

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, May 21, 2013 at 7:00 p.m. in City Council Chambers at City Hall.

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

The pledge of allegiance was recited. A moment of quiet reflection was taken at the request of Councilmember Mattie for the people in Oklahoma following the devastating tornado that hit there very recently.

APPROVAL OF THE MINUTES. Regular Meeting of May 7, 2013. City Clerk Garrett pointed to four replacement pages that contain corrections to typographical errors. A motion to approve the minutes as amended was made by Councilmember Velasquez and seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote.

PUBLIC HEARING. Transfer of ownership of 3.2% Beer (On-Premises) License request by Creative Sale, Inc. at 700 Smith Street (Formerly Trinidad & Las Animas County Chamber of Commerce). Mayor Baca Gonzalez opened the hearing and announced the date and purpose. She further announced that the entity is currently operating under a temporary permit. She called upon City Manager Acre for introductory comments because City Attorney Downs is an officer of the Chamber of Commerce. City Manager Acre told Council that there had been some questions by members of Council regarding this transfer. He pointed to the information provided and reviewed it with Council. He said the questions include whether the transfer from a non-profit to a for-profit is legally permissible. The answer provided by both CML and State Liquor Enforcement was yes. The next question was whether a new organization needs a new license. The answer provided was no. They've applied for a transfer and that is what is appropriate to take ownership of the license. Another question was the legal limits or prohibitions on any transfer of a liquor license. He said there are some ownership identities and local authorities' limitations where it lists quite a bit of detail, but he said that the transferee meets all of those conditions. The next question was about the fact that it is an out of state company seeking the license. He said it doesn't prevent the transfer. City Manager Acre added that documentation illustrating eligibility to conduct business in the state is provided in the packet. City Attorney Downs told Council that the standard for a transfer of license is easily met. There are only two criteria, that being whether the applicant is over the age of 21, the legal age to possess, and whether the applicant is of sufficient moral character so as to not prevent them from holding a liquor license. Andrew Dunn, Creative Sale, Inc. was called upon to address Council. To inquiry, Mr. Dunn advised that he is the one member of a one-member S Corporation in Texas, he's 36 years old and his date of birth is November 11, 1976. He also answered that he submitted the application paperwork that is before Council in support of the application for a transfer. City Attorney Downs asked the nature of his business. Mr. Dunn answered that it is professional baseball. He said he owns eight professional teams from Alpine, Texas, to Trinidad and that he is the commissioner of the Pecos League under which the teams are formed. Mr. Dunn testified that, as reported on his application forms, he has no criminal convictions. He further testified that he hasn't been charged with any crimes nor has he been a defendant in any large lawsuits. City Attorney Downs asked if correct and accurate information was provided to substantiate his moral character. Mr. Dunn answered affirmatively. City Attorney Downs announced that the background check is not back yet. He opined that with Mr. Dunn's answers he has met the burden of proof for good moral character. He submitted for the record all of the exhibits contained in the packet in support of application for the transfer. Mayor Baca Gonzalez announced that the contents of agenda item 3a in their packets were admitted into the record. Councilmember Bonato asked if sales will be confined within the grandstands. Mr. Dunn answered that they will, just like last year. Nothing can come in or go out. Councilmember Bonato asked if they will only serve 3.2% beer. Mr. Dunn answered affirmatively. Councilmember Bonato commented that he heard a couple of times last year when the Triggers were playing there was hard liquor sold out of the grandstands, when the tents were up. Mr. Dunn said he is unaware of that having occurred and said he is only eligible to sell 3.2% beer and would not try to do otherwise. Have people tried to sneak things in? Probably, he said. They have found things that are not sold in the grandstands in the trash cans previously. He reiterated that he will sell 3.2% beer and will follow the rules. Councilmember Bonato reminded Mr. Dunn that with him being the sole owner of the liquor license Council is putting their trust in him to make sure nothing is done outside of the grandstand. Mr. Dunn said he wouldn't take that risk. Councilmember Bonato further commented that the Police Department will probably be keeping an extra eye on it. If anything happens he said he trusted Mr. Dunn would contact the police. Mr. Dunn said he will only be buying from Budweiser 3.2% beer in 12 ounce cans. Councilmember Miles commented that in order for a wholesaler to sell to a retailer they have to present their liquor license to them. She recalled that at the last meeting when they approved other licenses they made it contingent on receipt of fingerprints. City Attorney Downs said that was in part because it was for a new license and the standards for a transfer are lower. If the applicant were found to be untruthful, Council could suspend the license. For a transfer it is sufficient that they represent that they are answering questions truthfully. Councilmember Miles expressed concern for equal treatment and consistency and recommended that they all be treated equally. City Attorney Downs said Council can grant the license contingent upon receipt of the background check. Mayor Baca Gonzalez commented that there has been a considerable uptick in the demand for background checks probably related to firearms transactions. She asked if it is recommended that approval be given contingent on satisfactory receipt of background check information. City Attorney Downs said that it is recommended. Councilmember Miles asked if the state would approve a license without fingerprints. City Attorney Downs said his understanding is that they would and if necessary suspend the license if moral character is not satisfactory. Councilmember Miles said she thought the answer given previously is that the state would not issue without the fingerprint results. City Clerk Garrett said the State would be in the same situation whereby they would have the power to revoke that license if fingerprints came back unsatisfactory. She said she doubted the state had fingerprint results yet either. Councilmember Miles said she doesn't want to impede commerce; she just wants the three parties to be treated equally. She asked what action would be required to grant the licenses to Mt. Carmel and SCRT and advise that it would be revoked if backgrounds are unsatisfactory since Council approved them contingent upon background checks. City Clerk Garrett asked

