

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, February 19, 2013 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor Pro-Tem	Shew, presiding
	Councilmembers	Bolton, Bonato, Mattie, Miles, Velasquez
Also present:	Acting City Manager	Fineberg
	City Attorney	Downs
	City Clerk	Garrett
Absent:	City Manager	Acre
	Mayor	Baca Gonzalez

The pledge of allegiance was recited.

**APPROVAL OF THE MINUTES.** Special Meeting of February 5, 2013, Regular Meeting of February 5, 2013 & Special Meeting of February 8, 2013. A motion to approve the minutes as presented was made by Councilmember Bolton and seconded by Councilmember Miles. The motion carried by a unanimous roll call vote.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Mt. San Rafael Hospital. Karl Gabrielson, Mt. San Rafael Hospital/Trinidad Area Health Association Board of Directors, addressed Council. He thanked Council for the opportunity to address them and provide information and perspective about several recently raised issues concerning the hospital. He said they have been criticized in the press recently and at Council's work session. He addressed the County Commissioners today where they received criticism again in the press for not addressing issues specifically. He said he'd be happy to address issues and answer any questions Council had tonight or at any time in the future. Mr. Gabrielson told Councilmember Miles that she made a statement at the retreat that people are angered by recent reports of the hospital having huge deficits, bloated salaries and questioned where the hospital was getting all the money to pay for judgments against it in several recent lawsuits. Mr. Gabrielson said the hospital did run a deficit last year and had realized losses for the previous three years. Over those three years the hospital provided about \$7.5 million in charity care. They also had over \$22 million in write-offs, including bad debts, discounted care and charity care, over that same three-year period. He clarified that charity care is providing health care to those in the community who can't afford to pay for it but still need their help. Last year alone he said the hospital incurred \$2,744,634 in charity care and \$8,166,532 in write-offs, all without any tax support – not one dime from the City or County. Mr. Gabrielson continued that in their 124 years of service to this community the hospital has not received one dollar in tax support. Mt. San Rafael Hospital is one of two hospitals out of 46 critical access hospitals in Colorado that does not have tax support. Regarding the statement about bloated salaries, Mr. Gabrielson said physicians are well paid. Councilmember Miles corrected that she never made a statement about bloated salaries. She reported that allegations were made and added that she did not say that she believed them. Councilmember Miles said she knows there is one side of the story, there's the other side of the story and then there's the truth. She said that's a motto she has lived by for years. She asked that he please not attribute those allegations to her. She reported that they existed and that people are angry – both are true. She also said that the hospital is in a difficult financial situation, in large part because of what Mr. Gabrielson just talked about. Councilmember Miles said she is concerned about the sustainability of this hospital and if you look at the financial statements she questioned where the money is coming from. Is it existing reserve, cash balances, debt financing? Mr. Gabrielson answered that it is from existing reserves. Councilmember Miles noted that cash balances had gone down substantially in 2011. She said she hasn't seen 2012 but would love to see it when it is available. She urged transparency. There's a combination of an institution that is critical to this community and it influences a large part of our economic development and attracting retired people here. There also are people who are making very specific allegations. She reiterated her urge of transparency. She said she thinks it is important and is of concern to the citizens. She reiterated that she never made those allegations; rather she said that she heard them. When people come to her store and she has to listen to them, she can't sort it out. She expressed her appreciation for their presence, repeated that she did not say she believed the allegations, but feels that allegations made in a public forum need to be responded to. Mr. Gabrielson said they agree 100% on transparency. Seven years ago under similar allegations the Trinidad Area Health Association opened their meetings to the public. They are a private, non-profit – not a public entity – who opened up their meetings for that sole reason. Five years ago the Board came to City Council and offered an appointed position to Council as a representative. In the five years, none of the City Councils have asked their representative one question or asked him to come before Council and address any issues. Mr. Gabrielson said he can't count the number of times he approached current and past mayors and the past four City Managers the City has had in the last year alone to ask if the City had any questions they could come and address. He said he is passionate about health care and would come before them any day and talk until he is blue in the face when it comes to health care. All they need to know is what the City needs them to talk about, what questions the City has. Councilmember Miles asked about the hospital's sustainability. Mr. Gabrielson said five weeks ago the hospital held a public meeting that Council was notified of and invited to as well as the Las Animas County Commissioners. Only one person from either entity showed up. That meeting was specifically to address sustainability – the hospital's model. The model is broken. There are more federal mandates coming down that will require them to provide more charity care and things of that nature. He said while they understand that, when you put that on top of a local economic cycle it is difficult. Pioneer Natural Resources announced more layoffs today and every week we see another business is closing or is struggling and having to do away with benefits. That's why over the past five years their charity care cases have gone up over 87% and that's why their model is unsustainable. Local economic cycles are putting the hospital in a very difficult position. Councilmember Miles told Mr. Gabrielson that she understands and knows they are looking for support and taxpayer support, but all she is saying is that taxpayers are not happy. She stressed that she is not saying she is not happy or making these allegations. Jenny Vincent is making the allegations and she said she realizes there are elements of disgruntled employees in these situations. She said that her comment at the retreat was that it would be difficult to raise taxes when there's so much suspicion in the community. She added that there were other allegations beyond finances. Mr. Gabrielson told Council the Board values their input and that was why there were present this

