

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, May 15, 2012 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Rino, presiding
	Councilmembers	Baca Gonzalez, Bolton, Bonato, Pando, Shew, Velasquez
Also present:	Acting City Manager/ City Attorney City Clerk	Beatty Garrett

Proclamation – The Year of Water. Mayor Rino introduced Tom Perry. He told those present that Mr. Perry was very influential in Governor John Hickenlooper officially proclaiming 2012 as the Year of Water. He added that Mr. Perry organized a well-planned activity for the youth in Trinidad, as well as for the adults that correlates with the designation. Mayor Rino read aloud the Proclamation naming 2012 as the Year of Water in the City of Trinidad and presented it to Mr. Perry and congratulated him on all of his hard work.

The pledge of allegiance was recited.

READING OF THE MINUTES. Regular Meeting of May 1, 2012. A motion to approve the minutes as submitted was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Steve Bolton addressed Council regarding recall and identified himself. Mr. Bolton stated that he sees where Jesse Manzanares has a little weekly fireside chat sponsored by some fake internet newspaper. It's called 'The Truth'. He said "Let me give you a little bit of the truth - Mr. Pando, I am not going to stop until I recall you out of that chair. Let me give you a little bit of the truth ..." Councilmember Pando rebutted that he didn't care what he did... Mr. Bolton interjected, advising that he was speaking and that he didn't care that Councilmember Pando doesn't care. He continued that he was going to pull him out of his chair, and reiterated the statement. He added that Jesse Manzanares, nor Councilmember Pando, nor Mr. Griego was going to stop him. Mr. Bolton was asked to leave and escorted out by the Trinidad Police Department.

Tom Perry addressed Council and thanked the Mayor and City Council for the Proclamation and for the support of the City for the Water Festival. Additionally he thanked the committee members who have worked hard and the sponsors as well. He said there has been a lot of broad-based support for the festival and he wanted to see them get some credit.

REPORT BY CITY MANAGER. Special Meeting. Acting City Manager Beatty reminded Council of the special meeting slated for next Tuesday afternoon, May 22nd, for a liquor license hearing regarding RJ's Discount Liquor's license application and probably for a special events permit request by Rocky Mountain Elk Foundation.

Work Session. Acting City Manager Beatty told Council that he has been in communication with Las Animas County Administration and they are amenable to a joint work session to discuss the U. S. Army's draft environmental impact assessment pertaining to the Pinon Canyon Maneuver Site. He said he proposed some dates and the County indicated that next Tuesday, May 22nd is a viable date for them. Upon inquiry he said the work session would be scheduled for perhaps 2:30 p.m. or slightly thereafter in the afternoon. He reminded Council that they have rotated the location of the meeting in the past and the County came to City Hall for their last joint meeting so they should meet at the County Commissioners' Chambers. Council concurred. Acting City Manager Beatty advised Council that in addition to the Army's environmental impact assessment the City will need to present a draft intergovernmental agreement for wild land fire mitigation between the City, County and Stonewall Fire Protection District. It will be required by State Statute. The County would also like to discuss another amendment to the Perry Stokes Airport water tap agreement for the possible allowance of a water hydrant installation and the City and County's IGA for the police dispatch center operations.

Special Meeting. Acting City Manager Beatty asked Council's consideration of staff's request in their holding an additional special meeting on Tuesday, May 29th regarding the North Lake Dam Rehabilitation Project, including the second reading of the grant and loan ordinance, item 7g on this evening's agenda, and consideration of the engineering services agreement, bid results and the water conservation plan if it is complete.

Community Events. Acting City Manager Beatty reminded and reported on upcoming community events. He reminded that Tom Perry's Water Festival is this Thursday, May 17th. Also on that date is a bar-b-que at Trinidad Lake State Park at 6:00 p.m. to kick off the annual convention of the Colorado Field Ornithologists (bird watchers). It is a four-day annual (state) convention and pre-registration was at 190 participants. He noted that it is a big turn out and credited the Chamber of Commerce and the Tourism Board for their assistance. It will be held at the Piedmont campground on the Starkville side of the lake and Council in invited and encouraged to attend. He pointed to the e-mail at their seating places from Pat Patrick whereby he provided additional information. Acting City Manager Beatty also reminded Council that on Saturday, May 19, 2012, there would be the Armed Forces Day Parade and Veterans' Memorial dedication. Mayor Rino will be at the dedication ceremony and Public Works Director Valentine, who was instrumental in the work on the memorial, will also be on hand. Commanding General Joseph Anderson and Actor Gary Sinise will be participating in the celebration as well. Finally, Council was advised that on Monday, May 21st from 5:00 p.m. to 7:00 p.m. the Denver Broncos Country Caravan City Celebration will take place at the Trinidad Catholic football field. Everyone is encouraged to attend the event.

