

**New Castle Town Council Meeting
Tuesday, July 16, 2019, 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 Mariscal Councilor Owens Councilor Hazelton Mayor A Riddile Councilor Copeland Councilor G Riddile
Absent	Councilor Leland

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

MOTION: Councilor G Riddile made a motion to excuse Councilor Leland's absence. Councilor Owens 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 2019-1.

Conflicts of Interest

There were no conflicts of interest.

Agenda Changes

There were no agenda changes.

Citizen Comments on Items not on the Agenda

Carly Johansson, Director of Real Estate Development for Community Resource Housing Development Corporation. Ms. Johansson said that she had been helping manage the development of Lakota Ridge Senior Apartments. She also said that they were working under an extended Temporary Certificate of Occupancy (TCO) and she assured the council that they would have all the work that had been delayed by weather completed before the expiration of the TCO at the end of the month. Ms. Johansson said that they had received a punch list of items from the town engineer regarding public improvements that they were working on, however, the TCO had a qualifier on it that all public improvements needed to be complete and accepted by the town prior to the TCO expiration. Ms. Johansson said that she did not feel it would be possible for them

to complete the necessary public improvements in the next few weeks. Ms. Johansson asked if CRHDC had any options to allow additional tenants to move in or obtaining another extension of the TCO. She said she did not know what their options were and that she wanted the council to be aware of their situation before the end of the month. Ms. Johansson welcomed any feedback. Town Planner Paul Smith said that he had been on the jobsite earlier that day and it appeared that CRHDC would not have any problem completing the issues with the buildings before the end of the month, however it looked like they would have problems finalizing the public improvements. He said that a large portion of the asphalt bike path needed to be redone. He said that the other main problem would be completing the as-built drawings.

Assistant Town Attorney Haley Carmer told the council that the performance bond for the project was good until the end of September, and had an option for another three-month extension if needed.

Mayor A Riddile asked if CRHDC was asking for an extension of the TCO. Ms. Johansson said that what she really wanted was the ability to 'lease-up' or continue to move tenants into the buildings. She further said that she had never worked with a TCO that had an expiration date, and she did not know what it meant if it actually expired. She said that the TCO did need to be extended until they were able to get the final certificate of occupancy, and that she needed to know what the process would be. Administrator Reynolds said that this was the first time staff had heard any request for another extension of the TCO. He said that had been aware the CRHDC had struggled understanding the public improvements piece. Part of the reason CRHDC was unaware of the issues was because they had not called for any inspections. Once they called for inspection, Engineer Simonson had provided his report to CRHDC in the prescribed amount of time. He felt that between staff and CRHDC, they could find solutions, but he did not feel that 'leasing up' was appropriate because the number of allowed residents was set by the TCO limitations. He also stated that they were in their second TCO period and they were saying they could not meet the deadline, so it was clear that thorough conversation needed to take place to determine how the project was going to get completed.

Councilor Owens asked if it was appropriate to have the discussion since this was brought up during citizen comments and not as a noticed agenda item.

Attorney Carmer said an update from CRHDC was appropriate but the council making any decisions was not appropriate.

Consultant Reports

Consultant Attorney – present for agenda items.

Consultant Engineer – not present.

Items for Consideration

Consider Ordinance TC 2019-4, An Ordinance of the New Castle Town Council Approving a Final PUD Development Plan and Final Subdivision Plat for Lot 2B, Phase 7, Lakota Canyon Ranch, Also Known as Eagle's Ridge Ranch (second reading)

Mayor A Riddile opened the public hearing at 7:10 p.m.

Kate Owens, resident of Lakota Canyon Ranch. Ms. Owens said that she had concerns about offering the applicant of Eagle's Ridge a variance allowing the development to be more dense than the code allows. She did not feel that it was an appropriate aesthetic for New Castle and she did not want the feel of the town to be more like the city as opposed to a mountain town. Her second concern was general traffic control on Castle Valley Boulevard. She said that the traffic was already bad and could back up as far as Senior Housing some mornings and it was already a problem. Her third concern was that there were only two ways out of Castle Valley and Lakota and should there be a reason to evacuate the whole town, all traffic funnels onto the same road.