evening. He asked that Council let them know what they need to do. If Council has a question, ask, and the Board will answer. Councilmember Miles said this is an invitation to respond to the allegations. She added that she is not putting him on the hot seat and didn't at the retreat; however he was putting her on the hot seat this evening. She said if there's a good answer here, a good explanation, a good plan, let's fix it, let's do it. Mr. Gabrielson said they will come forward with a plan. There's a real simple plan – the hospital is a non-profit and the City gives out money to non-profits every year. The hospital has never asked and the City has never given them anything. The hospital is operating at a deficit. Should we sit down and have a discussion? Councilmember Miles said they are asking for money from the taxpayers and all she said was maybe some of the suspicions should be addressed because it would make it a lot easier to get taxpayer support. Mr. Gabrielson asked what suspicions and how they want the Board to address them. Councilmember Miles answered that Council was given a packet of public information. She added that she's not saying she believes it and added that she is not an enemy of the hospital but is just urging non-silence about some of the things that were said to City Council. Mayor Pro-Tem Shew asked Mr. Gabrielson if the Hospital Board could address Council at a future work session and bring back information. He added that he didn't know that Council had a representative on the Board. Mr. Gabrielson said Victor Becco was appointed by City Council to the Board five years ago. Mayor Pro-Tem Shew asked if Mr. Becco has ever reported to Council. Mr. Becco, who was in the audience, answered that he has never been asked to report. Mayor Pro-Tem Shew suggested he should have reported back to Council. Mr. Becco said at that time Council thought the Board was doing a good job. The Board had a period of turmoil and it was taken care of. He said basically there was never really anything to report other than that they were trying to provide the best services possible in the way of health care to our community. Mayor Pro-Tem Shew reiterated his sentiment that he should have reported back to Council as Council's appointee. Whether it is good or bad information that is reported, it is important to Council and that's how communication gets lost. He asked that Mr. Becco and Mr. Gabrielson come back and report to Council at a work session. He concluded that they are not against the hospital and he personally thinks it is a great place. When people come to Council members and they don't know the facts, if they are given those facts Council can sort them out. Council has no control over what the papers print and they took the information from the people who addressed Council. If the City had the money he said they would take care of it because it is important to have the hospital. Mr. Gabrielson said he was addressing specific comments made by Council at these meetings. Councilmember Miles stated that the Times Independent had an accurate characterization of her comments. Those accusations did not come from her nor did she say she believed them. She implied these are issues for the hospital to deal with if taxes are going to be discussed to be raised. Councilmember Bolton asked if the City's appointment of Mr. Becco was an open-ended appointment with no term limit. Mr. Gabrielson answered that board members serve four-year terms with an eight-year term limit. The agreement at the time was that Council provide two names and the Board chose one of the two. Councilmember Bolton asked how long Mr. Becco has remaining on his term. Mr. Becco answered that he has been on for seven years so he only has one year left. Councilmember Bonato clarified a point and disagreed with a statement made by Mr. Gabrielson about the hospital never coming to the City for assistance. He said he remembered in 2000 the Hospital Board came to the City regarding its utilities, however the City couldn't get involved with that because of ownership issues, he thought. He added that to every problem there is a solution. If some people have to give they have to. Both sides have to agree. He said Mr. Gabrielson's voice and the way he presented himself seemed aggrieved. We need our hospital, he said, and reiterated that to every problem there is a solution. We all have to work together and we all have to bend and come together. He concluded that the way Mr. Gabrielson addressed himself tonight bothered him. Mr. Gabrielson rebutted that City Council's actions of late have bothered him. There is a fantastic hospital board who has been working a tremendous number of hours to try to help this out. He questioned what they are supposed to do – he has gone to City Councils and City Managers time and time again and offered to answer questions or address issues at public meetings. Councilmember Miles pointed out that she has been on City Council for three months, she is concerned about the hospital and its importance to this community and that he is reading more into her comments than what is there. She said the board needs to get their story out. Maybe they haven't felt the need before, but what happened at the last Council meeting prompted it. She encouraged a response and an open dialogue because that's what will help them with the taxpayers. Mayor Pro-Tem Shew recalled that over the years that he had been on Council, the hospital would have a manager come to Council meetings and give a report. He said that was a good deal however it hasn't happened for a while. He suggested maybe they could work on doing that again. Mr. Gabrielson responded that over the last three months no less than eight times he has asked to do specifically that. Councilmember Bolton commented that it's time to open that dialogue. Mayor Pro-Tem Shew added that the City wants to work together and would like to have them come back.

