

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, May 22, 2012 at 1:30 p.m. in City Council Chambers at City Hall pursuant to the following call:

CITY OF TRINIDAD
TRINIDAD, COLORADO

SPECIAL MEETING

There will be a Special Meeting of the City Council of the City of Trinidad,
Colorado, on Tuesday, May 22, 2012 at 1:30 p.m. in the Council Chambers at City Hall

The following items are on file for consideration of City Council:

- 1) New Retail Liquor Store License application filed by RJ Sales, Inc. d/b/a RJ's Discount Liquor at 2132 Freedom Road
- 2) Special events permit request (malt, vinous and spirituous) by Confederacion Mutualista Mexicana e Hispano Americana at 206 N. Animas Street for June 2, 2012 (Rocky Mountain Elk Foundation Banquet)
- 3) New Hotel and Restaurant with Optional Premises liquor license application filed by B & G, Inc. d/b/a The Clubhouse Grille at 1417 Nolan Drive

The meeting was called to order at 1:30 p.m. Roll call was taken.

There were present: Mayor Rino, presiding
Councilmembers Baca Gonzalez, Bolton, Bonato, Pando, Shew, Velasquez

Also present: Acting City Manager Beatty
City Clerk Garrett

The pledge of allegiance was recited.

Mayor Rino recognized Joan Muzzlin who signed in to speak. She addressed Council and told them that she was very upset. Ms. Muzzlin explained that she had just been alerted about the destruction taking place across the parking lot to the new trails constructed by Trout Unlimited, Purgatoire River Water Conservancy District and dozens of other organizations in town. She said she's not sure what happened or why it happened but would like to know who gave the order to start cutting down the trees. They have taken heavy equipment down on the trails and they are now destroyed. Those trails cost Pioneer \$50,000 at least to build. They were totally donated to the City. It cost at least \$65,000 if not \$90,000 for Purgatoire River Water Conservancy District to do the installation work to make it a beautiful fishery. As of last week it was a beautiful new park and they were excited to come to the City and say that it deserves a name. Ms. Muzzlin said Acting City Manager Beatty stopped the tree cutting this morning. She re-asked why the tree cutting was going on and if it was a part of the plan, why were they not told so they could wait to do their work until after the tree cutting, or do their work somewhere else if it was no longer going to be a beautiful riparian area like it was a week ago or even yesterday. She encouraged Council to go look at it. She likened it to a chainsaw crew having attacked the City's newest park, the one thing everyone was saying that was good happening in this City. In tears, Ms. Muzzlin said she personally put in hundreds of hours on the projects as did a number of other people. She added that she knows as taxpayers they put in hundreds of thousands of dollars on the Flag Project, and everyone is proud of them and it is beautiful, but they put in their own money, not their taxes, and energy to build this park for the City and this community and the City is tearing it up. Why? How and why did this happen? Councilmember Shew said he didn't know exactly what went on. Some of that project was to take out the dead trees. They were taking out some of the elms because new trees were planted. That was the reason some were taken down. If the park got damaged, he said he didn't know about it, but assured Ms. Muzzlin it wasn't done deliberately and the City was just trying to improve the area. He asked PWD Mike Valentine how many trees were planted along the riverbed. PWD Valentine estimated that 15 or more trees were planted through the highway project. Councilmember Shew added that the trees planted were native trees, such as willows. The trees taken down were to thin out the area to allow the new trees to grow and make it a better area, not to destroy it. PWD Valentine admitted that he told his department to take down the dead and dying Chinese Elm trees and they got a couple of the others and before he stopped them. The rest were dead or dying Chinese Elms, such as what is occurring all over town. Councilmember Baca Gonzalez asked about Ms. Muzzlin's statement that heavy equipment has destroyed the trail. PWD Valentine said the trail was not destroyed and they will go in and dress it up. He explained that they had to get the equipment down in the riverbed area to remove the dead trees. He reiterated that it will be repaired. Councilmember Shew apologized and reassured her that the City wants it to be a beautiful park. That was one of the reasons they were thinning out the Chinese Elm trees, to let the new native trees grow. Ms. Muzzlin asked if the trees were removed to make the flags more visible from the highway. Councilmember Shew said it was not, it was to clean up the whole area. Ms. Muzzlin asked Council to go take a look at it and if they had seen it last week would understand why she is so upset. She said she will look at it again in a week or two and hopefully will not be so upset any more. If the trails can be repaired and they limit the cutting to dead trees and infected trees she understands, but they cut live trees.

