

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, November 20, 2012 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor  Councilmembers	Baca Gonzalez, presiding  Bolton, Bonato, Mattie, Miles, Shew, Velasquez
Also present:	Acting City Manager Interim City Attorney City Clerk	Gagliardi Downs Garrett

The pledge of allegiance was recited.

**READING OF THE MINUTES.** Special Meeting and Regular Meeting of November 7, 2012 and Special Meeting of November 15, 2012. A motion to accept the minutes as presented was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote, excepting Councilmember Velasquez who abstained from consideration of the November 15<sup>th</sup> minutes due to her absence from that meeting.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Mayor Baca Gonzalez reviewed rules of procedure with those present. Joe Reorda addressed Council regarding the Acting City Manager appointment. He said he wasn't concerned about who was appointed but rather the procedure used. He said he had previously conveyed to at least four Council Members his interest in the position and also to the Mayor at least ten minutes before their meeting. He asked Mayor Baca Gonzalez if she relayed his interest to the balance of Council, to which she responded affirmatively. He asked if he was considered. Mayor Baca Gonzalez said if his name was mentioned in executive session she can only assume that Council took his name into consideration. Mr. Reorda opined that what was done in executive session was made public and she would have the authority to convey it to him. He asked if his request had been considered. Mayor Baca Gonzalez advised Mr. Reorda that she would not be cross-examined by him. Mr. Reorda pointed to the copy of his resume he handed out prior to the meeting and said he feels that he is qualified or overly qualified, has spoken to four Council Members who said it was a good idea and they would consider him, but hasn't heard from them which tells him he wasn't considered by them. He complained about the way it was done – one day it came out in the Chronicle News that the Mayor wanted Louis Fineberg for the Acting City Manager position. A couple of days later Council went into executive session and it must have already been determined. He added that they probably didn't even discuss anybody, which he thought was bad because they are there to serve the people and not just satisfy Council's wishes. Mr. Reorda reminded that last week he talked about working together – even President Obama is thinking about appointing some Republicans to his staff to bring about cohesiveness. He said he knows they think he is from the 'old school' but he said he is not and is not connected to anybody. If you look at the record of the Councils that he served on they did a lot of things. He continued that he thinks it is time that they get an old timer in here to work with the new comers. He said he has nothing against this situation and doesn't want to stir the pot, but thinks they need some guidance from someone who knows this community. He was an educator for 40 years, was in politics, served as the Chairman of the Democratic Party, and has touched the lives of more people in the community than all of Council put together. Mr. Reorda said he thought he would be the guy for the job, but obviously Council has a different idea. He added that he didn't know if they'd reconsider this or not, and referred to his resume. He said he knows every businessman that's been in business for 50 years and has grown up with them. The first thing we need to do is work on the economic conditions of the community. The City Planner has enough jobs. Mr. Reorda said he never criticizes anyone unless he's walked in their moccasins, and he thought he walked in Council's enough having served nine years. Every week in the Chronicle News there was a letter in it to get rid of him, because he served too long, or was doing this or that, etc., and of late he's had at least 150 people say they need him back. He asked Council to reconsider this decision because there are a lot of things he'd bring to this table, including his knowledge of ARPA and North Lake, ARPA being one of the biggest debacle that he takes responsibility for than anything he did during his administration. It breaks his heart, especially this time of year, to worry about those poor people who are afraid for winter to come because of their electricity costs. Mr. Reorda reiterated his request to look at his resume and reconsider – if they want him fine, and if they don't he said he would still support Council.

