

**New Castle Town Council Regular Meeting
Tuesday, January 04, 2022, 7:00 PM**

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Call to Order

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

Pledge of Allegiance

Roll Call

Present	Councilor Mariscal (virtual) Councilor Owens (virtual) Councilor Hazelton Mayor A Riddile Councilor Copeland Councilor Leland Councilor G Riddile
Absent	None

Also present at the meeting were Town Administrator Dave Reynolds, Town Clerk Melody Harrison, Town Treasurer Loni Burk, Town Planner Paul Smith, Recreation Director Hannah Bihr, Town Attorney David McConaughy, and members of the public.

Meeting Notice

Town Clerk Melody Harrison verified that her office gave notice of the meeting in accordance with Resolution TC 2021-1.

Conflicts of Interest

There were no conflicts of interest.

Agenda Changes

Town Administrator Dave Reynolds told the council that staff would like to move agenda item G, the discussion regarding procedures for CVR filing 11, to be Item E to allow the town attorney to leave. The council agreed.

Town Council Meeting
Tuesday, January 4, 2022

Citizen Comments on Items not on the Agenda

There were no citizen comments.

Consultant Reports

Consultant Attorney – Attorney McConaughy told the council that regarding the discussion during the work session about the citizens of Glenwood Springs petitioning the city to repeal the annexation of the 480 Donegan property, he disclosed that his firm was the attorney for the applicant, and they were also challenging Aspen's emergency ordinance that imposed a moratorium on development and short-term rentals.

Consultant Engineer – not present.

Items for Consideration

Consider a Letter of Interest from Dick Fletcher for Appointment to a Seat on the Historic Preservation Commission

Clerk Harrison told the council that Mr. Fletcher had submitted a letter of interest for the vacant seat on the Historic Preservation Commission, where his wife also served. She said that he was present to speak with the council.

Mr. Fletcher greeted the council. He said that he had moved to New Castle seven years earlier with his wife, Ruth. He said that he felt that preservation of buildings was interesting to him as he had always been intrigued by history.

Mr. Fletcher said that he had a master's degree in public recreation administration from CSU which led to a 28-year career with Colorado State Parks. Since retiring, Mr. Fletcher said that he had been volunteering at the Schneegas Wildlife Foundation in Silt, specifically caring for three wolf hybrid residents. Mr. Fletcher said that he played a confederate soldier in the ghost walk in the Highland Cemetery and had learned a lot about local history researching his character.

Mr. Fletcher said that he and his wife had seen, firsthand, what a historic preservation program could do in Georgetown, Colorado, where they owned a home with their eldest son. He said he wanted to be part of that in New Castle. Mr. Fletcher said that he was a U.S. Navy veteran, and he was ready to do his part with the Historic Preservation Commission.

MOTION: Mayor A Riddile made a motion to appoint Dick Fletcher to the vacant seat in the Historic Preservation Commission. Councilor Copeland seconded the motion and it passed unanimously.

Recess the Town Council Meeting, Convene as the Local Liquor Licensing Authority

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

Consider a Special Events Liquor License Application from the Town of New Castle for Bad Art Night on January 15, 2022

Clerk Harrison told the council that Kelley Cox, Arts and Enrichment Coordinator, had applied for a special event liquor license for the event "Bad Art Night" that will take place

on January 15, 2022. She said that the recreation department staff had been TiPS certified. Recreation Director Hannah Bihr said that Arts and Enrichment Coordinator Kelley Cox will be the point of contact for alcohol service. She also told the council that each participant will receive two drink tickets with their registration, and they can get either adult beverages or soda. She also said that snacks will be served.

MOTION: Councilor G Riddile made a motion to approve the special events liquor license application from the Town of New Castle for Bad Art Night on January 15, 2022. Mayor A Riddile seconded the motion and it passed unanimously.

