivision shall immediately notify Clerk of any election contest that is initiated with respect to any ballot content certified by Political Subdivision for the Election, and shall keep Clerk apprised of the need to retain election records for use in any such election contest.

#### **C. Election Costs**

1. Political Subdivision shall pay to Clerk its pro rata share of the direct costs and expenses

actually incurred and paid by Clerk in order to prepare for and conduct the Election, including without limitation post-election activities such as the post-election audit, canvass and certification of official results. Political Subdivision's prorated share of such costs and expenses, and the proportional shares of other participating entities, shall be based on a) the total number of registered electors residing within the Political Subdivision, as reflected by the voter registration records of Clerk as of the voter registration deadline for the Election after all such voter registration data has been processed and the total number of votes cast for candidates or issues certified by the Political Subdivision.

2. In addition, Political Subdivision shall pay to Clerk all direct and indirect costs and expenses incurred by Clerk to remedy, resolve or reconcile Political Subdivision's failure or omission to timely perform one or more of its obligations under this Agreement, including without limitation costs and expenses arising from delays or cancellations caused by the Political Subdivision, and time devoted by Clerk or members of Clerk's staff to resolve or reconcile any deficiencies of or other issues relating to Political Subdivision's ballot content or address library report. For purposes of this subsection, all staff time of Clerk shall be billed at the applicable employee's actual hourly rate, plus the cost of all employee benefits accrued with respect to such work, if any.
3. Political Subdivision represents and warrants that it has sufficient funds available in its approved budget to pay all amounts required by this section II. C.
4. Political Subdivision shall pay to Clerk all amounts required by this section II. C. not later than thirty days after receipt of Clerk's invoice therefor.

#### **D. TABOR Notice**

1. Political Subdivision shall provide to the Clerk all required Amendment 1 Notices concerning the Political Subdivision's ballot issues and questions in the manner according to the Election Code, **Attachment 1** to this Agreement, and the requirements of the Colorado Constitution.
2. The Clerk shall produce a mailed Notice of the Ballot issues and/or questions (Amendment 1 Notice) required by the Colorado Constitution, Article X, Section 20 in accordance with **Attachment 1**.

#### **III. Additional Agreements**

1. In the event a court of competent jurisdiction finds the Election for the Political Subdivision was void or otherwise fatally defective as the sole result of a failure of Clerk to perform in accordance with this Agreement or laws applicable to the Election, the Political Subdivision shall be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the Political Subdivision to Clerk under this Agreement. In no event shall Clerk be liable for any expenses, damages or losses in excess of the amounts paid by Political Subdivision under this Agreement. This remedy shall be the sole and exclusive remedy for the breach available to the Political Subdivision under this Agreement.

2. No portion of this Agreement shall be deemed to create a cause of action with respect to anyone not a party to this Agreement, nor is this Agreement intended to waive any privileges or immunities otherwise possessed or enjoyed by the parties to this Agreement, or their officers, agents, representatives or employees, except as otherwise expressly stated in this Agreement.
3. Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement. An Election Calendar with specific dates, which will be considered binding, is attached hereto as Attachment 2 and incorporated herein by reference.
4. This Agreement shall be effective and binding for the November 8, 2016 General Election and is intended to be effective through December 31, 2016 or to the conclusion of any appeal or contest of the General Election of November 8, 2016, whichever is longer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement to be effective upon the date first above written.

**CLERK AND RECORDER OF  
GARFIELD COUNTY, COLORADO**

\_\_\_\_\_  
**Jean M. Alberico**

\_\_\_\_\_  
**Date**

**POLITICAL SUBDIVISION:**

\_\_\_\_\_  
Print or type name of Political Subdivision

By: \_\_\_\_\_

\_\_\_\_\_  
**Date**

Title: \_\_\_\_\_

**RETAIL LIQUOR OR 3.2 BEER  
 LICENSE RENEWAL APPLICATION**

NEW CASTLE DINER  
 820 CASTLE VALLEY BLVD STE 101  
 NEW CASTLE CO 81647-9480

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	<b>\$500<sup>00</sup></b>

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name FRESH DINER LLC		DBA NEW CASTLE DINER		
Liquor License # 12885060000	License Type Hotel & Restaurant (city)	Sales Tax License # 12885060000	Expiration Date 09/13/2016	Due Date 07/30/2016
Operating Manager DAVID L. SOUDERS	Date of Birth 9/27/68	Home Address 201 MALLOW CT. NEW CASTLE, CO 81647		
Manager Phone Number (970) 319-2377		Email Address newcastlediner@gmail.com		
Street Address 820 CASTLE VALLEY BLVD STE 101 NEW CASTLE CO 81647-9480				Phone Number 9709843700
Mailing Address 820 CASTLE VALLEY BLVD STE 101 NEW CASTLE CO 81647-9480				

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease OPEN
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business DAVID L. SOUDERS	Title OWNER/MANAGER
Signature 	Date 7/22/16

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For	Date
Signature	Title
	Attest



CERTIFICATE

This certificate is presented to

\_\_\_\_\_  
DAVID SOUDERS

In recognition of completing the Seller Server Responsibility Training in conformity with and certified by the  
State of Colorado Department of Revenue Liquor Enforcement Division on April 13, 2016.  
Certificate expires 3 years from date of training.

04.1 7:00

City Clerk

Date

**RETAIL LIQUOR OR 3.2 BEER  
 LICENSE RENEWAL APPLICATION**

HACIENDA EL PATRON  
 P O BOX 109  
 NEW CASTLE CO 81647

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

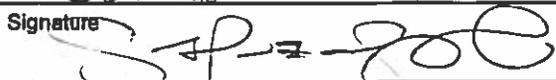
**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name <b>HACIENDA EL PATRON LLC</b>		DBA <b>2 CORONAS</b>		
Liquor License # <b>4701962</b>	License Type <b>Hotel &amp; Restaurant (city)</b>	Sales Tax License # <b>27975927000</b>	Expiration Date <b>09/29/2016</b>	Due Date <b>08/15/2016</b>
Operating Manager <b>Salvador Corona</b>	Date of Birth <b>10-31-1977</b>	Home Address <b>5033 Cnty Road 335 TRL #147 New Castle CO</b>		
Manager Phone Number <b>970 319 2160</b>	Email Address <b>chavacorona31@gmail.com</b>			
Street Address <b>201 W MAIN ST NEW CASTLE CO 81647</b>				Phone Number <b>970 319 2160</b>
Mailing Address <b>5033 Cnty Rd. 335 TRL #147 New Castle CO, 81647.</b>				

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease 05-01-2021
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  
 YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <b>Salvador Corona</b>	Title <b>President</b>
Signature 	Date <b>08/04/16</b>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For	Date
Signature	Title
	Attest