

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, December 6, 2011 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Garduno, presiding
	Councilmembers	Aragon, Pando, Rino, Toupal, Shew, Velasquez
Also present:	City Attorney	Beatty
	City Clerk	Garrett
	City Manager	Gil de Rubio

The pledge of allegiance was recited.

**READING OF THE MINUTES.** Regular Meeting of November 15, 2011. Mayor Garduno called for any additions or corrections. A motion to dispense with the reading and approve the minutes as submitted was made by Councilmember Toupal and seconded by Councilmember Velasquez. The motion carried unanimously.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** None.

**REPORT BY CITY MANAGER.** Acceptance of financial reports. City Manager Gil de Rubio called to Council's attention the October, 2011 financial reports within their packets. He advised that the first page is the sales tax report for September, 2011. He said September was a good month having been up 17.35% over September, 2010. While he said it is very optimistic, he reminded that the City is gaining on lost ground because of the past three years it has lost around 28%. Year-to-date the sales tax through September was not quite 5.5% over this same period last year. He concluded that it is hoped the trend continues. City Manager Gil de Rubio reviewed the financial reports as of October 31, 2011, beginning with the General Fund. He reported that General Fund finished October about \$455,000 in revenues over expenses and said that was excellent for this time of year as we are coming to the wire for November and December and it is on line to just about break even. He added that the General Fund is continuing to cut expenses and at the end of October was at about 75.3% of expected expenses when it should be at about 83%. It shows the dedication of staff keeping expenses down. He continued, pointing to the Power & Light Fund. He said the fund finished October with over \$92,000 in revenues over expenses and reminded Council that he is looking to supplement the Power & Light budget tonight in the areas of purchased power and legal services. However, the fund is still in the black and under expenses but with November and December to get through he said he is trying to plan ahead with the proposed supplemental budget. City Manager Gil de Rubio said that with respect to the City's purchased power and generation according to the operation budget handed out by ARPA this past week, the City of Trinidad used about 3.3% less power than we did last year, but paid 12.2% more. He said that accounts for the discrepancy. Also, there was an increase in the base rate for ARPA that the City did not account for as well as the additional amount for legal fees. He said he hopes with the proposed 2012 ARPA budget the City will hold its own. They are looking to shore up the ECA and not use it as much. If ARPA purchases power from Tri-State and doesn't pursue continuation of the re-powering project, he said he thinks the City will be able to hold our own next year. City Manager Gil de Rubio continued, noting that the water fund is always healthy and at the end of October yielded over \$412,000 in revenues over expenses and a cash balance of just about \$1.7 million; an unrestricted balance of \$4.7 million. The gas fund likewise had revenues over expenses of approximately \$585,000 however with the deferred gas cost the resulting fund balance was \$20,386. The cash balance and the end of October was just over \$500,000 and the unrestricted cash reserve was \$1.2 million. Conversely the sewer fund again saw expenses over revenues of \$104,000. There is no cash to speak of in the fund. The lottery fund at the end of October had an estimated undesignated fund balance of \$52,000. The marketing and tourism fund's undesignated fund balance was about \$182,000. The Capital Projects uncommitted, undesignated fund balance at the end of October was about \$395,000. City Manager Gil de Rubio advised Council that he would like to start having Council formally accept the monthly financial reports that he's been handing out to them since he assumed the City Manager's position. He added that he's surprised that hadn't been a practice in the past. Councilmember Aragon moved to accept the monthly financial reports. The motion was seconded by Councilmember Toupal and carried unanimously upon roll call vote.

Letter of support for a grant application being submitted on behalf of the Colorado Welcome Center for Capital Improve Projects at the Center. City Manager Gil de Rubio deferred to Colorado Welcome Center Director Tara Marshall to speak on the grant. Ms. Marshall informed Council that the Colorado Welcome Center and the City are submitting a grant application to the National Scenic Byways Program, which is a division of the Federal Department of Transportation. She said they are asking for money to make capital improvements to the Welcome Center to include improved ADA accessibility whereby now the building is at the 1986 standards for accessibility. This summer they had to turn four motorized wheel-chaired people away. The grant will also improve the energy efficiency of the building and make upgrades to the facilities that will sustain it for the upcoming decades. Councilmember Pando asked the amount being sought. Ms. Marshall said it is a grant application for \$350,531.50. Councilmember Pando commented that he appreciated that Ms. Marshall went over the grant with him. Ms. Marshall told Council that if they have any questions they could ask them now or may always call her. She extended her appreciation to PWD Mike Valentine, Planning Director Louis Fineberg, Building Inspector Chris Kelley, and Engineering Tech Brad Mincic, whom without their help she couldn't be able to submit the grant application. She concluded that she hopes to submit the application Thursday and asked Council for a letter of support. Councilmember Rino asked if the building and grounds are owned by the City. Ms. Marshall answered that they are owned by the City and that's why the grant will be submitted by the City on behalf of the Welcome Center. She added that she received a good letter of support from the Colorado Tourism Office who provides most of the operating funds for the Welcome Center. Councilmember Aragon moved to approve the letter of support and the motion was seconded by Councilmember Shew. The motion carried unanimously upon roll call vote.