Trinidad Opera House. Acting City Manager Beatty told Council that with their blessing the City intends to install the walkway in front of the Opera House and along Alley A as well as safety netting to contain the façade on the northwest

corner of the building. The estimate for the work is \$22,362. He explained that the City may proceed to undertake the work as emergency measures under the International Property Maintenance Code. The City would seek reimbursement from the owner or file another lien on the property. He pointed out that the City has a lien in place on the building for the work done to-date. Acting City Manager Beatty told Council that it has been a struggle with the property owner to compel him to work on the building. The City will commence with the walkway to get the barriers out of the street.

Workers' Compensation Loss Reduction Plan. Acting City Manager Beatty informed Council that the City is participating in a workers' compensation loss reduction plan through the City's insurer. Building Inspector Chris Kelley, who is the City's Safety Coordinator, is spearheading the effort. Last Thursday the City's insurer, CIRSA, with help from Building Inspector Kelley, hosted a significant training exercise. Back injury prevention, fall prevention and confined space training is ongoing additionally. He concluded that this is being done in an effort to reduce the City's workers' compensation claims which have grown over the past three to four years.

Trinidad Opera House. Mayor Rino asked the status of the group interested in investing in it. Acting City Manager Beatty answered that it is still ongoing. City representatives met with proposed representatives of the new ownership entity for the building. It was communicated to City staff that an LLC would be established that would include Mr. Larson, the current owner, and the LLC would pursue insurance proceeds for the building and seek potential rehabilitation. Currently Mr. Larson is out of the country and has been for some time. He clarified that staff knows they are still interested in potential investment in the property and the City is hopeful something will come of it. Mayor Rino asked the status of the Franch Building that has been in disrepair for five years. Acting City Manager Beatty corrected that it hasn't been five years. He reminded that David Hulstine took over the property after the fire approximately two years ago and began rehabilitation of the building. Recently International Bank foreclosed on the building and is working on marketing the property. He said that now that it is in International Bank's hands the City will proceed more diligently with code enforcement and trying to make the building's façade more presentable. Mayor Rino asked if they are aware that it has posed a problem having the building in this condition in the City. Acting City Manager Beatty said they are and noted that the ownership entity interested in the Opera House may also be interested in the Franch Building. Councilmember Baca Gonzalez asked the timeline for the Opera House work. Acting City Manager Beatty said he needs to develop the construction contract and get the work commenced. He said he hopes to make use of PWD Valentine's time left with the City. While it is a very ambitious timeline, they would love to have the walkway complete in time for the Santa Fe Trail Festival.

REPORT BY CITY ATTORNEY. City Attorney Beatty covered all items under the City Manager report.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. None.

MISCELLANEOUS BUSINESS. Retail liquor store license renewal request by Robinson Liquor, LLC d/b/a Arizona Liquor Store at 847 Arizona Avenue. Councilmember Bolton noted a comment on the inspection about someone living in the back of the store and it not being residential. She asked if it has any impact. City Clerk Garrett answered that it does not as it applies to the liquor license itself. Councilmember Shew moved for the approval of the renewal and the motion was seconded by Councilmember Pando. Roll call was taken on the motion, which carried with all Council members voting aye.

Special events permit request (malt, vinous and spirituous) by Trinidad-Las Animas County Golf Association, Inc. at 1417 Nolan Drive for May 25, 26, 27, & 28, 2012 and June 8, 9, & 10, 2012 for golf tournaments. Councilmember Baca Gonzalez moved to grant the permit. Mayor Rino asked since the clubhouse is leased will it interfere with the license the lessee may get, noting that he anticipated receiving an application soon with the work on the building anticipated for completion around June 1st. Acting City Manager Beatty answered that the City has assisted the lessee of the clubhouse with a Concessionaire's License Agreement between B&G, Inc. and the Golf Association to cover the course. The Golf Association is seeking these permits in lieu of seeking renewal of their regular liquor license. He added that the expectation is that B&G, Inc. will be submitting their application for a hotel and restaurant liquor license for the clubhouse with optional premises for the course. B&G, Inc. is waiting for their employer identification number from the state. That's the only hold up in their applying. Once that is received the application can be accepted and presented to City Council to set for a hearing. Mayor Rino asked if the Golf Association is relinquishing their license. Acting City Manager Beatty said he believed their license expires on May 23rd and they are seeking special event permits to cover the Memorial Day tournament and the June tournament. The expectation is that the lessee will get their liquor license thereafter and be able to provide service. Councilmember Baca Gonzalez reiterated her motion for approval and Councilmember Velasquez seconded the motion. Upon roll call vote, the motion carried unanimously.

