

**New Castle Town Council Regular Meeting
Tuesday May 21, 2024, 7:00 PM**

Call to Order

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

Pledge of Allegiance

Roll Call

Present	Councilor Mariscal
	Councilor Carey
	Councilor Hazelton
	Mayor A. Riddile
	Councilor Copeland
	Councilor Leland
	Councilor G Riddile

Absent	None
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Also present at the meeting were Town Clerk Mindy Andis, Town Treasurer Viktoriya Ehlers, Assistant Town Attorney Haley Carmer, Town Planner Paul Smith, and members of the public.

Meeting Notice

Clerk Andis verified that her office gave notice of the meeting in accordance with resolution TC 2024-1.

Conflicts of Interest

Councilor G. Riddile he would be recusing himself from item E. The discussion regarding the sale of the 6th Street lot.

Agenda Changes

Town Clerk Mindy Andis said item A could be removed from the agenda.

Citizen Comments on Items not on the Agenda

There were no Citizen Comments.

Consultant Reports

Consultant Attorney –present for agenda items only.

Consultant Engineer – not present

Items for Consideration

~~Executive Session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-~~

Town Council Meeting
Tuesday, May 21, 2024

1 ~~402(4)(b) Water Rights.~~

2
3 **Presentation: Jake Staton – Colorado Parks and Wildlife – Bear’s**

4 Colorado Parks and Wildlife Officer Jake Staton reviewed his presentation with the council
5 (Exhibit A).

6 Officer Staton said last year was a good year for the bears where there was plenty of food
7 for them to eat. Because it was a good year for the bear cubs, they were able to survive
8 and make it through the winter. The prediction for is this year could be a bad year with
9 more bears and with more available food.

10 Officer Staton has asked developers to have a bear proof trash enclosure for apartment
11 complex.

12 Councilor Hazelton asked if the bear population has grown since the spring bear hunt has
13 been eliminated. Officer Staton said yes. The population continues to grow.

14 Councilor Hazelton asked if Officer Staton can foresee any kind of changes towards
15 hunting to help with the management of bears to help eliminate the problems. Officer
16 Staton said hunting is the major management of helping with the bear population.

17 Councilor Carey asked what the best way would be to contact CPW for wildlife issues.

18 Officer Staton said to call the CPW office in Canyon Creek.

19 **Presentation: Jenny Lindsay – Great Expectations**

20 Great Expectations Jenny Lindsay, Interim Executive Director, reviewed her presentation
21 with the council. (Exhibit B) Ms. Lindsay said Great Expectations serves families from
22 Aspen to Parachute. They served 14 families in New Castle in 2023. Ms. Lindsay thanked
23 the Town of New Castle and the Town Council for their support in the program.

24 Mayor A. Riddle asked how Great Expectations identify families in need. Ms. Lindsay said
25 most of the families are referred to them by Women Health providers. Great Expectations
26 has created a seamless process for the referrals.

27 Councilor G. Riddle asked how Great Expectations track data for success. Ms. Lindsay said
28 two of the programs are nationally tracked. The data is collected by the national offices.

29 Mayor A. Riddle asked if Great Expectations have a presence in the school system. Ms.
30 Lindsay said yes. They work very closely with the Resource Center.

31
32 **Consider Resolution TC 2024-14, A Resolution of the New Castle Town Council**
33 **Recommending Approval of a Conditional Use Permit for Utility Transmission**
34 **Line and Towers on Property Located in the Industrial Zone District**

35 Planner Paul Smith reviewed his staff report with the council.

36
37 **I. Background:**

38 *The applicant proposes rebuilding the New Castle portion of the 69 kilovolt (kV)*
39 *transmission line (Transmission Line 6584) located along the Grand Hogback between*
40 *Mitchell Creek to Rifle Ute substations (~25 miles). According to the project narrative,*
41 *Transmission Line 6584 was originally constructed between the 1940s through the 1960s*
42 *and has reached the end of its serviceable life. New power lines and poles will be installed*
43 *and the easement expanded all to improve the integrity and resiliency of the power grid.*

1 The applicant's proposed utility transmission line and tower use is eligible for conditional
2 use review because it is not listed as a permitted or prohibited use under Section
3 17.52.050. Also, because the transmission line existed prior to the effective date of
4 Municipal Code Title 17, the following procedural requirements are necessary before work
5 commences:

6 1) In accordance with Municipal Code Section 17.84.080, "Any use that legally existed
7 prior to the effective date of Title 17 shall continue as an approved conditional use upon
8 written request of the owner." To date, no written request for a conditional use permit
9 has been made. The current application shall serve as the request.