Consider an Application from Tapatios, LLC, to Modify their Hotel & Restaurant Liquor Licensed Premises

Clerk Harrison told the council that Tapatios, owned by Esmeralda Cornejo, had leased the unit adjacent to the restaurant and intended to use the space for a new office area, a new storage area and a new service area. Clerk Harrison said that the application for modification of their license included an additional portion of the sidewalk that would allow them to access the sidewalk service area from the new indoor service area. She said that the applicant had submitted a complete application, including an amendment to the lease to include the new unit as well as the new sidewalk area. Clerk Harrison said that staff recommended approval.

Ms. Esmeralda Cornejo greeted the council and told them that business had been very good, and the expansion would be quite helpful.

MOTION: Councilor Hazelton made a motion to approve the application from Tapatios, LLC, to modify their Hotel & Restaurant Liquor License. Councilor Copeland seconded the motion and it passed unanimously.

Adjourn the Local Liquor Licensing Authority, Reconvene the Town Council Meeting

MOTION: Mayor A Riddile made a motion to adjourn the local liquor licensing authority and to reconvene the town council meeting. Councilor Copeland seconded the motion and it passed unanimously.

Discussion: Recreation Facilities Development Fee

Town Administrator Dave Reynolds said that the \$500.00 recreation development fee, which was collected with every new home permit application, was used for recreation development projects such as new parks. He said that staff had found that the fee originated in 1998 and was \$436.00. In 2000, the fee was increased to \$500.00, but has not been increased since. He said that the cost of developing recreation facilities had gone up substantially since the years 2000, and staff felt that it was worth a conversation with council to consider an increase if council wished to do so.

Administrator Reynolds said that he felt the town had been good stewards of those fees and the funds had been used to projects such as building Bear Dance Park and making improvements to other parks. He said there were future park projects in the works with improvements to both Burning Mountain Park and Frank Breslin Memorial Park on the horizon. Administrator Reynolds said that there was also a lot of development coming which will put a lot of demand on the town's parks facilities, so it is anticipated that the cost to maintain the facilities will increase as the population increases.

Administrator Reynolds told the council that staff was looking for direction on whether it was time to increase the recreation development fee.

Town Attorney David McConaughy said that the recreation development fee was one of the first ordinances he wrote for the town in 1998, and that it had always been contemplated that the fee would be increased periodically, and in fact the Lakota annexation agreement specifically mentioned that the fee was \$500.00 per building permit but may increase over time.

Councilor G Riddile suggested that the fee could be increased to inflation over the past 20 years.

Attorney McConaughy gave the council a brief description of what the fee was and noted that the town had generally used the money for grant match money for projects such as parks and trails. After a brief discussion the council agreed the fee should increase.

Attorney McConaughy read the code section about the recreation development fee and explained the process by which the fee could be changed. He said that council should direct staff to prepare a memo on the criteria outlined in the code, and the memo and a resolution could come back to the council at the same time for consideration. The amount of the fee will be based on the analysis done by staff.

The council agreed.

Consider Procedures for CVR Filing 11

Attorney McConaughy told the council that the filing 11 application was originally denied by the Planning & Zoning Commission (P&Z). It came to the council for review and was then sent back to P&Z for reconsideration. P&Z had held multiple hearings on the application, and basically staff's position was that the preliminary plan had been approved with conditions, but the final plan had not acted on because it had changed, and it did not match the conditions set at preliminary plan. He said that the whole purpose of final plan was to see if the application had met the conditions of preliminary. Originally, it had been noticed as a combined preliminary/final hearing.

Attorney McConaughy said that in the council packet was a letter from the applicant's attorney pointing out that the applicant never consented to bifurcating the application into separate preliminary and final applications. Their position is that by not approving the final, that essentially ended the process in P&Z as a recommendation of denial to the council, so that the council should now act on that without it going back to the planning commission again.

Attorney McConaughy said that it could be argued both ways. He said there were some valid points, but staff also felt like the P&Z had multiple hearings and at this point had their say (on the application). He said that he did not want to speak for the P&Z, but they had a lot of opportunity to review and comment and provide their recommendations on the filing 11 project, and ultimately it will be up to council. He said there may not be a lot to gain by having the P&Z reiterate their position on the application again, however, staff did not necessarily agree with the analysis of the process by the applicant because the code had changed since the application had been filed. Attorney McConaughy said that the whole combined preliminary/final procedure was now different so he was not concerned about precedent, how it may affect future application processes because the code was revised.