Hotel and restaurant liquor license renewal request by Fisher's Peak Lodging, LLC d/b/a Trinidad Holiday Inn Peaks Restaurant & Lounge at 3130 Santa Fe Trail Drive. Councilmember Bolton made a motion to approve the license renewal request. Councilmember Shew seconded the motion. Roll call was taken on the motion, which carried unanimously.

Special events permit request (malt, vinous and spirituous) by Trinidad-Las Animas County Chamber of Commerce, Inc. at 160 N. Commercial Street for June 8, 9, & 10, 2012. Mayor Rino noted that this application is for the Santa Fe Trail Festival. A motion to approve the permit was made by Councilmember Bolton and seconded by Councilmember Bonato. The motion carried by a unanimous roll call vote.

Consideration of time requirement waiver for special events permit application by Rocky Mountain Elk Foundation / Confederacion Mutualista Mexicana e Americana. City Clerk Garrett explained that the applicant didn't get the application in within the required 30 days. There is a regulation that allows the local or state licensing authority to waive that time requirement for good cause. The organizer of the Rocky Mountain Elk Foundation banquet provided a letter to establish good cause in hopes that City Council would consider adding the request to the special meeting agenda on May 22nd at 1:30 p.m., which should be enough time to get it the state for them to process. A motion to allow the time requirement waiver was made by Councilmember Shew and seconded by Councilmember Velasquez. The motion carried unanimously.

excepting Councilmember Bolton who abstained from the vote.

Appointment to the Board of Appeals. Mayor Rino spoke highly of Bruce Veltri, opining that he has been a good citizen and contractor in the City for many years and would be an asset to the Board. Councilmember Bolton asked if this appointment would complete the Board's composition. City Clerk Garrett answered affirmatively. Councilmember Shew moved to appoint Bruce Veltri to the Board and the motion was seconded by Councilmember Pando. The motion carried unanimously upon roll call vote.