Ted Martinez addressed Council regarding Ed Gil de Rubio and some documentation Council required. He said most of this information is available on Google. In Sullivan County he read Mr. Gil de Rubio had been sued by the Federal government for \$1.2 million for some type of deal he had with a nursing home. Apparently it was agreed to be repaid. Mr. Martinez referenced another report from New Hampshire, reading "Once again official on leave from one town is finalist for post in another." "Mr. Weatherman's placed Town Administrator Edward Gil de Rubio on paid leave as of May 21<sup>st</sup>." Mr. Martinez said he thought that to be the third time he was placed on leave and that same day turned up as a finalist for the town of Medway. "The reasons surrounding Gil de Rubio's paid leave are murky." Mr. Martinez said the Boston Globe quoted a Councilman from Sullivan County "Mr. Gil de Rubio appears to play nice for about three or four years and then he leaves with a pocket full of money." He read another excerpt dated December 4, 2007, "After he got rehired he wound up suing the City for \$47,272." Mr. Martinez concluded that to be about all he had and said he hoped this is the last we hear of this guy. He's been divisive, pitting neighbor against neighbor and friend against friend. Enough is enough; it's time to move on.

Mayor Baca Gonzalez commented that she wished to make it 100% clear that this Council did not select any of the three finalists for the City Manager position, including Ed Gil de Rubio. They are conducting a new search. Ron Miller who assisted previously will assist Council to help them find someone every bit as qualified or exceeding those of Mr. Gil de Rubio. This matter is over and done and to quote Councilmember Bolton's earlier sentiment, the ship has sailed.

**REPORT BY CITY MANAGER.** Land acquisition. Acting City Manager Gagliardi told Council that regarding a land acquisition matter, it is looking attractive and the appraisal has come in. They are waiting for the owner to have a deed transfer done prior to the actual paperwork to be signed by the owner and the City. Mayor Baca Gonzalez said the matter

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seems to be appropriate for a special meeting next Tuesday for executive session regarding the possible acquisition of property.

**North Lake Dam Rehabilitation Project Update.** Utilities Supt. Fernandez addressed Council and referenced the e-mail from the City's engineer for the project, Mike Graber. Mr. Graber in the e-mail itemizes the work completed by Sun Construction. Supt. Fernandez reviewed the list – the old spillway has been demolished, backfilled and riprap placed on the upstream slope where the old spillway intake structure was located; the new access road below the dam is approximately 80% complete; Supt. Fernandez advised that grouting of the abandoned upper level 15" intake pipe was complete today, inside the tower and underwater (there were divers on scene with much of the work being underwater). He said that basically completes the work done by Sun Construction in this first phase and reminded that the project was divided into two phases. With Phase 1 complete, Phase 2 will commence after the spring time since it is very weather sensitive. Mayor Baca Gonzalez asked with Phase 1 complete what approximate percentage of the entire project is complete. Supt. Fernandez said that the contractor is required to give an updated schedule of what is done and everything that remains to be done. Supt. Fernandez estimated the project to be between 25 to 30% complete. Mayor Baca Gonzalez pointed to Mr. Graber's e-mail whereby he indicates the project will be shut down on November 21<sup>st</sup> and not resumed until spring. There will be activity during that time line in the form of product and procedure submittals from the contractor with review and approval by the City's engineer, RJH Consultants. When Phase 2 starts up next spring the contractor will be able to focus on the construction process and not have schedule delays (for preparation of these required items). She surmised that during this gap between Phase 1 and Phase 2 work will continue in terms of product and procedure submittals. Supt. Fernandez confirmed that to be accurate to be done in the winter months. Mayor Baca Gonzalez asked if he knew an approximate start time for Phase 2, realizing it depends on overnight temperatures. Supt. Fernandez said their saying spring time, which means probably April. Mayor Baca Gonzalez extended appreciation to Supt. Fernandez and Mike Graber for taking steps to keep City Council and the public informed about the project and said she trusted Supt. Fernandez will come back to report on the submittals. Councilmember Miles noted the false start the project had prior to Mr. Graber coming on, and asked Supt. Fernandez if Mr. Graber has met his goals. Supt. Fernandez said he has and the City is very pleased with Mr. Graber's work efforts. He added that we were off to a slow start but since Mr. Graber has been on board there has been a tremendous transition. He told Council that Mr. Graber really has the interests of the City of Trinidad at heart. Councilmember Miles asked if the political issues between the County and the State have been resolved. Supt. Fernandez answered that the meeting between the dam inspector and county inspector seemed to have resolved those issues.