Attorney McConaughy said that he had spoken to Administrator Reynolds and Planner Smith, and they agreed that to keep things moving forward, they could accept the

applicant's argument that there did not need to be another action at P&Z for final, except for the fact that at the last P&Z meeting, staff made statements on the record to assure the public that there would be another opportunity for them to comment on the application. He said that staff wanted to be certain to give the public that opportunity. Attorney McConaughy said that he recommended that the town agree that filing 11 could come before the council, noting that under the municipal code that would be a public meeting and the council typically allowed public comments while reviewing PUD and subdivision applications at the council level, even though it was not technically a noticed public hearing. Attorney McConaughy suggested that as a compromise, the council meeting could be noticed as if it were a public hearing, although it technically was not, and the public would be allowed to comment so that there was no backlash from citizens. Councilor Leland asked Attorney McConaughy to clarify the difference between a public meeting and a public hearing.

Attorney McConaughy said that a public hearing was where there was a right for the citizens to comment, and the council was not to make any decisions until the hearing was closed, and all the evidence was in the record. In a normal situation, P&Z does all the public hearings, takes all the comments and then it comes to the council with all that in the record already, including a summary of what the comments were as well as everything the P&Z considered, and P&Z sends their findings and decisions to the council, which votes to accept the P&Z decision or not. The council may also add more conditions. Technically, the council, because it is not a noticed public hearing, does not have to allow any public comments at all. However, in his 23 years with New Castle, Attorney McConaughy said that the council had never approved a PUD or subdivision application without allowing people to speak if they wanted to.

Attorney McConaughy said the recommendation was to let the people speak as they would anyway and to ask the developer to notice it with the mail-out noticed and poster and newspaper publication just as it would have been at P&Z. He said that was the proposed compromise, and the applicant was okay with it except they wanted to dispense with the poster and mailing notice. Attorney McConaughy said that he and Administrator Reynolds did not agree with that and felt the mailing should be done to satisfy the public.

Attorney McConaughy said that the questions before the council were: 1. Whether the council was okay with the approach of sending the application to the council rather than P&Z and 2. Requiring further notice.

Councilor G Riddle asked what the council would be considering. Attorney McConaughy said the applicant had until January 13, 2022, to submit an application for their final subdivision plan and final PUD plan. The reason that had not been done thus far was because during the course of all the P&Z comments, buildings were moved, units were eliminated, streets were changed, and the applicant never actually amended their original final plat to match all the changes made in the preliminary plan because it was a bit of a moving target. The applicant's intention was to get the final application filed on or before January 13, and the question was whether it would go back to the P&Z for another public hearing and then to the council, or will it come straight to the council.

Mayor A Riddle said that his recollection was that there were more than 20 conditions that P&Z imposed. Attorney McConaughy agreed there were. Mayor A Riddle asked if the conditions would then be forwarded to the council. Attorney McConaughy said yes that P&Z had already recommended that it be approved subject to the conditions. The council's job then would be to see if they agreed with the conditions and if they did, they needed to see if the final plat then met the conditions. He said that council could agreed with 20

conditions and change the others, but the council would have to make that decision regardless if the application went to P&Z first or not. Attorney McConaughy said that the P&Z resolution and recommendations would be the primary document in the packet and whatever the applicant submitted to show they had met the conditions.

Mayor A Riddile asked when the council might see the application. Attorney McConaughy said that the earliest might be February 1, but probably later. Administrator Reynolds said that once Planner Smith determined the application was complete then the public notice would go out, so it was not likely council would see the application until sometime in March.

Councilor Leland asked if the P&Z had been asked if they wanted to see the application again and Attorney McConaughy said no, they had not been asked because staff felt that decision on how to proceed was up to the council.