First reading of an ordinance pertaining to the acceptance of a grant and loan from the Colorado Water Conservation Board (CWCB) for the funding of the North Lake Dam Rehabilitation Project, and setting a hearing date for consideration of said ordinance. Mayor Rino noted the request for the hearing date to be scheduled for a special meeting on May 29th at 1:30 p.m. The ordinance was introduced by Councilmember Bolton and then read aloud in its entirety. Mayor Rino commented that the total project according to the letter from the people who evaluated the project should be close to \$939,000. He asked if that was correct. Utilities Superintendent Jim Fernandez answered that the engineer's estimate was \$1.8 million, which includes the construction and engineering. The actual construction cost was estimated at \$1.5 million, including a 15% contingency. Mayor Rino asked if the final bid was \$939,000. Supt. Fernandez said the City received two bids with disparity between them, review of which is scheduled for the special meeting on May 29th. Mayor Rino voiced concern about the requirement to pay 10 loan payments in the amount of \$85,000 each for 10 years, for a total of \$850,000. Supt. Fernandez said the total payback is \$746,000. Mayor Rino asked the entire amount of the loan and if the water fund could pay for that entire amount rather than the City borrowing the money, since the fund has a surplus. He added that he thought the project was going to be \$1.8 million and now it is down to just over \$900,000. Supt. Fernandez said first the low bid has not yet been accepted and that remains to be done before we can bank on that number. Secondly, he said his understanding in the way the CWCB works is that the grant is contingent upon the approval of the loan. So it's not a matter of choosing which one, we have to accept both. Mayor Rino commented that he remembers asking the former City Manager and having been told that it wasn't contingent upon it. Supt. Fernandez pointed out that the way the numbers are looking if we go with the low bid of \$939,000 and we get a grant for \$700,000, we'd only be responsible for the balance, roughly \$300,000. That puts the City in a much more favorable position than what was thought. However, he warned that it is not a fixed number and whenever we have a project of this magnitude, we can expect changes and additional work necessary to be done. It always is that way and he said he was sure it would be the same for this job as well. Right now the numbers are looking very favorable. Mayor Rino commented that it doesn't look like we'll need the loan for \$700,000, because we have the grant. Supt. Fernandez further clarified that the way he understands it the City will consume the grant money first and then go into the loan funds. Obviously if the entire amount is not needed there is no reason to borrow it. Mayor Rino reiterated his concern of having a contract for 10 years at \$85,000 per year. Supt. Fernandez said he understood his point and explained that the contract was based on the engineer's estimate. If that changes as dramatically as we think, the contract may need to be amended. Mayor Rino reiterated that the water fund has a surplus at this point that could pay the \$300,000 above the grant amount. Supt. Fernandez said whatever portion of the loan the City will be responsible for will come out of the reserve funds. Mayor Rino said they could discuss this further at their special meeting. Supt. Fernandez corrected an article in the newspaper whereby it implied the City was going to raise the water rates by \$1.63 per month to the customers. He said that was not quite accurate. What the CWCB said was that was the equivalent amount to the \$85,000 per year. That doesn't mean we are raising the rates by that amount, adding that there are no plans to do that. Acting City Manager Beatty told Council that the loan contract provides that in the event that the City does not exhaust the loan proceeds, upon completion of the project they must be turned back into the CWCB within 30 days of project completion. It also provides that the City is to submit to the CWCB an opinion letter from bond counsel regarding the appropriate authorization and adoption of this loan document by ordinance. He said he wanted to be as careful as possible about the ordinance and noted that the loan contract which follows the ordinance in their Council packets is referred to as Exhibit A in the ordinance and was not labeled as such. He asked Council to do so to their copies. He said they will seek Council's approval on first reading with the loan contract marked as Exhibit A. Councilmember Baca Gonzalez asked if the contract is just pages 1 through 11 or if it also includes additional attachments. Acting City Manager Beatty answered that it includes all of the appendices as well. Councilmember Bolton moved to approve the ordinance on first reading (with the contract marked as Exhibit A) and to set the public hearing for its further consideration at 1:30 p.m. on May 29, 2012. Councilmember Shew seconded the motion, which carried unanimously upon roll call vote.

ORDINANCE NO.

AN ORDINANCE PERTAINING TO THE ACCEPTANCE OF A GRANT AND LOAN FROM THE COLORADO WATER CONSERVATION BOARD (CWCB) FOR THE FUNDING OF THE NORTH LAKE DAM REHABILITATION PROJECT

Consideration of request for special counsel regarding recall petition/election. Acting City Manager Beatty advised that the City received a protest regarding the City Councilmember Alfredo Pando recall petition. It will require a hearing to determine whether the petition is sufficient or insufficient. In accordance with Section 7.3 of the Home Rule Charter he stated that City staff respectfully requests Council to authorize retention of special counsel to provide legal guidance regarding the protest and its possible appeal. Mayor Rino asked if he had a list of attorneys to choose from. Acting City Manager Beatty answered that he has special counsel in mind, pointing out that no local attorneys would agree to provide counsel. He said he received a recommendation from the City's insurer. They recommended the law firm of Light, Kelly & Dawes whose rate is \$175 per hour. He requested Council's authorization to engage Light, Kelly & Dawes. Councilmember Bonato moved to authorize the retention of Light, Kelly & Dawes for the stated purpose. The motion was seconded by Councilmember Velasquez. Councilmember Baca Gonzalez pointed out that this law firm has been doing quite a bit of work for the City recently and asked if there is an alternate firm that CML could recommend to the City. Acting City Manager Beatty said he could explore other options. Councilmember Baca Gonzalez clarified that she is in favor of him having special counsel, but they have been doing a lot of work for the City and didn't know if maybe this was their area of expertise or if there might be another that is more up to speed on election issues. Acting City Manager Beatty answered that they are regarded by the City's insurer as experts in this field. He added that there would be other possible firms however we are on a short time frame as the hearing is scheduled for next Monday afternoon. Councilmember Baca Gonzalez suggested then that we better just move along with them then. Roll call was taken and the motion carried with all

Appointment to the Arkansas River Power Authority Board of Directors. Councilmember Bolton moved to appoint Councilmember Baca Gonzalez to the Arkansas River Power Authority Board of Directors and the motion was seconded by Councilmember Velasquez. The motion carried with all Council members voting aye and Councilmember Baca Gonzalez abstaining from the vote.