**Safety Awareness.** Supt. Fernandez reported to Council that being included in customers' utility bills is some information from the City. The City is obligated under a federal regulation to create a public awareness plan. The information contains general data to raise public awareness about natural gas, such as leaks, safety procedures, emergency phone numbers, etc. Supt. Fernandez said there is more work to be done, this is just part of it, and credited his assistant, Linda Vigil, for creating the utility bill stuffer and working with the federal regulators to get it accomplished. Mayor Baca Gonzalez said she got to sit in on a meeting with Gas Foreman Steve Curro and Linda Vigil where these issues were discussed. It appears the PUC and Colorado have a change in regulations but there is more of an emphasis now on communicating information to the community, for example, the location of gas pipelines near hospitals and schools. Developing possible evacuation plans was another area. She said what is being sent out is an important component and there is a definite need to get that information out to our community, particularly the hospital, schools, nursing home, etc. We will be working further on it.

**REPORT BY CITY ATTORNEY.** Interim City Attorney Downs advised that his report would concern those ensuing items on the agenda and he therefore waited to address Council until those items were being considered.

Joseph Reorda recognized Utilities Superintendent Jim Fernandez who was celebrating his birthday today.

**COMMITTEE REPORTS.** None, however Mayor Baca Gonzalez advised Council that they will implement a practice of cyclical presentations of report from boards and committees of the City in the future.

**UNFINISHED BUSINESS.** Resolution scheduling a hearing date on the renewal application filed by Mantelli Partnership d/b/a Mantelli's at 137 W. Main Street. Interim City Attorney Downs advised Council that the resolution sets the hearing date for January 15, 2013, and Robert Land, Newnam Land, LLP, is ready to go forward as prosecutor. He pointed to the internal Police Department memorandum from Detective Sgt. Phil Martin outlining allegations. He told Council that he would like to have an executive session so they could discuss issues that are likely to arise. If it is everyone's intent to go forward on conducting a hearing, there are a number of things to talk about. He asked Council's consideration in holding an executive session next Tuesday. He added that the next two items on the agenda which are liquor license renewals he would likewise like to discuss in an executive session next Tuesday. He thought Councilmember Miles had been gone when he discussed conflict of interest. Councilmember Miles said she was very interested in the answer. Interim City Attorney Downs said that he conferred with Tami Tanoue from CIRSA concerning conflict of interest. She advised that a Council member would not automatically have a conflict of interest if that Council member has a liquor license, even if it is the same type of license possessed. As long as you are able to represent to the other City Council Members and the community that you can make a decision independently and based on the facts of the case applied to the law, there is no conflict of interest. He clarified that Councilmember Velasquez would however have a conflict in considering her own liquor license. He added that when Council conducts the executive session Councilmember Velasquez would not be able to participate in that part of the discussion or deliberation on Gino's Sports Bar's renewal. She would have no conflict with the other licenses otherwise – no conflict with Mantelli's even though they hold the same type of license. Councilmember Miles surmised that it is not necessary to recuse if they hold a license, however within the same category it might be a little tougher. She added that if it were Main Street Liquor coming up she might feel uncomfortable and that her understanding is if they are not comfortable they don't have to participate. Mayor Baca Gonzalez agreed that if Councilmember Velasquez felt uncomfortable she could recuse herself. Interim City Attorney Downs pointed out that if it is clearly a competing business, for instance one of the same class directly across the street, there might be a fine line and if that Council member didn't raise the conflict the other members of Council may have to. Councilmember Shew asked if they are supposed to vote on the next two items tonight or after the executive session next week. Interim City Attorney Downs said it is his recommendation that items 7a and 7b, the Gino's Sports Bar renewal and Park Café renewal, respectively, be tabled. After the executive session they can decide if they wish to hold a hearing. He further explained that