Larry Carnes addressed Council. He said he has a passion for this community and really three passions – faith, education and health care. They drive everything he does. Mr. Carnes said he believes in transparency and openness. In 2007 he said he went to work to help establish a Health Care District because he believed the community needed to come together to work with those that need help. On the scale of health conditions, Huerfano and Las Animas County are way down there and there's a lot of room for improvement in this community. The Health Care District was created with the help of \$10,000 that the hospital gave to the effort to gather information and to build consensus amongst the community to create the district. It went to the ballot. Because of TABOR when you create a district you have to separate the creation of the district from the funding of it. The voters voted it (the funding) down even though the needs assessment illustrated the need for better health care. City Council passed a resolution supporting the Health Care District. Mr. Carnes said we are in the same place now as we were then. A recent needs assessment showed a lot of the problems we had then are the same as those we have today. We have a difficult time keeping physicians. So does many of the other rural counties because the demand is exceeding the supply of practitioners. We need to create more practitioners because headhunters are buying and selling doctors like stockbrokers buy and sell stocks. It's all to the highest bidder. They will come here, fulfill their contract and go somewhere else. He added that health care, education, law enforcement, parks and recreation, schools, etc., are the pillars of economic development. He suggested Council may want to look at the Health Care District as a venue to channel money to the hospital since the district still exists. Mr. Carnes said he will have served four years on the Health Board as of this April. Because of the demands of the School District he said he is not sure he will be able to continue to do both. He said the School District has had difficulty with funding and has been struggling, however they are maintaining operations within their budget this year and if he can help it will continue to do so. Mr. Carnes said we need to work together and have a positive dialogue. He said he has been chewed out by two mayors when he was involved in difficult decisions regarding the hospital. He responded to one of the mayors by pointing out that there have been times that the mayor had been called to make difficult decisions and a lot of times people didn't understand those decisions, but he knew in his heart the decision made was the right and only decision he could have made. He said he challenged that mayor that before he pass judgment he keep in mind the kinds of things you have to channel and make decisions about. He said the recent decisions at the hospital were management decisions that were made in an informed way. They were decisions of the decision-makers that it is the best thing to do given all of the circumstances. He asked Council to be open to a positive

dialogue and give them an opportunity to work together to build this community up and to not tear each other down. Mr. Carnes closed by saying that he respects all of Council, having watched them through the years. He said he is new here still but is trying to make a difference and every opportunity he has to do that he will take it. A challenge doesn't bother him. Councilmember Miles commented that no one is taking sides, but there are people in the community that are concerned. Mr. Carnes responded that he understands and knows those people are Council's constituents and Council has to listen to them all. He reiterated that he believed the decisions at the hospital had to be done given the circumstances. Clearly the bottom line is driving those decisions.

Mike Tranter addressed Council. He said he is the newest member of the Hospital Board and the newly appointed Secretary/Treasurer of the Board. He said he had a personal agenda for joining the Hospital Board as a payback for the services this hospital offered his father in the last seven months of his life. Mr. Tranter said he can't tell them the amount of respect he developed for the doctors, nurses, and administration during that time. He added that in another situation he personally received life-saving care and life-style change advice from the hospital. Mr. Tranter encouraged Council and especially the community to entertain an open and constructive dialogue. He said he thinks the hospital is very good but can be improved. He doesn't want to see this community continue with types of comments that encourage people to go outside the community for their health care. We need to work together to make the hospital the best it can be. Mr. Tranter added that he is still learning about the hospital, but knows that the current CEO is making some very difficult decisions that need to be made that are directly tied to the hospital's sustainability. The Hospital Board supports his actions and what he is doing. The CEO is coming under fire but Mr. Tranter said he feels much of it is misdirected and misplaced. The Hospital Board probably needs to get that word out a little more proactively.