10
11 2) In accordance with Section 17.84.070, "No approved conditional use may be
12 altered, structurally enlarged, (...) or expanded in ground area unless the site plan is
13 amended and approved in accordance with the procedures applicable to approval of a
14 conditional use". In addition to #1 above, the application proposes several alterations as
15 part of the conditional use approval:

- 16
17 i. The existing transmission line easement will be enlarged from approximately
18 40ft to a standard of 60ft to improve the powerline alignment and meet
19 industry safety requirements.
20
21 ii. Existing poles and cables will be upgraded. Taller poles, allowing for longer
22 powerline span, will reduce the total pole count from 20 to 18. Steel
23 monopoles will replace the existing wood poles. Existing wood poles,
24 averaging 40ft in height, will be replaced by rusted steel averaging 80ft in
25 height. The Applicant has included a new site plan for the proposed rebuild.
26
27 iii. The easement terrain will be modified with vegetation management and
28 grading.
29

30 On May 3rd, 2024, the Planning and Zoning Commission approved resolution PZ 2024-3
31 recommending conditional approval of the Xcel power line replacement project. As a
32 conditional use application, Town Council is required within sixty (60) days from the date
33 of the Planning Commission's written decision, or within such time as is mutually agreed
34 by Council and the applicant, to approve the application, with or without conditions, or
35 deny the application.

36
37 **II. Application Requirements:**

38 The purpose of this conditional use review is to determine if the nature of the
39 proposed use is appropriate to the location and character of the New Castle Industrial
40 Zone.

41 1) Site Plan:

- 42 a. Adjacent land uses and location of adjacent structures;
43

1 Adjacent land uses include storage (Intermountain, Gabossi), low hazard industrial
2 (National Propane, Bramco Bld.), factory use (Blue Barrel cabinetry shop, Granite Shop),
3 business (All Dogs and Cats), and open space (Breslin Park).

4
5 b. Boundary and size of lot;

6
7 The project spans numerous lots and parcels in the county. Within New Castle, the
8 application proposes widening easements to 60ft across 10 lots. Temporary access roads
9 will use existing egress points for ground access for construction and pulling/tensioning
10 sites. Private easement agreements are being negotiated with private landowners
11 affected.

12
13 c. Building location, height and setbacks;

14
15 All utility infrastructure will lie within easement boundaries. Although transmission
16 poles are exempt from building height restrictions per Section 17.72.040 of the Code, the
17 packet summarizes the height variation between existing poles and replacements in Table
18 2-2. Heights and locations of each pole are provided in the Site Plan.

19
20 d. Off-street parking and loading areas;

21
22 Temporary access routes off Colorado River Road (County Road 335) will allow for
23 construction vehicles and equipment to access pole locations and tensioning stations.
24 Temporary tensioning stations will be situated at the far west Town boundary. The
25 application does not currently comment on offsite delivery/loading/storage of materials or
26 daily construction parking. However, the Applicant has verbally committed to providing a
27 construction management plan prior to issuance of a conditional use certificate.

28
29 e. Points of ingress and egress;

30
31 Except for various access road driveways, the replacement work will be conducted in the
32 updated utility easement. County Road 335 will serve as the primary access to each lot.
33 Nine poles will be placed by helicopter assist and coordinated with the FAA. A Health and
34 Safety Plan has also been provided per the request of Colorado River Fire Rescue (CRFR).

35
36 f. Service and refuse areas;

37
38 The application omits plans for waste/sanitation management and staging of materials
39 and equipment existing poles. The applicant will provide a construction management plan
40 prior to construction.

41
42 g. Signs and exterior lighting;

1 Permanent signage and exterior lighting are not anticipated with the project. However,
2 temporary traffic control signs along County Road 335 can be expected during the
3 replacement process. Traffic control plans are subject to a ROW permit as regulated by
4 the Public Works Department.

5
6 h. Fencing, landscaping and screening;

7
8 Fence screening is required for lots operating fabrication, repair, or storage facilities.
9 Additionally, property lines adjacent to public parks shall have tree and shrub screening.
10 Neither case obtains with the current application, hence, no fencing or landscape
11 screening is proposed.

12
13 i. Compliance with performance standards;

14
15 Performance Standards are a commitment from the Applicant to minimize potential
16 nuisances. The applicant has signed the Performance Standards. P&Z moreover agreed
17 to exempt the Applicant from standards related to excessive noise subject to Condition
18 #13 below.