Ms. Owens asked the council to consider not over-developing by allowing more density than the code allows, and she further asked that there be no three-story buildings allowed on Castle Valley Boulevard.

Mayor A Riddile closed the public hearing at 7:14 p.m.

Administrator Reynolds briefly described to the council some of the concerns and changes from the first reading of the ordinance on July 2, 2019. Those included the removal of building #7, the installation of a story pole that will show the bottom and top of building #8 as well as corner staking to show where the homes along the ridge would sit. In addition to providing new documents in a timely manner, council and staff discussed that Mr. Colombo needed to pay outstanding invoices.

Administrator Reynolds said that the story pole and corner markings had been installed on Friday, and new documents showing the changes had also come in on Friday. Additional documents had arrived earlier the day of the meeting which had not been reviewed by staff and were not in the council packet.

Administrator Reynolds said that staff recommended further review because there had not been adequate time to review recently submitted documents. He felt there was still an issue with density that needed to be discussed. Administrator Reynolds said that the 60-day window that the council had to make a decision had been extended by mutual agreement and did not close until August 6, 2019.

Utilizing maps displayed on a screen, Town Planner Paul Smith reviewed the changes that had been made to the project since first reading. Those included removal of building #7, building height, off-street parking spaces and the questions of egress that were blocked by the compact vehicle spaces. Another issue was the flex walls in the town homes. The flex wall idea was that if a buyer wanted to build the full-height partition, the storage or 'closet' space would need to be eliminated so that it was not a bedroom. If the buyer did want the space to be a bedroom, then an emergency escape would have to be installed. Another issue was the fence on top of the retaining wall on the east side of the development. Planner Smith said that there was already fencing on the fire department property.

Planner Smith said that with the elimination of building #7, buildings #8 and #9 became #7 and #8. The buildings were expanded and now included two covered parking spaces per unit as well as guest parking.

Planner Smith said that the compact parking spaces had been eliminated. He pointed out other parking changes, all that were within code requirements.

Planner Smith said that the building height issue may be resolved with the documents that had been submitted earlier in the day.

Planner Smith said that the density at 34 units was at 15.6 units per acre. He said that the area had been zoned for higher density at 12 units per acre, and the question was whether it was the right fit for the area.

Planner Smith said that the last item were the HOA declarations. Attorney Carmer said that her office had received the declarations, and although they were still being reviewed, they were adequate for the purposes of the meeting.

Councilor Owens asked for clarification of the location of the project as compared to Blackhawk Drive. Staff and the council reviewed the maps.

Mr. Jim Colombo greeted the council. He stated that building #7 had been removed and he then was able to provide additional parking. He also said that he felt that making the remaining units nicer was in order, so they had been enlarged a little by expanding over the top of the covered parking spaces, increasing the size of the living space in the unit. Mr. Colombo said that by removing the handicap parking spaces, there were more regular parking spaces available.

Mr. Colombo said they had reduced the density by removing building #7.

Mr. Colombo said that the issue regarding the building height he disagreed with because it was being calculated at five feet away from the building, which was then down the slope rather than at the actual foundation of the building. He noted that the allowed height was 35 feet, and in his calculations, the building was 31 feet, 11 and 7/8 inches, well within the 35-foot maximum. Indicating the map projected on the screen, he noted where the story pole was located and discussed in depth details regarding what finished grade meant and how he felt his interpretation was more appropriate. He said that the council had previously given him a variance on the height of building #8 and he felt that it should be allowed.