Mayor Pro-Tem Shew extended appreciation to those who attended. He pointed out that everyone who addresses Council gets a chance to speak. Most of the information that comes is from the public. Council is for the hospital and we need it to make this community a better community. He added that Council supports the hospital 100% they just want the information and dialogue from the Hospital Board. He asked that they please come back to a work session so Council can see what they can do to help each other. The best information Council can get is the factual information.

**REPORT BY CITY MANAGER.** Governor's Cabinet Visit. Acting City Manager Fineberg deferred to Tara Marshall to update Council regarding the status of the Governor's Cabinet visit. Ms. Marshall advised Council that she received word that the City was chosen for a Governor's Cabinet visit. It will be from June 10<sup>th</sup> through June 12<sup>th</sup>, however at this point she said she did not know what Trinidad's time frame will be. The time will be shared with Lamar and Salida. Ms. Marshall said they will be working with Action 22 on the details of the visit and Trinidad will be requesting an overnight visit. She concluded that as soon as she gets an agenda she would let Council know and encouraged their attendance.

**REPORT BY CITY ATTORNEY.** City Attorney Downs deferred comment until Council's consideration of forthcoming agenda items. He had nothing to report.

**COMMITTEE REPORTS.** None.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** 3.2% Beer Retail License (Off-Premises) renewal request by Walmart Stores, Inc. d/b/a Walmart #962 at 2921 Toupal Drive. Mayor Pro-Tem Shew called upon a representative, however none was present. City Clerk Garrett advised that the Manager was specifically asked to attend. A motion to table consideration of the renewal until the next regular meeting so a representative will be present was made by Councilmember Bolton and seconded by Councilmember Bonato. The motion carried unanimously.

Tastings permit renewal request by Opera House Wine & Spirits, LLC d/b/a Tire Shop Wine & Spirits at 601 W. Main Street. Michelle Miles addressed Council and advised that tastings have been popular and have been going well. A motion to approve the tastings permit was made by Councilmember Velasquez. The motion was seconded by Councilmember Bolton. The motion carried unanimously excepting Councilmember Miles who abstained.

Special event permit request by Trinidad State Junior College Educational Foundation, Scott Gymnasium, 600 Prospect Street, for March 9, 2013. Karl Gabrielson presented himself on behalf of the request. Upon inquiry he advised that this is the annual fundraiser for the Foundation. A motion to approve the permit was made by Councilmember Bolton and seconded by Councilmember Velasquez. Upon roll call vote, the motion carried unanimously.

Retail liquor store license renewal request by Luis A. Lopez II d/b/a Santa Fe Trail Hops & Vines at 1530 Santa Fe Trail Drive. Luis Lopez addressed Council to answer any questions. A motion to approve the license renewal was made by Councilmember Miles and it was seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote.

Consent and confirmation of City Manager Acre's designation of an Acting City Manager. Councilmember Bolton moved for the consent and confirmation of City Manager Acre's designation of Louis Fineberg and Audra Garrett as Acting City Manager. The motion was seconded by Councilmember Bonato and carried unanimously.

Authorize Mayor's execution of a letter of support for the "Fishing is Fun" grant application by the City of Trinidad. Acting City Manager Fineberg told Council that this item was not on the previous work session agenda due to the timing of the grant. He explained that the City is applying for this approximately \$90,000 grant to be matched by the City up to \$30,000 to extend the work that has been done by the local chapter of Trout Unlimited to the area proximate to the Boulevard Addition that the City is in the process of acquiring. He said the grant will be tough to get. The higher level officials at the Colorado Parks and Wildlife have said that until the river gets a permanent flow to sustain the trout habitat on an on-going basis they won't support it. However, the local Parks and Wildlife agents support the project so the City will be applying anyway. Mayor Pro-Tem Shew asked if there are any plans for the river to run full time and if there's anything Council can do. Acting City Manager Fineberg deferred to Jim Muzzlin to talk about a proposal that would allow for enough of a flow to sustain the fish population. Jim Muzzlin, President of the local Trout Unlimited chapter, addressed Council. He said the water flow in the winter time is minimal. He said he will be addressing Council at a future work session to discuss another reach project which is the third phase of their river project. That reach project will begin and be