Public Hearing - New Retail Liquor Store License application filed by RJ Sales, Inc. d/b/a RJ's Discount Liquor at 2132 Freedom Road. Mayor Rino declared the public hearing open. He stated the purpose, a Retail Liquor Store License application filed by RJ Sales, Inc. d/b/a RJ's Discount Liquor at 2132 Freedom Road, Trinidad, Colorado. Mayor Rino then instructed those present on the order in which evidence and testimony would be heard as follows: Opening statements or remarks from the applicant followed by the same by the City Attorney. Mayor Rino called the applicant forward. Rianna

Rivera addressed Council and stated that she was before them to request they grant her application to open a new business. Ms. Rivera said that over the past six months she has done research that indicates there is a need for a wine & spirit shop on the northern edge of the Trinidad City limits, specifically in the location of the Big R shopping complex where the Verizon Wireless store was located before they moved into the City. Ms. Rivera said she knows this business will be an asset to the community and outlying areas. She stated the reasons for her assessment as follows: it will bring additional revenue and sales tax into the City; it will fill vacant space at the shopping center, which currently two are vacant, which reflects well on the City; it will target the outlying county areas; it will complement the existing businesses in the shopping area; hours of operation will be in line with other similar businesses; it will create jobs; it will make wine and spirits available to tourists who aren't familiar with the area; it is an opportunity to provide the community with a reasonably priced product. Ms. Rivera submitted a letter of testimony and signed petitions to the City Clerk. Acting City Manager/City Attorney Beatty said he did not have an opening statement but wished to clarify procedural matters regarding this hearing. He said Ms. Rivera has submitted exhibits that City Council may consider in this matter and the Mayor will allow Ms. Rivera to present additional evidence and testimony of witnesses. There will also be an opportunity for presentation of evidence and testimony of witnesses by any party in interest. Rebuttal evidence would then be called for and finally closing statements by the applicant, the City and any party in interest. Mayor Rino would then close the hearing and he would call for a motion and discussion. He additionally advised that an executive session may follow the hearing, and/or the authority may choose to postpone its decision on the matter. He asked on behalf of Mayor Rino that anyone who was going to testify come forward and be administered the oath and said the Mayor will reserve the right to limit testimony or questioning that was repetitive, cumulative, or argumentative and to set a limit on the duration of testimony if necessary. Also, formal rules of evidence would not be followed and the testimony and exhibits will be liberally admitted. He told those present that if they had an objection they should raise their hand and the Mayor would call upon them. He advised that the Mayor would rule on the objection and it would stand unless a council member requests a vote on that ruling, in which case admissibility of the testimony would be decided by a majority vote of Council present. He reminded that the neighborhood boundary had been set as the corporate City limits and the application packet constitutes the exhibits for this hearing in addition to any other documents offered by Ms. Rivera. Mayor Rino asked Ms. Rivera to present her evidence. Ms. Rivera advised that the letter and petitions submitted as well as her statement were her evidence. She reiterated that this will be an asset to the community and will bring in additional revenue that could be missed by people who may not want to come all the way into the City, or from those not familiar with the area. Being able to see the business from I-25 as a person is coming through is something that would be eye-catching and may draw hikers, campers, hunters, who can collect their items in a collective spot and take it to wherever they are headed. We could be possibly missing revenue because they are not familiar with the area. Mayor Rino asked that the petitions and letter be passed around to the City Council members. He asked the total number of signatures. Ms. Rivera answered that she believed to have collected 53 resident signatures and 28 signatures from businesses. Mayor Rino asked if she had any witnesses. Ms. Rivera said she just had the letter. Mayor Rino called for the City's evidence. Acting City Manager/City Attorney Beatty advised he had a few questions for Ms. Rivera. Ms. Rivera was administered the oath. Acting City Manager/City Attorney Beatty noted the application having been submitted by RJ Sales, Inc., a Colorado corporation, and asked if Ms. Rivera was a 100% owner of the same. Ms. Rivera advised that was correct. She was asked if she ever operated a liquor licensed business, to which she answered she had not. She was asked if she had any formal education or experience in the operation of any other business. Ms. Rivera answered that she works with her husband at Kelly's Towing and helps him run his business. Upon inquiry she advised she would be involved in the day-to-day operations of the business and that she does have familiarity with the state and local liquor laws. Acting City Manager/City Attorney Beatty asked her about security plans. Ms. Rivera explained that they are not allowed to install bars on the windows, but they can have a sliding metal grate/cage to slide over the windows in the evening to keep the nice appearance of the shopping center. There is also an emergency push bar in the back of the building that is key-armed to alarm if someone pushes it and is safety featured for the fire department to get in and out of easily. She said they are also planning on installing security cameras. Acting City Manager/City Attorney Beatty said that as a liquor license applicant in Colorado she has the initial burden of showing that the reasonable requirements and the desire of the adult inhabitants of the neighborhood are not being met by existing establishments. He noted that she stated she provided 53 resident signatures on the petitions and asked if those were favorable. Ms. Rivera answered that they were all in favor. Acting City Manager/City Attorney Beatty said the City Council as the local liquor authority has to determine if the grant of this license would result in an undue concentration in the City thereby increasing the need for added law enforcement resources. He asked if she felt that it would. Ms. Rivera said she did not believe so and added that there is no liquor store on the north side of town or close to where her business is proposed to be located. Acting City Manager/City Attorney Beatty asked Council to take judicial notice of the character reference letters provided. He added that the background check contains no criminal record for Ms. Rivera. Acting City Manager/City Attorney Beatty pointed out that the premises have been inspected by the Fire Chief and Building Inspector. It was reported that an ADA bathroom is required, exit lights are not working, fire extinguishers and smoke and carbon monoxide detectors need to be installed and noted her mentioning the compliance with the panic hardware on the back door. He asked if she or her landlord intend to address those matters. Ms. Rivera advised that everything with the exception of the ADA bathroom has been done already and it will be done upon approval of the license. Mayor Rino asked those present if anyone wished to speak for or against the liquor license application. There was none. Mayor Rino called for rebuttal evidence and there was none, nor were any closing arguments offered. Mayor Rino closed the hearing. Councilmember Bonato moved to approve the new Retail Liquor Store License application filed by RJ Sales, Inc. d/b/a RJ's Discount Liquor at 2132 Freedom Road. The motion was seconded by Councilmember Velasquez. Councilmember Baca Gonzalez asked if there is a church next to this location. Ms. Rivera said there is one currently, however they will be leaving at the end of the month and a fitness center is proposed to locate in that space. Councilmember Baca Gonzalez asked if there's any provision restricting the grant of a liquor license with respect to its proximity to a church, or if there is just one for schools. Acting City Manager/City Attorney Beatty and City Clerk Garrett advised that there is just the restriction as it relates to schools. Ms. Rivera reiterated that the church will be gone at the end of the month. Roll call was taken and the motion carried with all Council members voting aye except Councilmember Bolton who cast a dissenting vote. Councilmember Bolton explained that she is 200% in favor of a new business however felt that liquor licensed businesses are way over saturated in the City.