Mr. Colombo said that he had previously submitted a site plan, and later he submitted an updated site plan at the request of the town attorney that included the general and common elements. The newer submittal became a parking plan as well as the site plan. He also stated that he had done additional elevations that showed only buildings #8 and #9. He told the council that he had submitted a revised floor plan that showed the expanded living room and bedroom for units in building #8 that in turn, provided two covered parking spaces in the carport below rather than one space. He felt it provided a better experience for the homeowner. Planner Smith clarified that the council did not have the new floor plan in their packet. Mr. Colombo said that he was 'walking through' what new plans will look like because initially, the drawings from first reading were perceived to be acceptable and then Attorney McConaughy asked that he provide updated drawings, which was why they were submitted so late.

Mr. Colombo said that he felt that area along Castle Valley Boulevard was the appropriate area for density, which was why the mixed-use (MU) zone district was placed there. He further stated that there would be no three-story buildings in Eagle's Ridge, and that the buildings would match the architecture for Lakota.

Mayor A Riddile told the audience that the council would discuss the application.

Mayor A Riddile thanked Mr. Colombo for placing the story pole and marking the building footprints on the property because gave him a better perspective of what the

development would look like. Mayor A Riddile agreed that dense subdivisions were appropriate for the area, however, he still felt the proposed density was too much. He told Mr. Colombo that his tendency of submitting plans late was problematic, and last, he thanked Mr. Colombo for making a payment to the town earlier in the day, but felt that allowing his account to become sixty days past due was unacceptable.

Councilor Hazelton said he had not changed his mind since the last meeting. He agreed that the area was appropriate for density, but that the proposal was too dense. He wondered if the fire department realized that should there be a fire that they would have to fight a fire from one side only. Councilor Hazelton noted that the council did not have all the updated documents, and that he felt that in the best interest for Mr. Colombo, they needed to slow down and allow staff more time to review. He felt that it was better to do things correctly.

Councilor Owens asked why the council should deviate from the code regarding density, if there was some incentive for the town.

Mr. Columbo said that it was not a code issue, it was a zoning issue. He said there were 345 units allowed in the all of the MU zoning areas, and at the time the numbers were simply arbitrary.

Attorney Carmer said that the town received water rights through the annexation, so the density and unit cap was based on water, the number of units that could be sustained, not necessarily area.

Councilor Owens said that because some areas went to single-family homes, there was a loss of unit area, therefore technically there was water to allow the density deviation proposed. Attorney Carmer said yes, however, allowing more units in the Eagle's Ridge subdivision took away units in other MU zone districts. It would not up the number of units allowed in all of Lakota.

Councilor Owens did not feel a deviation from the allowed 26 units was appropriate. He felt there was not enough open space in the project. He saw issues with people having to cross Castle Valley Boulevard to access any open or park space. Councilor Owens did not see a good reason to deviate from the code.

Councilor Mariscal said that she changed her thoughts because previously she did not understand the code and policies, but she had reviewed them. She felt it was necessary to follow the policy because it was set in place for a reason and she wanted to follow it.

Councilor G Riddile agreed that slowing down was a good idea. He also agreed that the project was too dense. Councilor G Riddile said that he wanted to work with Mr. Columbo and find a solution to make it work for everyone. He felt that eliminating building three would work as that would provide appropriate open space, not necessarily playground, but open space where someone could walk their dog. He felt it was important to provide a good quality of life, and removing building #3 relieved most of the issues that council had with density, parking and open space. Councilor G Riddile also stated that he was skeptical of buildings #8 and #9 but wanted the council to take their time because there was no need to rush. He did want the council to provide both Mr. Colombo and staff some specifics.

Mayor A Riddile clarified that Councilor G Riddile was suggesting that buildings #3, #8 and #9 could be removed to reduce the density. Councilor G Riddile agreed.

Councilor Copeland agreed that the density was too much. She did not feel there was enough parking for guests.

Councilor Owens said he agreed with much of what Councilor G Riddile said. He felt that it was necessary for the council to work with developers and to provide clear direction. He also agreed that removing buildings #3, #8 and #9 would work to reduce density, and he like Councilor Copeland's idea of affordable or deed-restricted units for teachers and law enforcement as an incentive for the council to allow the higher density.