Consideration of retaining and Interim City Manager. Mayor Rino said he feels it is imperative to select an interim as Mr. Beatty is becoming bogged down in legal work and City Manager work. He said it would be wise for Council to seek someone within the community or elsewhere to serve in this capacity. He suggested at the May 22nd work session they bring names and between now and that time they contact people to see if they could serve in that capacity. Acting City Manager Beatty reminded that during their work session last week Councilmember Bolton requested he contact the Colorado Municipal League to discern whether Executive Director Sam Mamet would have any recommendations. Mr. Mamet has a number of connections with retired City Managers and County Administrators who might be willing to fulfill this role for the City. He provided a few names and Acting City Manager Beatty said he could provide those to Council with brief biographies. It would bring in someone from the outside who has substantial experience in Mr. Mamet's eyes to deal with our situation. He reiterated his offer to provide the names and biographical information. Mayor Rino agreed and reiterated that if any Council members have someone in mind they could bring those names forward for that possible one to two month interim period. Councilmember Baca Gonzalez asked if there is any contemplation of a means to obtain employee and taxpayer input. She suggested public comment during that work session. Acting City Manager Beatty and Mayor Rino both stated that that would not be a problem. Councilmember Baca Gonzalez stated her interest in the process being as open and inclusive as possible so that suggestions and concerns can be shared with City Council and Council can address them as they try to find an interim person as they go forward in finding a permanent replacement. Councilmember Bolton asked Acting City Manager Beatty if he would provide the names and brief biographies from Mr. Mamet and if they will likewise have biographies of the people who may also be suggested. Acting City Manager Beatty responded that he would provide those from Mr. Mamet. Mayor Rino responded affirmatively to the second part of Councilmember Bolton's request. Upon inquiry from Councilmember Velasquez he said they will bring the names on May 22nd. Councilmember Baca Gonzalez encouraged City Council members to get information to Acting City Manager Beatty as quickly as possible to be able to compile them in one packet. Mayor Rino suggested if they have someone in mind locally or someone else that they submit the name to Acting City Manager Beatty to include in a memo in the packets they get on Friday. Acting City Manager Beatty suggested that with this item being put on the May 22nd work session they should delay the joint work session with the County. May 29th was suggested for the joint work session.

Consideration of City Manager vacancy announcement/advertising and criteria determination. Mayor Rino pointed to the information Acting City Manager Beatty included in the packet and said if Council has any changes to it perhaps they could discuss it on May 22nd when they talk about the interim City Manager and add to the special meeting to approve the announcement. Councilmember Baca Gonzalez said she would like to have a session dedicated to identifying the characteristics of the individual they would like to employ as City Manager. She also suggested that it is critical that a part of the process should include input from the City employees and from taxpayers. It would help ensure that the selection is made in a way that everyone would feel comfortable that they had involvement, noting that they may not like the choice but at least had the opportunity to provide input, and in particular the City employees. Mayor Rino commented that he thought the advertisement included was pretty clear and was the same format used last time. Acting City Manager Beatty said it was amended slightly and merely intended as a starting point for Council's consideration. There will be other considerations as they proceed in approval of a job description. He asked Council to give consideration to their recruitment process options, including recruiting themselves as was done in the past, or they could seek an executive search firm in order to take that burden away from the City Council, pointing out that Council would ultimately make the final decision and be very involved in the process throughout. They could also consider a hybrid recruitment process whereby some of the aspects would be left in the hands of Council and other aspects would be handled by an executive search firm. Council may also consider selection procedures. Council could delegate to a committee of Council members or could involve other participants as suggested by Councilmember Baca Gonzalez. He added that Council will want to give consideration to the geographical scope of the recruitment and the venues for advertisement. He noted that in the packet he provided a list of those venues used in the last search. Also consideration will need to be given to educational background and work experience and personal attributes, as well as the City's objectives and priorities. Timing would also be a consideration and in the event Council decides to set a salary range it could be topic for discussion as well, however it would not have to be done in an open meeting. Councilmember Baca Gonzalez commented that there are a lot of topics and reiterated her interest in having only that as an agenda item to only focus on that issue and not feel rushed. Councilmember Bolton added that there is a lot to be identified. Acting City Manager Beatty confirmed that it is Council's desire to discuss this further next Tuesday. He said he'd talk to the County about an alternative date for the joint work session.

