New Castle Town Council Regular Meeting
Tuesday, November 03, 2020, 7:00 PM

Due to concerns related to COVID-19, this meeting was open to the public as a virtual meeting only.

To join by computer, smart phone or tablet click HERE

If you prefer to telephone in:
Please call: 1-346-248-7799
Meeting ID: 709 658 8400

Call to Order
Mayor Pre Tem Grady Hazelton called the meeting to order at 7:02 p.m.

Pledge of Allegiance

Roll Call

Present	Councilor Mariscal
	Councilor Owens
	Mayor Pro Tem Hazelton
	Councilor Copeland
	Councilor Leland
Absent	Mayor A Riddile
	Councilor G Riddile

Also present at the meeting were Town Administrator Dave Reynolds, Town Clerk Melody Harrison, Town Planner Paul Smith and Town Attorney Haley Carmer.

MOTION: Mayor Pro Tem Hazelton made a motion to excuse Mayor A Riddile's absence. Councilor Mariscal seconded the motion and it passed unanimously.

MOTION: Mayor Pro Tem Hazelton made a motion to excuse Councilor G Riddile's absence. Councilor Mariscal 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 2020-1.

Conflicts of Interest
There were no conflicts of interest.

Agenda Changes
There were no agenda changes.

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.

Items for Consideration

Garfield Clean Energy and CLEER Presentation - Erica Sparhawk
Erica Sparhawk, Deputy Director, Clean Energy Economy for the Region (CLEER).
Ms. Sparhawk greeted the council. She said that she would provide brief update to the council regarding the Garfield Clean Energy Collaborative (GCE) and CLEER activities in the past year. Ms. Sparhawk thanked the council for their continued participation as one of the founding members of GCE. She also thanked Councilor Leland for sitting on the Garfield Clean Energy (GCE) Board, said that he was a great member, and represented New Castle very well.
Ms. Sparhawk said that GCE was a collaborative of nine entities including six of the county municipal governments, Garfield County, Colorado Mountain College and RFTA.
Ms. Sparhawk reviewed what had been accomplished in 2020. Despite the ongoing pandemic, GCE and CLEER had been able to continue to provide services to local government, residents and businesses.
Ms. Sparhawk said that GCE and CLEER had to reconsider how their programs were administered due to the pandemic and much of the education piece had gone to webinars. She said their classes were well-attended.
Ms. Sparhawk said that she did not intend to lessen the negative impact the pandemic had on people and businesses, but they had received many phone calls during the lockdown when people were home and had time to complete projects. In addition, a few businesses completed projects that they may not have done otherwise.
Ms. Sparhawk said they had reached out to Lift-Up right away and put flyers in the food bags, and immediately had more than thirty families apply for the Low-Income Energy Assistance Program.
Ms. Sparhawk said that when they had reached out to Lift-Up, Lift-Up was in the process of replacing the cooling system in their Parachute building, and GCE was able to connect them to Energy Outreach Colorado which paid for the cooling system because Lift-Up serves the low-income population.
Ms. Sparhawk provided a detailed 3rd-quarter report.
Ms. Sparhawk screen-shared slides regarding the Three-County Clean Energy Network that included Eagle, Pitkin and Garfield Counties. The Network project was funded by a DOLA grant, and intended to create a vision of how solar and solar storage in the three-county region could accelerate progress to a clean energy future in support of the state clean energy target.
The council thanked Ms. Sparhawk for her report.

Review: Proposed 2021 Budget
Administrator Reynolds said that the council had discussed the 2021 budget at the last council meeting. Town treasurer Loni Burk had taken comments and requests from that discussion and made adjustments to the budget document. He said the adjustment were not many, but that Treasurer Burk would review the changes.
Treasurer Burk reviewed the changes made in detail.

Mayor Pro Tem Hazelton said that he knew the Mayor would be very proud of how good the budget was looking and how much hard work staff had done. He also said that New Castle had been very fortunate given the circumstances, because many other towns were having budget issues because of the pandemic. He thanked the staff for their great work.