19
20 j. Anticipated utility requirements;

21
22 The project creates no additional demand for water, sewer, or electricity.

23
24 2) Development Timeline:

25
26 The applicant provided an anticipated schedule of development. Project construction
27 located in New Castle, Segment 2, is anticipated to begin in Spring 2025, pending permit
28 approvals. Materials would be delivered to the site approximately January 2025. If that
29 schedule is tracking, construction and restoration activities are expected to be completed
30 by late Fall 2025 and restoring service on Segment 2 of the transmission line by January
31 2026.

32
33 **III. Approval Criteria:**

34 A decision on a conditional use application shall be made based on the following criteria:

35
36 1) Is eligible for conditional review under § 17.72.040;

37
38 Staff Comment – The application is eligible for conditional review subject to sections
39 17.84.070 & 17.84.080 as discussed above.

40
41 2) Is generally compatible with adjacent land uses;

42 **Staff Comment** – The existing transmission line pre-dates New Castle's industrial zone
43 by several decades (platted in 2000). The utility's consistency with other industrial uses

1 in the area has generally been taken as a given. Nevertheless, consistency with
2 surrounding uses has been a priority with the Applicant. The transmission line
3 replacements will retain the same general appearance as the existing conductors.
4 Replacement poles will remain brown though made of rusted steel rather than wood.
5 Easements will be widened, following the general path of the existing easement, which will
6 make minimal difference to the look of the landscape. Notably, new poles will significantly
7 exceed the height of existing poles. Typically, this would be considered incompatible with
8 adjacent land uses. However, heights for transmission towers are excluded from height
9 considerations per Section 17.84.040.

10
11 3) Meets all requirements of § 17.84.020, is in compliance with Title 17 of the Code,
12 and minimizes potential adverse impact of the conditional use on adjacent properties and
13 traffic flow;

14
15 **Staff Comment** – The application demonstrates compliance with Section 17.84.020 as
16 overviewed in Section II above. The Applicant should also satisfy all recommendations
17 specified in the referral comments submitted by the Town engineer and Colorado River
18 Fire Rescue.

19
20 4) Is consistent with the comprehensive plan and

21
22 **Staff Comment** – The Comprehensive Plan provides guidance on impacts to the natural
23 environment (Goals EN 1-2). Other than pole material and height, the transmission line
24 project should retain the general appearance of the existing lines. Furthermore, though
25 short-term impacts to the environment will be necessary during the replacement process,
26 compliance with the Town Engineer's recommendations should help keep those impacts to
27 a minimum.

28
29 5) The Town has the capacity to serve the proposed use with water, sewer, and fire
30 and police protection.

31
32 **Staff Comment** – The replacement project will not have any new impacts on water,
33 sewer, and police protection. The Applicant has provided a health and safety plan which
34 overviews fire mitigation and life safety strategies.

35
36 **IV. Staff Recommendations:**

37 Staff recommends approval of Resolution 2024-14 with the following conditions:

- 38
39 1. No construction shall begin until a conditional use certificate has been issued by the
40 Town Planner subject to Section 17.84.040.
41 2. No construction shall begin on a parcel until Applicant has obtained new or revised
42 easements from all Property owners of that parcel. Applicant shall provide recorded copies
43 of all such easement agreements to the Town either (1) at the pre-construction meeting

1 called for in Condition #5, below, or (2) later when obtained but prior to construction on
2 an individual parcel for which the easement was granted. Notwithstanding the foregoing,
3 Applicant shall provide easement agreements for all parcels that require helicopter
4 operations for installation of power poles prior to the commencement of helicopter activity
5 on any of said parcels.
6

7 3. Prior to issuance of the conditional use certificate, the Applicant shall demonstrate
8 conformance with recommendations provided by the Town Engineer and CRFR.
9

10 4. Prior to the issuance of a conditional use certificate, a construction management
11 plan shall be provided for review and approval by Town staff. A construction management
12 plan shall include, but is not be limited to, the identification of off-site storage & delivery
13 locations, any contractor off-site parking, refuse management, and bathroom locations.
14

15 5. The applicant shall conduct a pre-construction meeting with Town staff and relevant
16 agencies at least 14 days prior to the beginning of construction.
17

18 6. The applicant shall apply for any right-of-way permits through the Town's Public
19 Works Department.
20