Attorney McConaughy and council briefly shared their thoughts on rearranging the processes, and why the applicant felt the process had been in error previously causing their request. They also discussed the potential timelines as to how long the timeline might be, and Attorney McConaughy said that by going straight to council it would likely save as much as two months in the application process, and it saved a lot of money and time for both sides for attorneys and engineers sitting through public hearings, etc. The council agreed that the application could come to the council and they required a full public notice.

Recess the Town Council Meeting, Convene as the Water & Sewer Enterprise

MOTION: Councilor G Riddile made a motion to recess the town council meeting and to convene as the water and sewer enterprise. Councilor Hazelton seconded the motion and it passed unanimously.

Consider Ordinance E 2022-1, An Ordinance of the Town of New Castle Water and Sewer Enterprise Amending Chapters 13.32 & 13.36 of the New Castle Municipal Code Concerning the Regulation of Wastewater Discharge and Cross Connections (1st reading)

Planner Smith described the few changes that had been made to the ordinance since first reading and gave a recap of why the ordinance was needed.

MOTION: Mayor A Riddile made a motion to approve Ordinance E 2022-1, An Ordinance of the Town of New Castle Water and Sewer Enterprise Amending Chapters 13.32 & 13.36 of the New Castle Municipal Code Concerning the Regulation of Wastewater Discharge and Cross Connections on 1st reading. Councilor Owens seconded the motion and it passed on a roll-call vote: Councilor Owens: yes; Councilor G Riddile: yes; Councilor Leland: yes; Councilor Mariscal: yes; Councilor Hazelton: yes; Councilor Copeland: yes; Mayor A Riddile: yes.

Adjourn the Water & Sewer Enterprise, Reconvene the Town Council Meeting

MOTION: Mayor A Riddile made a motion to adjourn the water & sewer enterprise and to reconvene the town council meeting. Councilor Hazelton seconded the motion and it passed unanimously.

Consider Ordinance TC 2022-1, An Ordinance of the Town of New Castle Town Council Amending Chapter 17 of the Municipal Code to Comply with HB21-1222 (1st reading)

Administrator Reynolds told the council that the ordinance was to bring the town municipal code into compliance with HB 21-1222 that mandated the local government authorities treat in-home childcare facilities as residential properties in the application of local regulations, including zoning and land use applications. He said that essentially, it meant that the town could not zone childcare out. The ordinance redefined permitted and conditional uses for the childcare use within the various town zone districts. Interestingly, although the house bill did not allow towns to zone out childcare, it did not address HOA regulations.

MOTION: Mayor A Riddile made a motion to approve Ordinance TC 2022-1, An Ordinance of the Town of New Castle Town Council Amending Chapter 17 of the Municipal Code to Comply with HB21-1222 on 1st reading. Councilor Hazelton seconded the motion and it passed on a roll-call vote: Councilor G Riddile: yes; Councilor Copeland: yes; Councilor Mariscal: yes; Councilor Leland: yes; Councilor Hazelton: yes; Mayor A Riddile: yes; Councilor Owens: yes.

Consider Resolution TC 2022-1, A Resolution of the Town Council of the Town of New Castle, Colorado, Designating Public Notice Posting Places

Clerk Harrison told the council that the resolution was an annual housekeeping item designating public posting places, and those were the posting boards at town hall, the post office and at Kay Williams Park, as well as the town website.

MOTION: Councilor G Riddile made a motion to approve Resolution TC 2022-1, A Resolution of the Town of New Castle of the Town of New Castle, Colorado, Designating Public Notice Posting Places. Councilor Copeland seconded the motion and it passed unanimously.

Consider Resolution TC 2022-2, A Resolution of the Town Council of the Town of New Castle, Colorado, Waiving the Requirement for Posting of Bonds by Certain Town Officers

Clerk Harrison explained that the New Castle Municipal Code required that certain town officers provide bonds to the town to protect the town's interests in the event of employee fraud. The town, however, carried insurance through CIRSA that protected the town against potential employee fraud, which was why historically the council had waived the bond requirement each year. She said that conceivably, the code section could be repealed, but if a time came that CIRSA no longer provided the insurance coverage, the council would likely implement bond requirements again, so leaving the code as-is and waiving the bond requirements seemed the appropriate way to hand the issue.