Consider Ordinance TC 2020-7, an Ordinance of the Town Council of the Town of New Castle, Colorado Amending the Municipal Code to Add Chapter 17.74, Wireless Communication Facilities and Equipment (1st reading)

Town Planner Paul Smith told the council that in 2017, the Colorado House passed HB 17-1193, the Small Cell Facilities Permitting and Installation Act, which generally specified how local authorities throughout Colorado might regulate the installation of small cell facilities. In 2018, the Federal Communications Commission (FCC) adopted a declaratory ruling known as FCC 18-133 that outlined the extent to which local agencies may or may not regulate the installation of small cell facilities within the public rights-of-way and the use of public infrastructure.

Planner Smith said that the state and federal government saw 5G as an infrastructure improvement that they want to make available to the majority of the nation, but they needed access to the public right-of-way.

Planner Smith explained that small cell communication technology, also known as 5G, would require more infrastructure than what everyone was used to in the towers located on the Hogback. 5G required a structure every 300 to 600 feet where a transmitter would be mounted, most often with fiber optic and power conductor cable connections to each. Without adoption of installation standards, service providers would be free to install equipment with no concern for the visual impact they create. He said that the purpose of the ordinance was to accommodate implementation of the new technology while assuring that the new infrastructure was installed in a way that protected the safety, aesthetics and general well-being of the community.

Planner Smith said that the ordinance would regulate where the transmitter could go in the public right-of-way and essentially what they would look like. He said in the ordinance there were three major sections: technical definitions, design criteria and application procedures.

Planner Smith screen-shared examples of towers disguised as trees as well as the small cell devices that was most likely to be installed in New Castle. He noted that it would probably be cost-prohibitive for service providers to install new towers; rather, they would most likely use existing light or utility poles or buildings.

Planner Smith reviewed the Design Standards in section 17.74.060 in detail. He also reviewed the permitting and inspection process with the council.

Councilor Leland asked what the process would be if a resident complained. Planner Smith said that the state considered small cell to be essentially a use-by-right in the public right-of-way, and they could also be installed on a private building. He said that outside the adopted design criteria there could be complaints and it would be up to staff to determine if the facility was obtrusive or not. He said that the intent was that the ordinance would be a living document where it could get into more specificity about what the facilities might look like.

Mayor Pro Tem Hazelton told Councilor Leland that he was not feeling well and needed to leave, and he asked Councilor Leland to take over the meeting. Councilor Leland agreed.

Mayor Pro Tem Hazelton left the meeting at 8:11 p.m.
(Clerk Harrison sanitized the council dais, bagged and removed Mayor Pro Tem Hazelton's things.)