21 7. Easement adjustments shall be consistent with the site plan, as approved by Town
22 Council. Each easement agreement shall include an exhibit showing the location of the
23 easement across the subject property.
24

25 8. Applicant shall comply with all applicable building and municipal code requirements,
26 including all signage permitting, and county licensing requirements.
27

28 9. No approved conditional use may be altered, structurally enlarged, expanded in
29 parking area or expanded in ground area unless the site plan is amended and approved in
30 accordance with the procedures applicable to approval of a conditional use as set out in §
31 17.84.070 of the Code.
32

33 10. In the event the Town receives any complaints about the use of the site or observes
34 or becomes aware of any violations of the conditional use approval, the Applicant and/or
35 owner may be summoned before the Town Council in a public meeting to show cause why
36 the permit should not be revoked, suspended, or additional conditions imposed. Such
37 show-cause hearing shall be open to the public and the applicant or owner may present
38 testimony or offer other evidence on its behalf.
39

40 11. All representations of the Applicant in written and verbal presentations submitted to
41 the Town or made at public hearings before the Planning Commission or Town Council
42 shall be considered part of the application and binding on the Applicant.
43

12. The Applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including without limitation all costs incurred by the Town's outside consultants such as legal and engineering costs.

13. Applicant shall be exempt from the Town's performance standards concerning noise for all construction and maintenance activity that requires use of a machine or other equipment that, as designed, may emit noise in excess of Town standards, provided that all such activities comply with any local, state, or federal requirements for use of the machine or equipment in question. Specifically, use of helicopters in connection with the Proposed Use shall comply with all applicable FAA standards and requirements.

V. Application Exhibits:

- A. Land Development Application
- B. CRFR Referral – Kurt Lundin, January 23, 2024
- C. Town Engineer Referral – Jeff Simonson, January 24, 2024
- D. Public Notice
- E. Notarized Affidavit of Notice
- F. Signed Performance Standards
- G. Health and Safety Plan
- H. XCEL Proposed Conditions to Resolution – Version 1
- I. XCEL Proposed Conditions to Resolution – Version 2

Xcel Energy Representative Cory Miller reviewed his presentation with the council (Exhibit C). In the presentation Mr. Miller explained what the project would be.

Mr. Miller said the project is a rebuild of the transmission line. The line extends from a substation in the City of Glenwood Springs (Mitchelle Creek Substation) to outside of City of Rifle (Ute Substation). The transmission line is also known as the 6584-transmission circuit. The project will be divided into two phases. The first phase connects with the town's substation on the western town boundary and extends to the Rifle substation. Then, the second phase will extend to the east through the Town of New Castle to the substation in Glenwood Springs. The line is being rebuilt due to wildfire mitigation which Xcel Energy has negotiated with the State of Colorado to rebuild several aging transmission lines throughout the state. The poles will be fire hardened with steel materials and bring the lines to current standards.

Mr. Miller said the existing easement where the transmission lines sit has varying right of way widths. The range is between 30 feet to 50. The transmission lines occupy the middle or centerline of the easement. When the project is completed, Xcel is negotiating with private landowners to increase the width to 60 feet. There are several reasons for the increase such as fire mitigation to allow for proper fire buffer distances to be maintained. The increase also helps with maintenance of the lines.

Mr. Miller said the pole height currently an average of 40 feet. The poles would increase to an average of 80 feet in height. The reason for the height adjustment is to consider the

1 terrain. In addition, the poles will be equipped with a shield wire for static protection from
2 lighting strikes, for the shield wire to operate properly the poles has to be a certain
3 height. The current line doesn't have the technology for protection. Also, built into the
4 static wire has fiber communication built into it.

5 Mr. Miller said the construction is scheduled for the third quarter of 2024. The construction
6 of the first phase is currently anticipated to be in the middle of the phase around the Silt
7 area, then work east towards New Castle. The current estimate for the construction work
8 within New Castle would be at the end of 2024 or the beginning of 2025. The anticipation
9 is to have the entire line rebuilt by the end of 2025.

10 Mr. Miller said Xcel Energy did host a series of meetings to inform the community
11 regarding the line replacement project in Rifle, Glenwood Springs and Parachute. Notices
12 were also sent out to property owners within 300-350 feet of the project.