Mr. Colombo said that if three more buildings were eliminated the project would not be feasible. He said that he would have a lot of expense widening the road and building a cul-de-sac. He also felt it was very expensive to build in New Castle because of the consultant costs. Mr. Colombo asked for the following compromise that he felt would address the issues: He suggested eliminating buildings # 8 and #9, and moving buildings #5 and #6 further south, creating a larger open space. It would also allow for additional parking, and reduce the total number of units to 30. Mr. Colombo said that reduced the density to 13.5 units per acre, and the code called for 12. He felt it solved many problems, and if the council agreed, he could come back in two weeks for second reading.

Councilor Hazelton said he liked the idea of removing buildings #8 and #9 and opening up the space.

The council and Mr. Colombo agreed that new submittals must be delivered to the town by July 26, 2019. Mr. Colombo stated that there had been a lot of work and expense having the civil drawings done and he preferred to not have to have them drawn again because they will not change because of the removal of buildings #8 and #9. It was agreed that the new submittals would be a new site plan, landscape plan, lighting plan and subdivision plat.

MOTION: Mayor A Riddile made a motion to continue second reading of Ordinance TC 2019-4 to the August 6, 2019 council meeting. Councilor Copeland seconded the motion and it passed unanimously.

Mayor A Riddile made a motion at 8:25 p.m. to go into Executive Session (1) for conference with Town Attorney for purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); and (2) for purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding town-owned property. Councilor Mariscal seconded the motion and it passed unanimously.

Executive session concluded.

At the end of the executive session, Mayor A Riddile made the following statement:

"The time is now 8:45 p.m. and the executive session has been concluded. The participants in the executive session were: Councilor Mariscal, Owens and Hazelton; Mayor A Riddile; Councilors Copeland and G Riddile; Town Administrator Dave Reynolds, Town Attorney Haley Carmer and Town Clerk Melody Harrison. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record."

No concerns were stated.

Consider Ordinance TC 2019-5, an Emergency Ordinance of the New Castle Town Council Authorizing the Sale of Real Property

Administrator Reynolds told the council that the town-owned property which was under contract required an ordinance to authorize the sale of the property. He noted that it was an emergency ordinance because there was timeline issues with how the offer came in, and some negotiating on an inspection and repair list, creating the need for an emergency ordinance rather than typical two-reading ordinance. Staff felt that if the closing was delayed the buyer might change their mind.

Attorney Carmer clarified that when the property was under contract the first time, there was an ordinance passed to authorize the sale of the property, but it was specific to the particular buyer, and listed them by name. Because there was a new buyer, a new ordinance was necessary.

MOTION: Mayor A Riddile made a motion to approve Ordinance TC 2019-5, an Emergency Ordinance of the New Castle Town Council Authorizing the Sale of Real Property. Councilor Owens seconded the motion and it passed on a roll-call vote: Councilor Owens: yes; Councilor G Riddile: yea; Councilor Mariscal: yes; Councilor Hazelton: yes; Councilor Copeland: yea; Mayor A Riddile: yes.

Mayor A Riddile made a motion at 8:48 p.m. to go into Executive Session for discussion of a personnel matter under C.R.S. Section 24-6-402 (f)(I) regarding an employee evaluation of the Town Administrator and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body of any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees. Councilor Hazelton seconded the motion and it passed unanimously.

Executive session concluded.

At the end of the executive session, Mayor A Riddile made the following statement:

"The time is now 9:06 p.m. and the executive session has been concluded. The participants in the executive session were: Councilor Mariscal, Owens and Hazelton; Mayor A Riddile; Councilors Copeland and G Riddile and Town Administrator Dave Reynolds. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record."

No concerns were stated.