Consideration of ethics complaints. Mayor Rino asked to address Council and provided a scenario of what he thought happened. He said he thought about four years ago Council interviewed for a City Attorney. In the advertisement was nothing that stated the applicant needed to have two years of practicing law or being licensed for that time frame in the state of Colorado. He reiterated that was never part of the advertisement. There were seven members on the Council at that time recalling the members to be himself, Linda Velasquez, Jennie Garduno, Joe Reorda, Nancy Ellis, Jim Toupal and Liz Aragon. It was a 7-0 vote to give Jerod Beatty the job. Mr. Beatty picked up a copy of the Charter that day, went home and read it that night. The next day or so he was down here at City Hall to discuss it with Mayor Reorda and the present City Manager, Mr. Soltis and told them he wasn't really qualified under the conditions listed in the Charter. Mayor Rino said his understanding after visiting with Mr. Reorda was that he told Mr. Beatty with Mr. Soltis that they could appoint him as special counsel at that time, but to let it go and they would retain him as City Attorney. Mayor Rino continued that the other six members of Council were never informed by anyone of a problem. He added that he didn't know about it until the ethics complaint was submitted by Mr. Gil de Rubio to Council in writing. Councilmember Velasquez agreed that she was not aware of it either. Mayor Rino recalled Mr. Reorda testifying at the hearing that he made by decision along with Mr. Soltis. He added that if he would have known about it he probably would have agreed with them that Jerod Beatty should serve. He was the best qualified candidate at the time and probably the one that stood out the best of all of the candidates. Mayor Rino further opined that he is satisfied with Mr. Beatty and thinks he is doing an excellent job as City Attorney. He said Council may feel that the ethics violations are an error on his part as well as the other six Council members who did not