13 Councilor Hazelton said his concern was sinkholes in the mountain. Currently there is a
14 sinkhole that has been open for a year and that was listed as the number one priority to
15 be fixed because of the danger. What are the considerations for possible sinkholes
16 through the line. Mr. Miller said Xcel Energy has been in communication with the Bureau
17 of Reclamation (BOR) regarding the current sinkhole. Xcel Energy's understanding is the
18 BOR will start to fill the sinkhole in late summer of 2024. The BOR has requested an
19 outage from Xcel Energy for BOR to work on the sinkhole. There are several transmission
20 lines that interconnect with the substations, so if Xcel Energy needs to take down a line
21 for some reason, the substations can stay energized and there would not be a disruption
22 in service.

23 Mayor A. Riddile said digging on the old mine could create a sinkhole. Mr. Miller said Xcel
24 Energy's engineer does a study of the geotechnical of the soils to be able to spot
25 situations such as sinkholes. There is a lot of studying that goes into the pole replacement
26 projects prior to the design and installation of the poles.

27 Mayor A. Riddile asked if there were poles already replaces a few years ago. Mr. Miller
28 said there could have been due to a defect in the pole. The poles would be replaced on as
29 needed bases. They would have been replaced with a temporary pole.

30 Mayor A. Riddile asked since the easements are increasing by 30 feet. The property owner
31 wouldn't be able to build in the easement. Mr. Miller said structures would not be able to
32 be built within the easement.

33 Councilor Copland asked if there would be any power outages dure the replacement. Mr.
34 Miller said no there would not be outages during the project.

35 Councilor Carey asked what the proposed future use of the easements. Mr. Miller said it is
36 to construct, maintain and operate the transmission lines above ground electricity only.

37
38 Assistant Attorney Haley Carmer said in the Resolution TC2024-14 lists all of the
39 conditions and it also includes the specific list of the use in section 2a. Use of the Property
40 for the construction, operation, and maintenance of an electric transmission line and
41 related poles, towers, facilities, and equipment.

42
43 **MOTION: Mayor A. Riddile made a motion to approve Resolution TC 2024-14, A**

Town Council Meeting
Tuesday, May 21, 2024

1 **Resolution of the New Castle Town Council Recommending Approval of a**
2 **Conditional Use Permit for Utility Transmission Line and Towers on Property**
3 **Located in the Industrial Zone District. Councilor Mariscal seconded the motion**
4 **and it passed unanimously.**

5
6 **Consider Ordinance TC2024-2, Authorizing the Sale of Real Property Owned by**
7 **the Town (Second Reading)**

8 Councilor G. Riddile left at 8:10pm

9
10 **MOTION: Mayor A. Riddile made a motion to approve Ordinance TC2024-2,**
11 **Ordinance TC2024-2, Authorizing the Sale of Real Property Owned by the Town**
12 **(Second Reading). Councilor Mariscal seconded the motion and it passed on a**
13 **roll call vote. Councilor Mariscal: yes; Councilor Carey: yes; Councilor Hazelton:**
14 **yes; Mayor A. Riddile: yes; Councilor Copeland: yes; Councilor Leland: yes.**

15
16 Councilor G. Riddile returned at 8:12pm

17
18 Recess the Town Council Meeting, Convene the Local Liquor Licensing Authority

19 **MOTION: Councilor Hazelton made a motion to recess the Town Council**
20 **Meeting and Convene the Local Liquor Licensing Authority. Mayor A.**
21 **Riddile seconded the motion and it passed unanimously.**

22
23 **Consider Resolution TC 2024-13 - a Resolution of the New Castle Town Council**
24 **Approving an Application from Colorado Drifters, LLC, DBA: Colorado**
25 **Drifters/Down Valley Brewing Company for a Brew Pub Liquor License**

26 Town Clerk Mindy Andis said Colorado Drifters, LLC has applied for a brew pub
27 liquor license for their business located at 589 W. Main Street, New Castle.
28 Pursuant to state liquor law, the application has been sent to the state and it is
29 under concurrent review with Liquor Enforcement. If the Authority chooses to
30 approve the application, Colorado Drifters, LLC will be able to serve spirituous
31 liquor as well as beer and wine. Brew Pub license requires that sandwiches and
32 light snacks be available for consumption on the premises during business hours.
33 The applicant applied for the license on April 17, 2024. All necessary
34 documentation and fees have been submitted, and the hearing was properly
35 noticed. Staff recommends that Council approve Resolution TC-2024-13,
36 approving an application from Colorado Drifters, LLC for a Brew Pub Liquor
37 License. Adopting this recommendation would be consistent with the requirements
38 of the State Liquor Code. Adopting this recommendation would allow Colorado
39 Drifters, LLC to serve malt, vinous and spirituous liquors for on-premises
40 consumption and Town sales tax would be collected on sales of these beverages.