Attorney Carmer said that if someone complained about a facility that had been approved by the town, the quick response was that the town cannot prohibit installation of the facilities both the state and federal bills allowed. Attorney Carmer said that the purpose of the ordinance was to create regulations so that the town could ensure they were installed properly and within the adopted design standards. In addition, any review decision made administratively can be appealed and subsequently reviewed by the Board of Zoning Adjustment, but all they will do is decide if the design standards had been complied with, nothing else.
Councilor Leland asked if Planner Smith if he had determined how many small cell facilities would be needed in town. Planner Smith said he had not, but it appeared there could be as many as one every 300 feet or roughly about 100. He said it was difficult to determine, and it may be necessary to hire a consultant that could help determine what the necessary density of facilities would be. Administrator Reynolds said that it would likely be a major carrier that would install the facilities, and the need for facilities might vary between carriers, but it was likely they would share poles.
Planner Smith said that the health issues related to 5G was contested but both the state and federal government position was that health concerns had been studied and there was not enough evidence regarding potential health issues to prohibit 5G facility installation.
Councilor Copeland asked if it was 5G that was being installed along I-70. Administrator Reynolds said that fiber optics was installed on the highway, not 5G.
MOTION: Councilor Copeland made a motion to approve Ordinance TC 2020-7, an Ordinance of the Town Council of the Town of New Castle, Colorado Amending the Municipal Code to Add Chapter 17.74, Wireless Communication Facilities and Equipment on 1st reading. Councilor Mariscal seconded the motion.
Discussion: Councilor Owens clarified that there was research out there on the health impacts of 5G, but not enough to prohibit facility installation. Planner Smith verified that there were health studies regarding 5G but nothing significant that would allow a municipality to prohibit facility installation. Planner Smith said it had been a while since he had looked at health information since it was not pertinent to the ordinance.
Councilor Owens said that the health issues related to 5G was something he did know enough about to be comfortable approving its installation.
Planner Smith clarified that the ordinance was not considering whether 5g would or would not be allowed in town because it was already allowed by state and federal law. All the ordinance did was provide the capacity by which those facilities were installed.
Attorney Carmer said that there were states and jurisdictions that had challenged the overall concept of not being able to prohibit the 5G type infrastructure, and the telecommunications companies immediately sued them. There was legal action being taken to challenge the wholesale prohibition of 5G but it will take some time to work through the system. The suits could create some changes to the law that would allow more flexibility to maybe prohibit facilities in certain areas for instance, but it will take some time for that legal authority to come down. She said the issue could be revisited if and when that happened.

Councilor Owens said that in the meantime, they had a right to bring 5G in, and the town had the right so say in what capacity they could bring could do that. Attorney Carmer agreed.
Councilor Leland asked if there were communities where 5G had been installed and if there was any health statistics from those communities. Planner Smith said there were communities where 5G had been installed but he did not have any health reports or information.
The motion passed on a roll-call vote: Councilor Leland: yes; Councilor Owens: yes; Councilor Copeland: yes; Councilor Mariscal: yes.

Consider a Motion to Approve Business Assistance Grant
Administrator Reynolds reminded the council that the town had been awarded $430k in CARES Act funds and part of those funds had been spent in the first round of business assistance grants. Council had directed staff to prepare a second round of business assistance grants. Administrative Assistant Debbie Nichols had created a second application process and contacted as many businesses as she could locate. The council committee consisted of Councilors Copeland and Mariscal and they met with staff for many hours reviewing the grant applications. To be fair, they created a standardized formula so that each business would receive an equitable amount. Part of the application asked for some very specific financial information which was not in the packet, but it gave the committee an opportunity to thoroughly study the information. Administrator Reynolds said that each business was able to provide information documenting their losses due directly to COVID. The committee's standard formula was to provide grant funds to each business equal to three months of fixed expenses. Administrator Reynolds said the total at the bottom of the spreadsheet of $156,719.00 represented three months of expenses for the businesses that applied with one exception. That business's monthly expenses were so high that providing three months of expenses for them would have exceeded the budget. Administrator Reynolds said that the committee also wanted to be careful so that nothing was questioned or denied when the town applied for reimbursement from DOLA. In addition, he said that businesses that received CARES Act monies as well as the town were subject to an audit, so the committee was careful in that regard as well.
Administrator Reynolds said that the staff/council committee recommended approval of the suggested amounts, particularly since the monies were going back into the community by supporting business.
Councilor Leland said it looked like they were suggesting giving more then asked for in two circumstances. Administrator Reynolds said that was tricky to figure out. He said that some businesses were very modest in their requests. The committee had the advantage in looking at what they asked for, but also what their losses were. He said that if those businesses to return any portion of the money, they could do that.
MOTION: Councilor Leland made a motion to approve the business assistance grants as presented. Councilor Mariscal seconded the motion and it passed unanimously.