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read the Charter where it states the City Attorney needed to have two years. He reiterated that it was never in the publication and wasn't sure if anyone read it, but it was never brought to Council's attention at that time. Mayor Rino conceded that it was a mistake on his part and Councilmember Linda Velasquez's as well as the other Council members because they didn't know about it. He said he doesn't feel the error itself is a violent violation of the ethics policy; he thought it to be an oversight. Mayor Rino concluded that if the Council deems it necessary to hire an investigator to investigate this they can do so or call in the attorneys from the state or the Attorney General's office, but he thought they were wasting a lot of time with these petty ethics violations that mean nothing. Councilmember Baca Gonzalez commented that she was disappointed with the analysis provided to Council. As with past complaints they have been told that these too fail to allege facts sufficient to constitute a violation of the code of ethics. She continued that what troubles her most is the scant attention that was paid to specific requirements in our City Charter. Why do we have a City Charter if we are not going to follow it? How can we pick and choose the provisions of the Charter that we are going to follow? Obviously from the analysis provided to Council there was some investigation of the allegations conducted by counsel, there are references as having been provided by two individuals. She said that tells her if questions had to be asked of these individuals she believes there are legitimate concerns in the minds of those attorneys that the ethics complaints have merit and should be more fully investigated. For those reasons she said she cannot vote to dismiss the complaints. She underscored that she believed when they took the oath of office, abiding by the City Charter was not optional. If we do not enforce the Charter we need to get rid of it and allow Trinidad to become subject to the statewide rules and regulations that are inherent in Colorado statutory law. It is a privilege to be able to be a Home Rule Chartered City and if we are not going to abide by our City Charter we are treading on perilous grounds. Councilmember Pando asked what she recommended Council do. Councilmember Baca Gonzalez suggested the most effective thing would be to provide mandatory training to every member on City Council regarding the requirements of our City Charter. Obviously investigating something that occurred many years ago may corroborate some of the allegations. The base line is the lack of just getting how important complying with the Charter is. She added that maybe the training is really all that needs to be delivered. She thought it could be provided by Mr. Mamet or some credible individual from the Colorado Municipal League. At a minimum she said she would ask for that. Councilmember Pando said that is down the road and asked her suggestion for this situation at hand. Councilmember Baca Gonzalez reiterated her suggested to provide the training. Even if there were to be an investigation and it was determined that there was a violation, our ethics code as currently tailored provides very little if any teeth. One of the things at the end of the day provided in the ethics code is training. She suggested that they skip everything and go to the training component. She added that she didn't think it would hurt anything and would send the correct message to the community that we do taking adhering to our City Charter seriously and this is a way of modeling a commitment by this group that here and after we will abide by the City Charter requirements. Councilmember Bolton commented that she felt that to be a great suggestion. She added that when you read through the facts it was a pure comedy of errors that never should have occurred. If people were properly trained perhaps it would not occur again. Councilmember Bonato suggested Councilmember Bolton's assessment was spot on that it was a comedy of errors. He said with respect to the complaints against Mayor Rino and Councilmember Velasquez, he didn't think Councilmember Velasquez was present at the meeting and whatever happened with Mr. Beatty's appointment, Mr. Reorda said it well. He made a decision that had to be done. He reiterated that it was a comedy of errors but added that he didn't think they should go forward with these complaints right now. There is so much more important work that Council needs to establish, such as the North Lake Dam Project. Councilmember Bonato said people are fast to criticize but never to give a man a pat on the back when they need it. He complimented City staff and the employees and in particular Superintendent Jim Fernandez. He pointed out that Supt. Fernandez has spent much time and effort to get this project done. He added that he's tired of the negativity in the newspapers and suggested they start hearing the good and put their best foot forward and move forward. Forget the ethics complaints. Councilmember Bolton said she didn't know what any of that had to do with training. Councilmember Velasquez agreed that they probably all do need training. This happened four years ago and said now they should move forward with training if that's what they want. Mayor Rino told Council if they want an investigation to have one. He questioned what the punishment is for the individuals if there is a proven ethics violation. Councilmember Baca Gonzalez reiterated the need for training. Acting City Manager Beatty corrected a few misstatements made by providing his side of the events. He said he was appointed to the position of City Attorney almost four years ago. The analysis provided by Councilmember Baca Gonzalez was not provided by him but rather a third party opinion provided for City Council's benefit. That analysis concluded that the complaint failed to allege facts sufficient to constitute a violation of the code of ethics. He pointed out that they are dealing with two ethics complaints – one against Mayor Rino, Councilmember Velasquez and himself and a second one just against him exclusively. Regarding the ethics complaint involving his appointment almost four years ago, he said the sequence of events provided (by Mayor Rino) was almost correct. Acting City Manager Beatty said he graduated from law school in May of 2006 and sat for the bar that summer in July of 2006 and passed the bar. Everyone who passes the bar and meets all of the other the qualifications of the Bar Association is admitted. He was formally admitted to the bar in October, 2006. The position of City Attorney became open in mid-2008 and he made application for consideration by the City Council. Neither the job advertisement nor the job description reflected the City Charter requirement that an applicant needs to be licensed for two years in the state of Colorado. At the time of his appointment he said he was licensed for 21 months, a few months shy of the prerequisite. He continued that he left another job and accepted this position. He was hired by the Council at-large, not merely Mayor Reorda who single-handedly appointed him to the position. The vote to retain him was 7 – 0 as he understands it. After giving adequate notice at his prior position he came to work for the City. The first morning of his employment the City Clerk administered the oath of office to him and he was provided a copy of the City Charter. He said he read the Charter that evening and the very next morning he disclosed the issue to then-City Manager Soltis and then-Mayor Reorda. He said he was instructed to not worry about it; if it were challenged that they would ask the Council to appoint him as special counsel for a few months until he obtained that two-year requirement. He said he was also instructed to not go to the full Council with the issue. He said those are the facts which he never really hid from anyone and did in fact share them with Mr. Gil de Rubio some time ago. Mr. Gil de Rubio brought it up a few days before his hearing. He further stated that he respects City Council's decision however they wished to proceed. He suggested there be three votes as there were three individuals named in the complaint. The other ethics complaint challenges his current role as Acting City Manager, which he said was a designation that he did not seek, and as he recalls wasn't even really discussed with him before it was made. It was however, confirmed by the City Council and it was Mr. Gil de Rubio who made that designation. The ordinance provision recited within the complaint is irrelevant to the Charter language because it's using different language. The Charter refers to the designation of an administrative City employee, which is not the same language recited in the ordinance that is referenced. He added that the third party legal opinion of this complaint concluded that it too fails to allege facts sufficient to constitute a violation of the code of ethics. He noted that in the complaint regarding his appointment, paragraph 5 if factually incorrect as the job advertisement that is included as an exhibit to the complaint