1 Mayor A. Riddile opened the public hear at 8:25pm. There were no public comments and
2 the public hear hearing was closed at 8:26pm.
3

4 Councilor Hazelton said his concern was the back of the building being licensed for alcohol
5 service and there would not be any kind of monitoring by bartenders or servers. He would
6 like to have the map amended to only include from the corner of the building to the alley,
7 which would include the food trucks in front of the building and not include the back. Also,
8 the concern is the control of over serving or underage serving. Mr. Joe Hemelt, owner,
9 said the back would be completely inaccessible until they are ready to open the back yard
10 have staff to work in the backyard.

11 Councilor Leland asked if there would be fencing. Mr. Hemelt said yes, there would be
12 temporary fencing put up.
13

14 Attorney Carmer said the condition could read: The Town Council approves the Application
15 subject to the condition that no alcohol shall be served on the southern one-third of the
16 licensed premises shown on the diagram included in the Application until the Town
17 Administrator confirms that said area has been adequately secured with fencing or
18 otherwise and that Applicant has sufficient staff to monitor and serve the area.

19 **MOTION: Councilor G. Riddile made a motion to approve Consider Resolution TC**
20 **2024-13 - a Resolution of the New Castle Town Council Approving an Application**
21 **from Colorado Drifters, LLC, DBA: Colorado Drifters/Down Valley Brewing**
22 **Company for a Brew Pub Liquor License with the condition. Councilor Hazelton**
23 **seconded the motion and it passed unanimously.**
24

25 **Consider Reduction of Liquor License Fee for Drifters/Down Valley Brewing**
26 **Company.**

27 Mr. Hemelt said he is asking for the liquor license fee to be waived. He has paid \$1,950.00
28 state license fee and the town's fee is \$750.00.

29 Attorney Carmer said the town would not be able to do anything with the state fees. With
30 respect to the local fees, there are application fees and license fees. The state statue
31 allows for the local authority to rebate the local license fees. The rebate would be for the
32 \$750.00 license fee.

33 Councilor Hazelton asked Clerk Andis if the license fee have been waived before for other
34 applicants. Clerk Andis said no.

35 Attorney Carmer said the fee would be rebated for 2024 license fee and not a general
36 rebate of license fees for the future.
37

38 **MOTION: Councilor G. Riddile made a motion to approve a rebate for the full**
39 **liquor license fee for Drifters/Down Valley Brewing Company. Councilor Carey**
40 **seconded the motion and it passed 5 to 2 on a roll call vote. Councilor G. Riddile:**
41 **yes; Councilor Mariscal: yes; Councilor Leland: yes; Councilor Carey: yes;**
42 **Councilor Hazelton: no; Councilor Copeland: no; Mayor A. Riddile: yes.**
43

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

1 **MOTION: Mayor A. Riddile made a motion to recess the Local Liquor**
2 **Licensing Authority and Convene the Town Council Meeting. Councilor**
3 **Hazelton seconded the motion and it passed unanimously.**

4
5 **Executive Session for a conference with the Town Attorney for the purpose of**
6 **receiving legal advice on specific legal questions under CRS Section 24-6-**
7 **402(4)(b) regarding pending litigation against CVR Investors, Inc**

8
9 **Motion: Councilor Leland made a Motion at 8:24p.m. to go into Executive Session**
10 **for a conference with the Town Attorney for the purpose of receiving legal advice**
11 **on specific legal questions under C.R.S. 24-6-402(4)(b) regarding pending**
12 **litigation against CVR Investors, Inc. Councilor Hazelton seconded the motion**
13 **and it passed unanimously.**

14
15 Executive session concluded.

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

17 "The time is now 8:45p.m. and the executive session has been concluded. The
18 participants in the executive sessions were: Councilor Carey, Councilors Copeland,
19 Councilor Leland, Councilor G. Riddile, Councilor Mariscal. Councilor Hazelton, Mayor A.
20 Riddile, Town Clerk Andis, Assistant Town Attorney Haley, Town Planner Paul Smith and
21 Town Treasurer Viktoria Ehlers. For the record, if any person who participated in the
22 executive session believes that any substantial discussion of any matters not included in
23 the motion to go into the executive session occurred during the executive session, or that
24 any improper action occurred during the executive session in violation of the Open
25 Meetings Law, I would ask that you state your concerns for the record."