Consent Agenda

June 4, 2019 minutes

June 18, 2019 minutes

Hogback Pizza Beer and Wine Liquor License Renewal

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

Staff Reports

Town Administrator – Administrator Reynolds told the council that the public survey had gone out in the mail the day prior. The deadline for submitting the survey will be August 1, 2019. He said that the survey was on the town website in both English and Spanish. Administrator Reynolds said that he and Bill Ray were working a telephone robocall to inform people that the survey was available and requesting that residents complete it. Administrator Reynolds told the council of some upcoming agenda items that included a presentation by New Castle Trails, a financial update for the first six months of the year, the 2018 Financial Audit results, and update from Chief Pagni and the second round of grants to outside agencies. Administrator Reynolds reminded the council that the Dirty Hog Dash would be on Saturday. He also said that the Hogback Hustle and the first Community Market had taken place the week before. Administrator Reynolds said that he had a LoVa Trail meeting the following day. Greg Russi was back in town and he wanted to go over the grant information. Administrator Reynolds said that he was working with the Town of Silt because they were considering the OHVs on town streets issue, and New Castle had loaned them all the open house display materials. Administrator Reynolds said he had received a call from Spring Grove Village, Illinois, and they asked how New Castle had gone about polling and informing the public.

Town Clerk – Clerk Harrison said her department had been busy working through details of the new meetings software package and the new website. There had also been about three days of issues with the migration of the town e-mail to Office 365.

Town Planner – nothing to report.

Public Works Director – nothing to report.

Commission Reports

Planning & Zoning Commission – Commissioner Copeland said that P&Z had a work session and they learned how to read plans.

Historic Preservation Commission – nothing to report. Administrator Reynolds said that he and Administrative Assistant Bart Mendoza had gone to a History Colorado meeting in Meeker and they were able to learn more about historic preservation meant.

Climate Action Advisory Committee – nothing to report.

Senior Program – nothing to report.

RFTA – Mayor A Riddile said that they had done a facility tour of RFTA assets in Carbondale and Glenwood Springs. He said they owned about 20 housing units in both towns for their staff.

AGNC – nothing to report.

GCE – nothing to report.

EAB – nothing to report.

Council Comments

Councilor Mariscal said she would have dinner with El Salvadoran Consulate on Friday. Councilor Mariscal asked about the policy regarding density. She stated that she did not understand whether the density issue was a policy or not because the numbers kept changing, seemingly at will. She said she was in favor of the Columbo project but was concerned that by allowing the higher density in Eagles Ridge the council would be setting a precedent. Mayor A Riddile said it was not a policy, but more of a guideline. Administrator Reynolds explained the code sections and how the council was able to negotiate with a developer.

The council discussed future development in New Castle, and what the opportunities were for the town and residents.

Councilor Hazelton asked if the council had considered the water rights contracts since he had not been at the meeting. Councilor G Riddile said that the council had terminated the contracts.

Councilor Hazelton asked if New Castle Trails could provide maps at the next council meeting of upcoming trails work because he had been getting calls about what was going on.

Councilor Copeland asked if there was a date for the council retreat. Administrator Reynolds said he was looking at the end of September but a date had not been set. Councilor Copeland said she thought it would be advantageous for the council to have a policy or some ideas regarding incentives for the town when developers propose projects that do not meet code standards. She felt that the town should receive something.

Councilor G Riddile thought it was a good idea, but felt that the council should probably educate themselves regarding affordable housing or other possible incentives before making any request to a developer.

Councilor G Riddile said that he thought Police Chief Pagni was a great benefit to the town.

Mayor A Riddile mentioned that the Dirty Hog Dash would be on Saturday, and he and Councilor G Riddile would not be able to attend due to a family event.

Mayor A Riddile said that on Friday was the Intermountain Transportation Planning Region meeting and Tom Jankovsky had polled the local town managers because that particular meeting they would discuss projects in each municipality. New Castle's

priority is roundabout and a new bridge. The LoVa Trail is another project that will be discussed. The Colorado Department of Transportation Director Shoshana Lew will attend and he felt it would be an interesting meeting. Mayor A Riddile said that he would be gone from July 23 and August 4, 2019.

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

The meeting adjourned at 9:43 p.m.

Respectively submitted,



Mayor Pro Tem Grady Hazelton



Town Clerk Melody Harrison, CMC