Update on North Lake Dam Project. City Manager Gil de Rubio advised Council that regarding the North Lake Dam Project, Utilities Supt. Jim Fernandez met with RGH Engineering and they visited the site yesterday. RGH Engineering is

DECEMBER 6, 2011

starting to undergo an initial study of the possibility of hydroelectric power when the City fixes the dam. If the study shows that it is feasible, that would be the time to build a coffer/temporary dam to install the pipe fittings for a potential hydroelectric project down the road. Additionally, RGH Engineering delivered the final set of drawings and specifications to Supt. Fernandez. They believe the State will sign them and give their approval by the end of December. The construction schedule was discussed and they think that the City should advertise the project on February 1<sup>st</sup>. The project would not actually be awarded until the city is awarded the \$739,000 grant from CWCB sometime in March. RGH is of the opinion that if the City advertises in February, awards in March, the project can be completed in six months.

Work session schedule. City Manager Gil de Rubio advised Council that there will be a status hearing for the ARPA litigation on the same afternoon as their regular work session on December 13<sup>th</sup>. He asked Council's pleasure in cancelling the work session or postponing it. Councilmember Rino asked if there was anything on the work session that was pressing. City Manager Gil de Rubio said he didn't think there was. He suggested that if there is something the meeting could be held either Tuesday evening, Wednesday or Thursday instead. After hearing Council's comments, City Manager Gil de Rubio said he'd play it by ear.

**REPORT BY CITY ATTORNEY.** 40-Year Anniversary. City Attorney Beatty announced that Utilities Superintendent Jim Fernandez has achieved 40 years of service to the City. He offered his appreciation for his four decades of service to the community. Mayor Garduno extended her appreciation for his effort and work.

ARPA. City Attorney Beatty advised Council that regarding the ARPA litigation. He said he's been in contact with Council members regarding the scheduling of depositions by ARPA in the near future. He said that in the event that they are scheduled next week, he'd be looking at deposition preparation sessions with Council members next Tuesday morning. However, he pointed out that the depositions have not yet been formally noticed. He said he wants to have some time with Council members prior to the depositions and Tuesday morning may be the best option. The alternative would be Sunday or Monday afternoon. He ensured that he would keep Council apprised of the scheduling.

**COMMITTEE REPORTS.** None.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Hotel and restaurant liquor license renewal request by King Colorado Enterprises, Inc. d/b/a Black Jack's Saloon & Steakhouse at 225 W. Main Street. A motion to approve the license renewal was made by Councilmember Rino and seconded by Councilmember Pando. The motion carried by a unanimous roll call vote of Council.

Club liquor license renewal request by Fraternal Order of Eagles #179 at 204 Pine Street. Councilmember Toupal moved to approve the license renewal and the motion was seconded by Councilmember Shew. Mayor Garduno asked if the issues raised by Fire Chief Perea had been corrected. Chief Perea advised Council that he re-inspected the premises a couple of days ago and found that they have taken care of the fire extinguishers and the emergency lights, and they are still working on the vertical openings because they need a contractor for that work. While he was doing his initial inspection they took care of the extension cord wire in the building. One set of emergency lights needs to be replaced and they are trying to obtain those. He concluded that they have taken care of most of the issues and he will continue to follow up. Roll call was taken on the motion which carried unanimously.

Hotel and restaurant liquor license renewal request by Shun De, Inc. d/b/a Chef Liu's Chinese Restaurant at 1423 Santa Fe Trail. A motion to approve the license renewal was made by Councilmember Shew and seconded by Councilmember Pando. The motion carried by a unanimous roll call vote of Council.

Hotel and restaurant liquor license renewal request by Image Hospitality, LLC d/b/a Quality Inn at 3125 Toupal Drive. Mayor Garduno commented that the recommended work in the inspection reports has been completed. Councilmember Shew made a motion to approve the license renewal. Councilmember Velasquez seconded the motion. Roll call was taken on the motion which carried unanimously.