at renewal Council can consider allegations of violations against the liquor licenses. Councilmember Miles said it sounds as though they will be considering development of consistent standards. Chris Velasquez, Gino's Sports Bar, LLC, asked Mr. Downs why Council has to table their liquor license. Interim City Attorney Downs explained that he is asking Council to table the items in order to have an executive session. Mr. Velasquez asked what Mantelli's had to do with Gino's. He asked if they had a violation. Interim City Attorney Downs answered that there are a couple of violations that have arisen in the last year that have been acted on by Liquor Enforcement. Mr. Velasquez said it was a state issue, serving an underage person, and they paid a fine. Interim City Attorney Downs explained that the local liquor licensing authority has concurrent jurisdiction. Council has considered a licensee's track record previously at the time of renewal which is appropriate to do at that time. Mr. Velasquez asked what the second violation was. Interim City Attorney Downs said one is for serving an underage person and he couldn't recall the second. Mayor Baca Gonzalez advised that they would not get into the merits of it tonight but would try to answer his questions. Interim City Attorney Downs said there were actually four entries from the police report, which read - March 4, 2012, Vice/Gambling and March 14, 2012, Liquor violation. Mr. Velasquez pointed out that there hasn't been gambling since they shut them down in 2011. Interim City Attorney Downs stated that the other two entries were disturbance in progress on August 4, 2012 and a report of harassment on September 28, 2012. Mr. Velasquez reiterated that there hasn't been any gambling since they shut them down in July, 2011. Interim City Attorney Downs said no one is saying there has been but when allegations come up on a liquor license it is a consideration of this board to consider at license renewal. The executive session will allow Council to think about what they are going to do with each of these licenses and if it is necessary to have a full-blown hearing for any of them. Mayor Baca Gonzalez added that her understanding is at the executive session Interim City Attorney Downs will go over case law applicable to local liquor licensing and giving Council options that are available. Interim City Attorney Downs confirmed that to be correct and said he will ask City Council to consider if the violations are proven what Council would want to do on those liquor licenses. He said Council may opt to not hold a hearing and go through that expense but rather enter into a letter agreement as has been done in the past and try to get stipulations and/or punitive sanctions agreed upon. Mayor Baca Gonzalez surmised the options are anywhere from a letter stipulation agreement with a monetary penalty to possibly losing the license. Interim City Attorney Downs agreed and suggested another option could be a suspension. He reiterated that although Gino's was subjected to that by the State it is still appropriate for the local licensing authority to consider alleged violations on any establishment. Mayor Baca Gonzalez confirmed that the local liquor licensing authority has its own independent ability whether the State acts on a license or not - there's no race judicata or estoppel. Interim City Attorney Downs added that Council would be derelict in its duties if they did not consider this kind of thing during liquor license renewals. Councilmember Mattie asked if the purpose of the executive session is to have this discussion and if Council tables action on the license renewals tonight if it interrupts the licensee's ability to conduct business. Interim City Attorney Downs said it is the purpose of the executive session and the licensee's ability to operate would not be hampered. Mayor Baca Gonzalez confirmed with Interim City Attorney Downs that it would be best for Council to adopt the resolution to schedule the hearing date for Mantelli's Partnership. Councilmember Miles told Interim City Attorney Downs that she finds it difficult to go through the information provided. The prior information was much easier to read. She said it can be indecipherable simply terming something as a liquor violation and asked him to speak with someone at liquor enforcement to get more information on the liquor violations. Interim City Attorney Downs said he would and explained that liquor violation as a description can be a violation of law or of the liquor code. Councilmember Miles said she also couldn't tell from the police reports who made the calls when there were calls for disturbances and it is important to know if the licensee is making a good faith effort or if they are ignoring them. Additional discussion was had concerning licensees calling in disturbances. Councilmember Miles spoke of the importance of consistent standards. Mayor Baca Gonzalez elaborated that they are dealing with livelihoods of businesses and while it is expected that they will be responsible and law abiding, there will be mistakes from time to time. It is wise that they have the executive session so they explore the range of options so they are fair and consistent with everyone. Interim City Attorney Downs advised that he would be providing Council with information. A motion to approve the resolution setting the hearing date on the renewal application of Mantelli's for January 15, 2013 was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote.