doesn't reflect the requirement of being a licensed attorney in Colorado for two years. Mayor Rino recommended that Councilmember Baca Gonzalez get an investigator down here and waste more money from the City. In the end these are very minimal complaints. He said he's willing to go along and they can appoint whoever they want. Councilmember Baca Gonzalez said it sounds as though four motions are needed and asked Acting City Manager Beatty to assist Council in crafting the motions. Acting City Manager Beatty advised the order in which he would craft the motions and who could vote on each. Acting City Manager Beatty proposed the following motion: Concerning the ethics complaint regarding City Attorney Beatty's appointment in 2008, I move we proceed with an investigation of the complaint, or alternatively, to dismiss the complaint. Councilmember Bolton asked if as an alternate to the dismissal, they could tie in dismissal with mandatory training. Acting City Manager Beatty offered that pursuant to the Code of Ethics the choices are that the board determines that the complaint doesn't allege facts sufficient to constitute a violation, in which case the complaint shall be dismissed; or if the board determines the complaint was brought for harassment purposes, it shall so state, or provide for an ethics investigation. A motion regarding an investigation would need to state the nature and purpose and actions or activities to be investigated and the persons who are the subject of the investigation. Councilmember Baca Gonzalez asked him to craft a motion in terms of dismissal, feeling that a vote for dismissal will carry the day. Acting City Manager Beatty noted that training is always available through Colorado Municipal League or through Tami Tanoue at CIRSA. With the assistance of Acting City Manager Beatty, Councilmember Baca Gonzalez made a motion that concerning the ethics complaint regarding Jerod Beatty's appointment as City Attorney in 2008, to dismiss the complaint as it does not allege facts sufficient to constitute a violation of the Code of Ethics. The motion was seconded by Councilmember Bolton and carried with the following votes being cast:

Aye – Bolton, Bonato, Pando, Shew, Velasquez, Rino
Nay – Baca Gonzalez

Concerning the ethics complaint regarding City Attorney Jerod Beatty's appointment in 2008 and specifically regarding Mayor John Rino, Councilmember Baca Gonzalez moved (with Acting City Manager Beatty's assistance in crafting the motion) for the dismissal of the complaint as it did not allege facts sufficient to constitute a violation of the Code of Ethics. The motion was seconded by Councilmember Shew and carried with the following votes being cast:

Aye – Bolton, Bonato, Pando, Shew, Velasquez
Nay – Baca Gonzalez
Abstain – Rino

Concerning the ethics complaint regarding City Attorney Beatty Jerod Beatty's appointment in 2008 and specifically regarding Councilmember Linda Velasquez, Councilmember Pando moved (with Acting City Manager Beatty's assistance in crafting the motion) for the dismissal of the complaint as it did not allege facts sufficient to constitute a violation of the Code of Ethics. The motion was seconded by Councilmember Shew and carried with the following votes being cast:

Aye – Baca Gonzalez, Bolton, Bonato, Pando, Shew, Rino
Abstain – Velasquez

Concerning the ethics complaint regarding the City Attorney Jerod Beatty's designation as Acting City Manager in the event of the City Manager's absence, Councilmember Baca Gonzalez moved (with Acting City Manager Beatty's assistance in crafting the motion) for the dismissal of the complaint as it fails to allege facts sufficient to constitute a violation of the Code of Ethics. The motion was seconded by Councilmember Shew and carried with the following votes being cast:

Aye – Baca Gonzalez, Bolton, Bonato, Pando, Shew, Rino, Velasquez

BILLS. A motion to approve the bills as presented was made by Councilmember Shew. The motion was seconded by Councilmember Bonato. Mayor Rino inquired about the payments for asphalt from the water and gas departments for \$6,000 and \$5,000, respectively. He asked what it was for. PWD Mike Valentine answered that it was a compilation of patching utility cuts through the year. The payment is from those funds to pay the General Fund for the work. Mayor Rino asked that Council have PWD Valentine at the May 22nd work session for preview of what the City will be doing with the streets for the upcoming year. He suggested that perhaps the City could buy asphalt from the plant in the Industrial Park. It could be an option rather than operating our own plant that is in disrepair. Supt. Fernandez provided Council with an update on the Allendale water tank. He told them that the contractor will be here on Friday to start dismantling the old Allendale water tank and that it should come down in one day. Roll call was taken on the motion to approve the bills and carried unanimously.

PAYROLL, April 28, 2012 through May 11, 2012. A motion to approve the payroll was made by Councilmember Bonato and seconded by Councilmember Pando. The motion carried unanimously.

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

ATTEST:

JOHN RINO, Mayor

AUDRA GARRETT, City Clerk