Transfer of ownership application filed by Johnny M. & Elizabeth Ann Jameson d/b/a Drop City Liquor at 155 Elm Street (formerly Chris & Lisa Velasquez d/b/a Kit Carson Liquor). City Attorney Beatty advised Council that it is staff's recommendation that the hearing be set of January 17<sup>th</sup>, the second meeting in January, 2012. Councilmember Rino moved to set the transfer application for public hearing at 7:00 p.m. on January 17, 2012. Councilmember Shew seconded the motion, which carried unanimously.

Temporary permit request by Johnny M. & Elizabeth Ann Jameson d/b/a Drop City Liquor at 155 Elm Street. A motion to approve the temporary permit was made by Councilmember Toupal and seconded by Councilmember Pando. The motion carried unanimously.

Consideration of Tourism Board applicant. Mayor Garduno announced that the City received one letter of interest from Scott Candland. Scott Candland addressed Council. Councilmember Rino moved to appoint Scott Candland. Councilmember Aragon asked Mr. Candland to explain his job description with Mt. Carmel Health, Wellness & Community Center. Mr. Candland said he is the Chief Operating Officer in charge of activities, including concerts, special events, marketing, renting out the public space, etc. He said he is helping to design the restaurant in the downstairs garden level. Just about whatever goes on, he is involved, even with the janitorial service. Councilmember Aragon asked Mr. Candland if he is able to come and go as he pleases, and if he'll be able to make the meetings. She added that members can't miss three meetings. Mr. Candland said he has that liberty and understands the commitment. City Attorney Beatty told Council that he'd like to discuss one aspect of the criteria for membership on the board, which he had discussed with Mr. Candland this afternoon. He explained that the ordinance provides for a five member Tourism Board and that of the five, one shall be from the lodging industry, one from the restaurant industry and up to three in miscellaneous other businesses including museums that serve tourists. He pointed out that the Board currently only has three members and they are all from the general category, not affiliated with lodging or restaurant operation. Therefore, going forward he said they need to be

cognizant about fulfilling the ordinance requirement that they be from lodging or restaurant operations. He said he spoke with Mr. Candland and personally has some reservations about classifying Mt. Carmel as having a restaurant operation at the moment. Mr. Candland informed him that there's a café proposed and planned for Mt. Carmel and they are in the process of ordering the equipment. Councilmember Aragon asked if he should re-apply when the café is open. City Attorney Beatty said Council has discretion regarding whether or not we can meet this criterion. Mr. Candland said with many of the activities they serve food and beverages at Mt. Carmel. It is one of the better tourism attractions in the community and will eventually be more involved. People recently came from all over the county to see the Nicole Unser concert. He said they also had a bar and they have served a lot of meals in the last couple of months. They have an architect drawing plans and they've been meeting to discuss the purchase of the equipment. He suggested they have the nicest meeting space south of the Broadmore. He added that with every event there are hospitality functions, for which he is responsible. The restaurant should be open by this summer and they will have more meeting and banquet space and a genealogy center. Mt. Carmel is a prime tourism attraction and should be represented. He concluded that with his 30 years of experience he should be allowed to participate. Mayor Garduno agreed Mt. Carmel should be represented but said she wasn't sure if at this point they need to ask him to come back or if he technically qualifies for appointment. City Attorney Beatty agreed he could bring a great deal of experience to the table and would be a contribution to the board. But the ordinance requires someone from the lodging or restaurant business. Mr. Candland asked where he falls short; they are building a restaurant. City Attorney Beatty said his understanding is that currently they cater the food in but acknowledged that they are in the process of establishing a restaurant and ordering the equipment. Mr. Candland added that it is with an architect design of the space. He said it will be an upscale restaurant with in and outdoor dining. He further added that he is held accountable for the process of construction. Councilmember Rino said he thinks he is in the restaurant business and made a motion for Mr. Candland's appointment to the Tourism Board. The motion was seconded by Councilmember Pando. Mayor Garduno asked if he's appointed will there be a violation of the Charter. City Attorney Beatty answered that he trusts City Council's judgment and that Mr. Candland has explained a basis for the restaurant business being existent at Mt. Carmel. Roll call was taken and the following votes were cast:

Aye – Pando, Rino, Shew, Velasquez, Garduno  
Nay – Aragon, Toupal

Councilmember Aragon explained that her vote was airing on the side of caution and suggested he should come back in the summer. Mr. Candland rebutted that he applied when he was with Cougar Canyon and followed the requirements to a t, was more qualified than the other two or three who were accepted and still was rejected. Councilmember Aragon explained she was trying to adhere to the ordinance. Mr. Candland opined that he qualified. Councilmember Aragon said her vote is her opinion.