26 No concerns were stated.

27
28 **Consider Approval of Settlement Agreement with CVR Investors, Inc.**

29 Attorney Carmer explained that there is a settlement agreement with CVR Investors, Inc.
30 before the council. CVR Investors, Inc. is the entity who filed a lawsuit against the town in
31 2022 from the denial of a land use application in Castle Valley Ranch for Filing 11. In the
32 settlement agreement has all of the exhibits attached to it. The purpose of the agreement
33 is to resolve the lawsuit. The first component is to have a public hearing before the town
34 council to reopen the PUD application for Filing 11 with a different proposal site plan with
35 single family homes in 58 lots. The general concept of the filing is exhibit 1 of the
36 settlement agreement. The council could consider the amended application and the public
37 hearing. The public hearing for public comment would go to town council only. Then,
38 following the public hearing based on the criteria for the approval of a PUD in Title 13 of
39 the town code prior to the current code pursuant to the settlement agreement. Some of the
40 standards in Title 14 which would be the old version of the current code of Title 16 and Title
41 17. Which would be applicable to Filing 11 when it comes before the town council and
42 future Filing 12 which CVR Investors may present at a later date. Filing 12 would also be
43 considered under Title 13 and Title 14 instead of the current Title 16 and Title 17. Some of
44 the exceptions are in the Public Works Standards Manual. Those exceptions are identified

1 in section 5 of the agreement. There is also a dispute resolution process identified in the
2 agreement. Specific disputes with section 5 of the agreement or addressing the
3 Comprehensive Plan, there would be a process in place on how to keep the disputes
4 streamlined. The last component is the agreement with SGM which is also part of the
5 settlement agreement. The town would waive any conflict because SGM is the town's
6 engineer as well as the engineer for CVR Investors. If the agreement is approved, then
7 the appeal would be stayed until Filing 11 application is approved, then the lawsuit would
8 be dismissed. Then, CVR Investors would proceed with the next PUD application.

9 Councilor G. Riddile asked if the agreement does get approved, is the town allowed to
10 inform the town residences the agreement has been approved. Attorney Carmer said yes,
11 since the agreement is a public document.

12 Councilor G. Riddile suggested creating a press release to inform New Castle residences
13 and the press release should come from Town Administrator Dave Reynolds.

14 Attorney Carmer said there is one amendment to the agreement. The amendment is in
15 section 3(b) CVR Investors has 21 days from the date of the agreement for CVR Investors
16 to submit materials for Filing 11 to go for the public hearing. The proposal is to change
17 the 21 days to 60 days for CVR Investors to submit materials for Filing 11.

18
19 **MOTION: Mayor A. Riddile made a motion to approve the Settlement Agreement**
20 **with CVR Investors, Inc. Councilor Hazelton seconded the motion and it passed 4**
21 **to 3 on a roll call vote. Councilor Copeland: yes; Mayor A. Riddile: yes; Councilor**
22 **Mariscal: yes; Councilor Hazelton: no; Councilor G. Riddile: no; Councilor Carey:**
23 **no; Councilor Leland: yes.**

24 25 **Consent Agenda**

26 May 7, 2024 Minutes

27
28 **MOTION: Mayor A. Riddile made a motion to approve the consent agenda.**
29 **Councilor Hazelton seconded the motion and it passed unanimously.**

30 31 **Staff Reports**

32 **Town Administrator** – not present

33 **Town Clerk** – Clerk Andis said Administrative Assistant Michelle Huster has been doing a
34 good job and learning lots. Assistant Huster signed up to attend her first year of week-
35 long Clerk Institute in July. Clerk Andis said Deputy Clerk Remi Bordelon, Assistant
36 Rochelle Firth and Clerk Andis attended an ADA Compliance refresher course for the
37 town's website. The website needs to be ADA compliant by 2025 they are working hard on
38 working on the website. Clerk Andis said the month of May was the first month for the
39 new meter reading for utility billing, so far so good. Assistant Huster as part of her
40 training she has been working Standard Operating Procedure (SOP) for the office and for
41 herself. Clerk Andis asked the council if they were looking at placing something on the
42 November Ballot. Clerk Andis had received a letter from the County Clerk's office inquiring
43 about ballot items. The council agreed there would not be anything for the November
44 ballot. Clerk Andis reminded the council about the CML Conference is June 18-21, 2024, in