Special events permit request (malt, vinous and spirituous) by Confederacion Mutualista Mexicana e Hispano Americana at 206 N. Animas Street for June 2, 2012 (Rocky Mountain Elk Foundation Banquet). John Norad, Chapter Chair for Rocky Mountain Elk Foundation, addressed Council and explained the tardiness in the filing of the application. He explained that he initiated the process with the fire and police departments in mid-April, prior to having surgery, had surgery and was out of commission for ten days and learned thereafter that the application had not been submitted. He

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recognized that state law requires submittal 30 days in advance of the event however a provision in the law allows the local authority to grant a reprieve for hardship. Mr. Norad said this will be the 18th year for the event and it draws 200 to 250 people from Alamosa, Canon City, Pueblo, all over, and for the past five years they have averaged around 200 to 220. He continued that they try to use the La Casa club because the Rocky Mountain Elk Foundation can't be involved in liquor. They have to have a third party provide the liquor service. Over the years he has tried to find other third parties to provide that service, such as SCRT, to benefit their programs. However, he said over those years he has addressed the security. He reiterated that since he had been hospitalized the application did not get submitted in time and asked Council's favorable consideration. A motion to approve the special event permit request was made by Councilmember Shew and seconded by Councilmember Baca Gonzalez. The motion carried with all Council members voting aye, excepting Councilmember Bolton who abstained.

New Hotel and Restaurant with Optional Premises liquor license application filed by B & G, Inc. d/b/a The Clubhouse Grille at 1417 Nolan Drive. Councilmember Baca Gonzalez moved to set the application for a special meeting for a public hearing on Tuesday, June 26, 2012 at 1:30 p.m. The motion was seconded by Councilmember Bolton and carried unanimously. A motion to set the tentative neighborhood boundary as the corporate City limits was made by Councilmember Shew and Councilmember Velasquez seconded the motion. Upon roll call vote the motion carried unanimously.

Councilmember Pando moved to adjourn the meeting and the motion was seconded by Councilmember Baca Gonzalez. Mayor Rino declared the meeting adjourned upon a unanimous roll call vote.

ATTEST:

JOHN RINO, Mayor

AUDRA GARRETT, City Clerk