Consideration of bid proposal for the "Flags Along the Purgatoire" Project. PWD Mike Valentine offered to answer questions. Councilmember Aragon moved to accept the bid proposal. The motion was seconded by Councilmember Shew. Upon roll call the following votes were cast: Aye – Aragon, Shew, Toupal, Velasquez

Nay – Pando, Rino, Garduno

The motion carried by majority. Councilmember Pando in casting his vote stated that he thought it to be a wonderful project however it is a considerably tough time. He suggested it could be a project next year or the year after, just not right now. Mayor Garduno in casting her vote echoed Councilmember Pando's remarks and added that she'd prefer to utilize the money in other areas.

Consideration of request for extraterritorial water tap extension by Richard and Sylvia Lopez. Utilities Supt. Fernandez reminded Council of their discussion at work session whereby he thought the extension should be granted however they didn't discuss the time element involved. He said he recommends it not be extended for any more than 12 months. Councilmember Pando opined that it should be much less than 12 months, but it should be granted. Supt. Fernandez said Mr. Lopez told him he wants to do it immediately but with the weather it is not going to happen. He suggested perhaps six months would be adequate. He reminded Council that Mr. Lopez has had an extension granted for one year already once and this is a second request for an extension. Mayor Garduno said with it being winter, she would be okay with a 12-month extension. Councilmember Pando moved to grant a six-month extension. The motion was seconded by Councilmember Shew and carried with all Council members voting aye, excepting Councilmember Aragon who voted nay because she felt it should be a 12-month extension.

First reading of an ordinance appropriating certain sums of money out of the revenues of the City of Trinidad, Colorado, to defray and meet the liabilities of the City of Trinidad for the fiscal year beginning January 1, 2012 and ending December 31, 2012; said ordinance being termed the annual appropriation bill for the 2012 fiscal year, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Shew and then read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on December 20, 2011, was made by Councilmember Toupal and seconded by Councilmember Aragon. Councilmember Rino asked if they are restricted to the dollar amount in the budget if it is approved. He questioned if they wanted to make changes in the Capital Improvement budget, not the amount, could they. City Attorney Beatty said changes can still be made before second reading. This ordinance fixes the annual budget. If revisions are necessary the City would need to approve a supplemental budget ordinance as is being proposed tonight. The motion carried unanimously upon roll call vote.

ORDINANCE NO.

AN ORDINANCE APPROPRIATING CERTAIN SUMS OF MONEY OUT OF THE REVENUES OF THE CITY OF TRINIDAD, COLORADO, TO DEFRAY AND MEET THE LIABILITIES OF THE CITY OF TRINIDAD FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012; SAID ORDINANCE BEING TERMED THE ANNUAL APPROPRIATION BILL FOR THE 2012 FISCAL YEAR

Resolution of the City Council of the City of Trinidad, Colorado, levying general property taxes based upon the 2011 certification of valuation to help defray costs of government for the City of Trinidad, Colorado, for the 2012 budget year. Councilmember Aragon asked what the mill levy is and what it amounts to. City Attorney Beatty advised that there is no change to the mill levy which is at 17.579 mills. He explained that the money fluctuates with the county valuation. Based

DECEMBER 6, 2011

on the valuation, 17.579 mills results in property tax revenue of \$1,329,356. City Manager Gil de Rubio corrected that this is based on the preliminary valuation and that the final should be received in the next couple of days. A motion to adopt the resolution was made by Councilmember Shew and seconded by Councilmember Toupal. The resolution was approved by a unanimous roll call vote.