complete in March. They have the permits for it in order. Mr. Muzzlin said he would bring the information back that shows how much water is required to sustain the fishery through Trinidad. He said to have sustainable water flow is not a lot of water – about five CFS flow on a regular basis or 125 acre feet for three months. Councilmember Mattie asked if the current flow substantiates the grant application. Acting City Manager Fineberg said that staff and the local Parks and Wildlife agents felt the project was successful for the summer months and the fish are restocked at the beginning of the fishing season anyhow, it really should not matter that much. He added that the project was successful in other ways as well, such as people enjoying swimming, using the other improvements, etc. Mr. Muzzlin agreed, adding that the improvements were used. Acting City Manager Fineberg said if the City is not awarded the grant this time he would like to track how many people use the facilities to make a stronger future application. Mr. Muzzlin said Parks & Wildlife are concerned with the flow because they don't want to see a lot of fish dying in the river. They have agreed to do a fish survey in the first part of March where they shock the fish to make an assessment at the end of the winter flow. Councilmember Mattie asked if the City has the required match, up to \$30,000. Acting City Manager Fineberg said it would be a 2014 budget item. The City would have to commit funds. Councilmember Mattie noted that former County Commissioner Jim Vigil sits on the Parks and Wildlife Board. Councilmember Bolton pointed out that in the information provided to Council it indicates that the local Trout Unlimited chapter will be providing \$6,900 in in-kind contribution towards the City's up to \$30,000 match. Acting City Manager Fineberg said the reason the match is up to \$30,000 is because there are several other possible sources of funding. Worst case scenario the City would step up with a \$30,000 match, however it should be less than that. Councilmember Mattie applauded the efforts of Trout Unlimited, adding that the City just has to be mindful in allocating money. A motion to authorize the Mayor's execution of a letter of support for this grant application was made by Councilmember Bolton and seconded by Councilmember Velasquez. The motion carried unanimously upon roll call vote.

Authorize Mayor's execution of a letter of support for a Colorado Department of Public Health & Environment Recycling Resources Economic Opportunity Fund Grants Program application. Acting City Manager Fineberg told Council that at this point the City is not the applicant for this grant. The question is whether or not to support the application on behalf of a private entity. He noted their presence in the audience. He continued that he and the applicants are discussing the application and its merits and at this point staff feels there are some issues with the application and whether or not it can be successful. He requested Council agree to provide a letter of support contingent upon a satisfactory application being put together. Councilmember Mattie asked the applicants if they were agreeable to that. Kellie and Jeremy Van Matre addressed Council and agreed to the suggestion. Acting City Manager Fineberg expressed his appreciation to the Van Matres for their effort to pursue this. Councilmember Mattie added that support of recycling is unanimous. Ms. Van Matre told Council that Planning Director Fineberg has been a great help to them. Councilmember Mattie commented that this is an example of working together for the common good. He wished them luck. Councilmember Bolton made a motion to authorize Mayor's execution of a letter of support for a Colorado Department of Public Health & Environment Recycling Resources Economic Opportunity Fund Grants Program application. The motion was seconded by Councilmember Bonato and carried by a unanimous roll call vote.

Consideration of proposed dates of active suspension to be served by Mantelli Partnership d/b/a Mantelli's at 137 W. Main Street. City Attorney Downs told Council that Pat Mantelli's attorney, Rudy Reveles, submitted the dates which he was told needed to be five 24-hour periods for which she is to be closed as a sanction. Mr. Reveles wanted to break up the dates but he was told they needed to be consecutive. City Attorney Downs said that although the first date, February 24<sup>th</sup> is a Sunday, with that establishment he didn't think there is a time that's better or worse than another time. The people who frequent her establishment do so during the week and during the day time hours. They don't necessarily have a larger flow on the weekends. He concluded that he agreed to those dates but that it is up to Council if they have strong feelings to the contrary. A motion to accept the dates proposed for active suspension to be served by Mantelli Partnership d/b/a Mantelli's at 137 W. Main Street as February 24<sup>th</sup> through February 28, 2013 was made by Councilmember Bolton. The motion was seconded by Councilmember Velasquez and upon roll call vote carried unanimously.

**BILLS.** Councilmember Bonato questioned payment to Auto Zone, check #42341 on page 8, whereby it indicated it was for S&B #7 for a radiator in the amount of \$126.29 and a second entry with the same information was listed. He asked why two radiators would be needed for the same vehicle. Acting City Manager Fineberg advised that he would look into it and get back to Council. A motion to approve payment of the bills as presented was made by Councilmember Velasquez. The motion was seconded by Councilmember Bolton. Roll call was taken on the motion to approve the bills and it carried unanimously.

**PAYROLL,** February 2, 2013 through February 15, 2013. A motion to approve the payroll was made by Councilmember Bolton and seconded by Councilmember Velasquez. 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 Bolton and seconded by Councilmember Velasquez. The meeting was adjourned by unanimous voice vote of Council.

ATTEST:

FRANKLIN SHEW, Mayor Pro-Tem

AUDRA GARRETT, City Clerk