MOTION: Mayor A Riddile made a motion to approve Resolution TC 2022-2, A Resolution of the Town Council of the Town of New Castle, Colorado, Waiving the Requirement for Posting of Bonds by Certain Town Officers. Councilor Leland seconded the motion and it passed unanimously.

Consent Agenda

December 21, 2021 minutes

December Bills of \$410,336.05

MOTION: Mayor A Riddile made a motion to approve the consent agenda. Councilor Hazelton seconded the motion and it passed unanimously.

Staff Reports

Town Administrator – Administrator Reynolds told the council that his New Year’s resolution, which he does not normally share with anyone, was to keep his staff reports a bit shorter in 2022. Administrator Reynolds told the council that the ice rink had been coming along nicely, but then there has been some wet snow, and a family and their pets walked all over the rink, and it froze up with tracks in it and no one had been able to use the rink. He said there was a lot of work to do to fix it so that it was usable. He said that staff was disappointed because there was hope that it would be available for public use over the holidays. Administrator Reynolds told the council that Town Engineer Jeff Simonson was close to putting the LoVa bridge project out to bid, and soon staff will have information about the costs. Administrator Reynolds said that public works staff had worked hard through the Christmas and New Year holidays removing snow.

Town Clerk – Clerk Harrison told the council that her department had worked hard to close out 2021. Clerk Harrison said that she had completed candidate nomination packets and they were available for persons interested in running for council or mayor to pick up. Clerk Harrison said that there had been issues with the server a week before Christmas. She said that the town had purchased a new server some time ago, and the town was running partially on the new server and partially on the old server. Unfortunately, the old server crashed on December 18. She had worked with IT to move everything over to the new server, and they were still experiencing some access issues. She said she had lost some documents she had been working on at the time of the crash, including some election items that needed to be recreated.

Town Treasurer – Treasurer Burk said that she was working on year-end. She said that they should have received the final approved budget documents to put in their binders. Clerk Harrison confirmed that she had provided those to the council. Last, Treasurer Burk said that they also had a 2022 calendar of council pay dates.

Town Planner – Planner Smith told the council that he had been working with the First and Last Mile group through WE-cycle which was part of the RFTA Destination 2040 Mill Levy Increase. He said they had been working on what the needs were for New Castle. He said he sensed that funding would be an issue, and there would not be anything in New Castle until 2027. Planner Smith said that there were a lot of building inspections because there were more than 20 building permits which was more than the town had in a long time. Planner Smith said that it looked like builders were trying to steer the cost of homes into the \$400 per square foot range which would mean a significant price increase in the price of homes in town. Planner Smith said he had been working on some code changes and the ice rink. He said he felt the rink was closer to being usable. Councilor Leland said that he felt that because of the fire on the front range, there might be a big demand for construction materials when people begin to rebuild their homes. Mayor A Riddile agreed and added that there were also 400 homes lost in the Grand Lake fire that will likely be rebuilt.

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 - Mayor A Riddile said it was an organizational meeting and they elected officers.

Council Comments

Councilor Copeland said that she had received a call that there was no street light or lighting at the bulk water station. Administrator Reynolds said that staff would look into solutions.

Councilor Hazelton said that he hoped that everyone who was up for election stayed involved because he felt that time were critical.

Councilor Leland said that Garfield County was technically in the 'red' status for COVID and it would get worse. He wanted everyone to take care.

Councilor Leland said that the CEO for Mind Springs had resigned.

Councilor Leland said that there were towns that were reconsidering their building codes to restrict flammable materials and he felt that was a good idea.

Councilor Hazelton suggested there might be a lot of guests for the trails discussion at the January 18, 2022 council meeting and a bigger room may be needed.

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

The meeting adjourned at 8:10 p.m.

Respectfully submitted,



Mayor Art Riddile


Town Clerk Melody Harrison, CMC