## RESOLUTION NO. 1376

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, LEVYING GENERAL PROPERTY TAXES BASED UPON THE 2011 CERTIFICATION OF VALUATION TO HELP DEFRAY COSTS OF GOVERNMENT FOR THE CITY OF TRINIDAD, COLORADO, FOR THE 2012 BUDGET YEAR

-----

First reading of an ordinance amending the City of Trinidad's Annual Budget for the fiscal year beginning January 1, 2011 and ending December 31, 2011, to identify projected additional expenditures from the Power & Light and Tourism Funds, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Velasquez and then read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on December 20, 2011, was made by Councilmember Shew and seconded by Councilmember Velasquez. The motion carried unanimously upon roll call vote. Councilmember Rino asked when Council will get a copy of the final budget. City Manager Gil de Rubio said they have the final budget with the exception of the \$1,000 allocation they included to Farmers Market. Finance Director Blatnik added that it is usually provided to Council after second reading of the ordinance. City Manager Gil de Rubio said the draft is exactly as the final will look because he has been distributing the replacement pages as they've progressed. Councilmember Rino recalled there to have been several changes. City Manager Gil de Rubio reminded that he provided those changes to Council. Councilmember Rino asked about the \$20,000 for Kit Carson Park. City Manager Gil de Rubio asked him to look at the lottery money in the budget as they should have that change, provided sometime in November.

## ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY OF TRINIDAD'S ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011 AND ENDING DECEMBER 31, 2011, TO IDENTIFY PROJECTED ADDITIONAL EXPENDITURES FROM THE POWER & LIGHT AND TOURISM FUNDS

-----

First reading of an ordinance amending Article 1 ("Utility Billing") of Chapter 12 ("Municipal Utilities") of the Code of the Code of the City of Trinidad, Colorado, by adding a new section 12-4.2 entitled "Utility Rates and Finances", and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Shew and then read aloud in its entirety. Councilmember Rino asked what the difference was between this ordinance and the present one. City Attorney Beatty explained that this is a house-keeping ordinance. It is general in nature and applies to all City utilities. He said he deemed it important to incorporate language into the code addressing the City's administration services reimbursement to the General Fund. He reminded that the budget allocates a small portion of some utility revenues to the General Fund to compensate for staff time in operating and administering the utilities such as the finance department, the utilities superintendent, City Manager and himself for their role in the administration of the utilities. He said he would like to have language in the code for that purpose. He added that the reimbursement has been in process for decades. Councilmember Rino asked if they are using utility money to supplement other entities. City Attorney Beatty clarified that it is not to supplement but rather to reimburse the General Fund for the expenses incurred by the General Fund for operation of the utilities. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on December 20, 2011, was made by Councilmember Toupal and seconded by Councilmember Aragon. The motion carried unanimously upon roll call vote.

## ORDINANCE NO.

AN ORDINANCE AMENDING ARTICLE 1 ("UTILITY BILLING") OF CHAPTER 12 ("MUNICIPAL UTILITIES") OF THE CODE OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, BY ADDING A NEW SECTION 12-4.2 ENTITLED "UTILITY RATES AND FINANCES"

-----

Resolution authorizing the application of a power cost adjustment to rates for electric service, power and energy in accordance with § 12-27(7) of the Code of the City of Trinidad, Colorado, for the twelve (12) month period commencing on January 1, 2012 and continuing through December 31, 2012. City Attorney Beatty noted a correction to the resolution in the last line on page one in section one to read 'commencing on January 1, 2012 and continuing through December 31, 2012' rather than 'commencing on January 1, 2011.' A motion to adopt the resolution as corrected was made by Councilmember Shew and seconded by Councilmember Toupal. The motion carried unanimously pursuant to a roll call vote.

## RESOLUTION NO. 1377

A RESOLUTION AUTHORIZING THE APPLICATION OF A POWER COST ADJUSTMENT TO RATES FOR ELECTRIC SERVICE, POWER AND ENERGY IN ACCORDANCE WITH § 12-27(7) OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE TWELVE (12) MONTH PERIOD COMMENCING ON JANUARY 1, 2012 AND CONTINUING THROUGH DECEMBER 31, 2012

-----

**BILLS.** A motion to approve the bills was made by Councilmember Shew. The motion was seconded by Councilmember Velasquez. Roll call was taken on the motion. The motion carried unanimously.

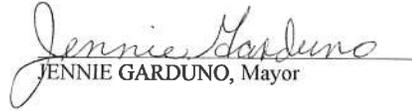
**PAYROLL,** November 12, 2011 through November 25, 2011 and November 26 through December 9, 2011. A

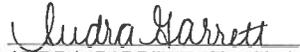
motion to approve the payroll was made by Councilmember Pando and seconded by Councilmember Toupal. The motion carried unanimously.

DECEMBER 6, 2011

**ADJOURNMENT.** There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Toupal and seconded by Councilmember Pando. The meeting was adjourned by unanimous vote of Council.

ATTEST:

  
JENNIE GARDUNO, Mayor

  
AUDRA GARRETT, City Clerk