RESOLUTION NO. 1402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO,  
SCHEDULING A HEARING DATE ON THE RENEWAL APPLICATION FILED BY  
MANTELLI PARTNERSHIP D/B/A MANTELLI'S AT 137 W. MAIN STREET

**MISCELLANEOUS BUSINESS.** Tavern liquor license renewal request by Gino's Sports Bar, LLC at 991 E. Main Street. Mayor Baca Gonzalez pointed out that the license expires January 2, 2013. Interim City Attorney Downs recommended that discussion of this license be included in the executive session next Tuesday. However, he asked that the discussions be in the following order for executive session: Mantelli's, Park Café and Gino's Sports Bar last so Councilmember Velasquez can be involved in the discussion of the first two and excuse herself for discussion of the Gino's Sports Bar license. Councilmember Bolton made a motion to table the tavern liquor license renewal request to the December 4, 2012 meeting. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote. Mayor Baca Gonzalez advised that the license is still operative and they can continue to transact business.

Tavern liquor license renewal request by Robert Leonetti d/b/a Park Café at 608 Arizona Avenue. Mayor Baca Gonzalez pointed out that this license expires January 2, 2013. Interim City Attorney Downs again recommended this item be tabled. Councilmember Mattie moved to table this item until December 4, 2012 and Councilmember Miles seconded the motion. The motion carried by a unanimous roll call vote of Council members present. Mayor Baca Gonzalez told Mr. Leonetti that tonight's action will not impact his ability to continue transacting business. Councilmember Miles asked Interim City Attorney Downs to get further background information on violations from Liquor Enforcement.

Letter agreement with Newnam Land, LLP, for legal service as prosecutor for the liquor license renewal hearing for Mantelli's. Mayor Baca Gonzalez advised that this agreement presumes Council's decision to go to hearing. Interim City Attorney Downs told Council that Robert Land is will to serve as prosecutor for the liquor license allegations of Mantelli's and is available for the hearing on January 15, 2013. He sought City Council's approval of the letter agreement so they may go forward with a hearing if that is what Council elects to do. Mayor Baca Gonzalez noted that this agreement contains reasonable language and is substantially similar to that agreed upon previously for another matter. Councilmember Miles

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moved to accept the letter agreement and Councilmember Shew seconded the motion. Councilmember Bolton pointed out that the date contained within the letter identifying the hearing date needs to be corrected from December 29, 2012 to January 15, 2013. Roll call was taken on the motion and carried unanimously.

First reading of an ordinance of the City of Trinidad, Colorado, amending select subsections of Section 14-114 ("Amendments to the Official Zoning Map") of Chapter 14 ("Planning and Zoning"), Article 4 ("Zoning Ordinance"), Division 16 ("Amendments"), of the Code of the City of Trinidad, Colorado, for the purpose of modifying posting requirements of properties proposed for zoning amendments, and setting a hearing date for consideration of said ordinance. Assistant City Planner Karen Wolf addressed Council and read aloud the existing language contained in the code and the proposed language, the changes being that the Planning Department rather than the Planning Commission will furnish a sign for posting and rather than signs being placed at 500 foot intervals along the frontage it will read that the signs shall be posted on the property in two conspicuous locations, one of which shall be posted along the property frontage. The ordinance was introduced by Councilmember Bolton 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 4, 2012 was made by Councilmember Shew. The motion was seconded by Councilmember Bolton and carried unanimously upon roll call vote.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, AMENDING SELECT SUBSECTIONS OF SECTION 14-114 ("AMENDMENTS TO THE OFFICIAL ZONING MAP") OF CHAPTER 14 ("PLANNING AND ZONING"), ARTICLE 4 ("ZONING ORDINANCE"), DIVISION 16 ("AMENDMENTS"), OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSE OF MODIFYING POSTING REQUIREMENTS OF PROPERTIES PROPOSED FOR ZONING AMENDMENTS