1 Loveland. Clerk Andis said the clerk's office is going into their second month of working 10
2 hours, 4-day work week. It has worked out well and the staff is like the change. Clerk
3 Andis said she had received word that there will a senior motor parade coming through
4 town, Wednesday, May 22, 2024, around 6:30pm. The parade will start in Silt then come
5 through town. Clerk Andis said Mayor A. Riddile had called stating the Coal Ridge Boys
6 Baseball team had made it to state and would be coming through town with a police
7 escort on Thursday, May 23, 2024, on their way to Denver around noon. Clerk Andis said
8 9 staff members and Councilor Copeland had attended Tips training on Monday, May 20,
9 2024. Clerk Andis said May 13, 2024, was the first court day with both the new town
10 prosecutor and new municipal judge and the court day ran smoothly. Clerk Andis
11 reminded the council to bring their code books into the clerk's office for updates.

12 **Town Treasurer** – Treasurer Ehlers said Finance Assistant Josie Wood had completed her
13 first payroll period on her own and Treasurer Ehlers is training Assistant Wood on
14 reconciliation of bank accounts. Treasurer Ehlers said in a couple of weeks she will start
15 cross training Assistant Wood on Accounts Payable (AP). Treasurer Ehlers said the town is
16 entering the renewal for 2025 for the property and casualty insurance. Treasurer Ehlers
17 said the town has received the backfill for property taxes.

18 **Town Planner** – Planner Smith said R2 land use application is in process and will be
19 going in front of P&Z on June 26, 2024, as a public hearing. Planner Smith said he has
20 recently met with the Coal Seam developer. They will be submitting a combined
21 application with a public hearing. Councilor Carey asked if the decision for a combined
22 application was a staff decision. Planner Smith said no, the request was made with P&Z
23 and P&Z allowed for the combined application. Coal Seam would then come to council as a
24 final application.

25 **Public Works Director** – not present

26 27 **Commission Reports**

28 **Planning & Zoning Commission** – nothing to report

29 **Historic Preservation Commission** – Councilor Hazelton said Mari Riddile and Richard
30 Fletcher were sworn in. There was discussion of possibly doing another historic survey or
31 possible talking with downtown owners to get more interest into the historic preservation.

32 **Climate and Environment Commission** – Councilor Leland said there was a lot of
33 discussion around the bag fee and what the commission could do with the money.
34 Administrator Reynolds will meet with the commission to discuss further the plan for the
35 money.

36 **Senior Program** – Clerk Andis said the board is continuing working on a survey to go to
37 the senior population for the senior programs and if there is more that can be done to
38 help the seniors.

39 **RAFTA** – Mayor. A. Riddile said they talked about code enforcement for people
40 encroaching on the Rio Grande Trail.

41 **AGNC** – Councilor Hazelton said he is still waiting on more information on the grant
42 process for the grant from Senator Lauren Bobert's office. AGNC has reopened for a
43 second mini grant opportunity since there was money still available. He reached out to
44 Assistant Firth to apply for the second grant.

45 **GCE** – Councilor Leland said they had their annual workshop strategy meeting. GCE
46 reviewed the commissions goals. There was a suggestion for the town to look into

1 purchasing an EV to the fleet. The 6 towns and Garfield County who are part of GCE could
2 go in together and do a group purchase for a discount.

3 **EAB** - nothing to report

4 **Detox** – Councilor Mariscal said the ribbon cutting will be Thursday, May 23, 2024, from
5 3:30pm to 5:00pm.

6 **Council Comments**

7 Councilor Hazelton congratulated Clerk Andis for being on the International Code
8 Council Clerk Honor Roll. Councilor Hazelton explained he respects and
9 understands where people are coming from regarding the fees for Drifters. He
10 said he has concerns for business in the past who have not had the same
11 opportunity.

12 Councilor Leland said he believes Johnson Construction has done a good job
13 with the construction at the 4-way intersection to keep the traffic moving.

14 Councilor Copeland said the Historical Society is having their annual potluck
15 fund raiser Saturday, June 8, 2024, 5:00pm – 7:00pm at the River Center. The
16 Historical Society wanted to thank the Town of New Castle for all of the help
17 given to them for the museum.

18
19 **Items for Future Council Agenda**

20 Nothing to add

21
22 **MOTION: Mayor A. Riddile made a motion to adjourn. Councilor Carey**
23 **seconded the motion and it passed unanimously.**

24
25 The meeting adjourned at 9:16p.m.

26
27 Respectfully submitted,

28
29
30
31
32 _____
33 Mayor A. Riddile
34
35

36
37 _____
38 Town Clerk Mindy Andis, CMC