CARES Act Financial Review

Administrator Reynolds said that the council was aware that New Castle had received $436k in CARES Act funding that were not truly town funds, but funds in an allotment that the town could draw from. Funds needed to be spent by the end of the year. The purpose of the agenda items was to let the council where the town was with the CARES Act fund. Administrator Reynolds said that there were four categories under which the town had been using the funds, and he described each: $41,500 in funding to non-profits, $182,719 in funding to local businesses, $100,000 in funding returned to Garfield County and $84,963.96 in funding town reimbursable COVID expenses. Administrator Reynolds said there was $24,036.04 remaining that could be distributed and he asked the council what they felt the best use of the remaining fund would be. The council suggested a few organizations: the Safe and Abundant Nutrition Alliance (SANA), Lift-Up, River Center, Advocate Safehouse and Mountain Family Health, and anything left over could go back to the county.
The council asked which level Garfield County was. Administrator Reynolds said that the county was currently at yellow, with warnings that they would be at orange if there was not improvement in the number of new COVID cases.
The council asked if reopening town hall was wise. Administrator Reynolds said that the town hall would reopen in a very strict manner, requiring face coverings and only one person in the town hall lobby at a time. The upstairs would be limited to employees only. Staff was comfortable reopening and would keep a close eye on how things were going.

Consent Agenda
Resolution TC 2020-30 - Approving an Amended MOU with Garfield County for Senior Programs
October Bills of $389,824.88
MOTION: Councilor Leland made a motion to approve the consent agenda. Councilor Copeland seconded the motion and it passed unanimously.

Staff Reports
Town Administrator – Administrator Reynolds said that he had been conducting interviews for this administrative assistant position. He said there had been 21 applications for the position, 8 that he will interview via telephone and in-person interviews would be the following week. He said it was difficult to select applicants to interview because they were all good, and he felt that there might be one or two applicants for the position in planning/finance, and perhaps the new police clerk. Administrator Reynolds said there was another grant opportunity from the Colorado Restaurant Association and he had Administrative Assistant Nichols get that information to the restaurants in town. Administrator Reynolds said tat the Girl Scouts that had presented to council a few weeks ago had sent a very nice thank you and had made the decision to complete their project in the spring. Administrator Reynolds said that Judy Martin of Senior Programs had inquired whether Councilor Mariscal was interested in serving on the committee in 2021 along with Clerk Harrison as alternate. Councilor Mariscal agreed she would like to continue unless there was another council member who wanted to sit on the Senior Programs board.
Town Clerk – Clerk Harrison said that she had been working on the fee schedule for the November 17 council meeting. There were several changes including fees for the 5g facilities, new land use fees as well as the updated utility rates. Clerk Harrison said that her Assistant, Bart Mendoza, was back in the office and that it was great to have him

back. She said there were several projects he would be working on this winter including being in charge of phones, both cell and desk phones as well as being the programmer for door security codes and the snowman contest.
Town Treasurer – Treasurer Burk said it was a very busy time for finance with insurance renewals, workers compensation renewal, year-end, budget and the bulk water station point of sale for credit cards.
Town Planner – Planner Smith said he was working on the filing 11 preliminary PUD that will be reviewed at P&Z on Monday November 23, 2020.
Public Works Director – not present.

Commission Reports
Planning & Zoning Commission – nothing to report.
Historic Preservation Commission – nothing to report.
Climate and Environment Commission - nothing to report
Senior Program – nothing to report.
RFTA – nothing to report.
AGNC – nothing to report.
GCE – nothing to report.
EAB – nothing to report.

Council Comments
Councilor Leland asked if the second meeting in December would be a regular meeting, because typically it would be very short because it would also be the night of the town Christmas Party. He asked that staff let the council know what might be on the agenda. Administrator Reynolds said there might be a CDOT review of the traffic circle, but staff would remain sensitive to keeping that meeting short.

MOTION: Councilor Owens made a motion to adjourn. Councilor Mariscal seconded the motion and it passed unanimously.

The meeting adjourned at 9:01 p.m.

Respectfully submitted,

Mayor A Riddile

Town Clerk Melody Harrison, CMC

TOWN OF NEW CASTLE
GARFIELD SEAL COUNTY
COLORADO