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Authorize Mayor Baca Gonzalez's execution of a letter of support for a grant application to the Colorado Health Foundation for Promoting a Healthy Communities Grant. A motion to authorize the execution of the letter of support by the Mayor as requested was made by Councilmember Shew. Councilmember Mattie seconded the motion. Roll call was taken on the motion and carried unanimously. Asst. Planner Karen Wolf advised Council that CWC Manager Tara Marshall has been helping the Trinidad Community Foundation with this application.

Authorize Mayor Baca Gonzalez's execution of a letter of support for a grant application to the Department of Local Affairs for funding to complete the brick street restoration proximate to the Las Animas County Courthouse. A motion to authorize the Mayor's execution of the letter was made by Councilmember Bolton and seconded by Councilmember Velasquez. Councilmember Mattie told Ms. Wolf that the count tally mechanism will be arriving tomorrow. They will do a full week's count starting Monday of people who use the courthouse building. Ms. Wolf explained to Council that they are conducting a count to illustrate the impact and importance of the streets based on how many people use the courthouse. Councilmember Mattie commented that the County is buying them clickers to assist with the count. Ms. Wolf said they are still figuring out this grant and it will evolve over time if the City gets the money. They are trying to determine which intersections and/or streets in between the intersections will be best ones based on funding and cost. Ms. Wolf credited other staff members for their efforts with the application, including former Finance Director Rose Blatnik, Supt. Jim Fernandez, PWD Jeff Hill, and engineering staff Jeni Jackson and Brad Mincic. She reminded that a lot of work goes into a grant and it is not possible without everyone. This project will be in phases and will take an extended length of time to address the entire perimeter of the courthouse. Roll call was taken and the motion carried unanimously.

**BILLS.** Councilmember Bolton pointed out on page 3 of the bills travel expense reimbursements to two of the three City Manager finalists and questioned why there were none to the third and the amount paid to one of them. Mayor Baca Gonzalez answered that Eric Strahl traveled from Michigan and wasn't sure of the expense details but said it could be obtained. City Clerk Garrett advised that she hasn't received a request for travel reimbursement from Mr. Van Wormer and noted that he had asked for his interview late enough in the day to not require overnight accommodations. Councilmember Miles asked if that was the complete amount for Ed Gil de Rubio. Mayor Baca Gonzalez said much his arrangements were paid for directly by the City using a credit card. City Clerk Garrett added that Mr. Strahl chose to make his own travel arrangements and the payment represents a reimbursement for all of it. Mr. Gil de Rubio's payment would only be a partial payment for travel because the City paid for his travel arrangements. A motion to approve payment of the bills as presented was made by Councilmember Shew. The motion was seconded by Councilmember Bolton. Mayor Baca Gonzalez asked to be allowed to abstain from voting on check #41617 in the amount of \$182.04 payable to her for ARPA travel expense reimbursement whereby Councilmember Miles also traveled with her to the meeting. Roll call was taken on the motion to approve the bills and it carried unanimously excepting the abstention of Mayor Baca Gonzalez on check #41617.

**PAYROLL,** October 27, 2012 through November 9, 2012 & November 10 through 23, 2012. A motion to approve the payroll was made by Councilmember Mattie and seconded by Councilmember Bonato. 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 Velasquez and seconded by Councilmember Bonato. The meeting was adjourned by unanimous voice vote of Council at 8:10 p.m.

ATTEST:

BERNADETTE BACA GONZALEZ,  
Mayor

AUDRA GARRETT, City Clerk