her to recall that at the last meeting she asked Council for clarification whether she could issue the licenses without the fingerprints being back and was told she could. She noted that if the fingerprints were unsatisfactory the applicant would still be afforded due process and Council or the State would afford the applicant a hearing to revoke the license. Councilmember Miles asked if the state will allow them to sell liquor before they get fingerprint results back. City Clerk Garrett said they would and added that Mt. Carmel and SCRT both have their liquor licenses in hand, and has had since the Thursday following their hearings. Additional discussion was held regarding issuance of licenses. Councilmember Miles said as long as they were treating everyone equally she was fine. Mayor Baca Gonzalez called for comment from the audience. Ralph Ponce, President of Confederacion Mutualista Mexicana e Americana, addressed Council and asked who will be liable for any accidents if someone were to get hurt or killed as a result of his transfer of license. Mayor Baca Gonzalez answered that Creative Sale, Inc. is required to have liability insurance. Councilmember Miles pointed out that the proof of insurance was provided by Griego Insurance. There being no further comments, the hearing was closed. A motion to approve the transfer of the 3.2% beer on-premises license to Creative Sale, Inc. at 700 Smith Street, Central Park ballpark (grandstands), contingent upon satisfactory evidence of background checks was made by Councilmember Miles and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

Transfer of ownership of a Retail Liquor Store License request by Trinidad Beer, Liquor & Wine Depot, LLC d/b/a Trinidad Beer, Liquor & Wine Depot at 111 E. Kansas Avenue. Mayor Baca Gonzalez opened the hearing and announced the purpose. City Attorney Downs called upon the applicant to answer some questions. Kenneth R. Gegelman addressed Council. To questioning, Mr. Gegelman answered that he is over the age of 21, and that he is the applicant for a transfer of ownership along with his wife, Olga Gegelman. He further testified that he was the sole proprietor of Trinidad Beer, Liquor & Wine Depot and that it will be transferred to a limited liability corporation if granted. City Attorney Downs asked if they submitted to background checks and answered questions on the forms, and if so did they do so accurately and correctly. Mr. Gegelman responded affirmatively to each question. City Attorney Downs asked how long he has lived in this area. Mr. Gegelman said that he has lived in Trinidad since 1976. Mayor Baca Gonzalez ascertained that no one else wished to pose questions to the applicant. She took notice and accepted into the record the entire packet for agenda item 3b. City Attorney Downs stated that the background check from the Trinidad Police Department indicated no criminal record locally, noting the lengthy time that the Mr. Gegelman has lived here. He opined that Mr. and Mrs. Gegelman meet the criteria to hold the license. There being no further questions from anyone present, the hearing was closed. Councilmember Bolton moved for the approval of the transfer of ownership of a Retail Liquor Store License request by Trinidad Beer, Liquor & Wine Depot, LLC d/b/a Trinidad Beer, Liquor & Wine Depot at 111 E. Kansas Avenue. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Marilyn Leuszler, Trinidad Arts and Culture Advisory Commission, addressed Council regarding the Commission and the Creative District. She pointed to the information provided about the purchase of the Michael Musselwhite sculpture by the Commission. She said that working with City Planner Louis Fineberg the Commission has a location for the placement of the sculpture on the grass area by City Hall. She said that the Creative District team is coming on May 30th to inspect the community and said they are in need of a concrete pedestal for the placement of the sculpture. Mr. Musselwhite will install the base with bolts into the concrete pedestal and utility locates are to be done by Thursday afternoon. If possible she said they would like to arrange for the base to be poured on Friday so that it could set up over the weekend and Mr. Musselwhite could install the art piece. A plaque will also be placed in honor of ranchers, farmers and miners of Las Animas County. She said they would love to have the project completed by May 30th. Councilmember Mattie ascertained that the intent of the art piece placement is permanent and asked if Ms. Leuszler knows what the cost of the pedestal will be. Ms. Leuszler said she did not know, but noted that there had been discussions previously about the City taking care of it. City Manager Acre said that the Parks & Boulevards Department can do the work. Ms. Leuszler can work through his office and he would work with Parks & Boulevards to get the project done. Ms. Leuszler presented a copy of the Arts and Culture Advisory Commission's financial report that was approved at their most recent meeting. She also showed Council a double-sided sign that will be provided by the Arts and Culture Advisory Commission to the local businesses that reads "This Business is Proud to be a Colorado Creative Industry." She reminded those present that being a Creative District is not just about the arts. It is about new ways to work through a difficult economy. This is a way to recognize businesses supportive of the creative district designation. Ms. Leuszler added that tomorrow afternoon at 1 o'clock at City Hall they will be holding a writing session for the final application to Creative Industries. Last year about 20 people from around the community had updates on things happening in their organization or business. She reminded that the application is due May 24th and complimented City Planner Fineberg and Tara Marshall for gathering things for the application. She also thanked Council for the resolution on the agenda this evening because it illustrates collaboration. Councilmember Bolton announced that the results of this effort will be known by June 14th. Ms. Leuszler added that this round is important because Trinidad is only competing against twelve other Emerging and Prospective Districts and they will be awarding five of them with the Creative District designations. However in 2014 Trinidad would be applying against the entire state. She said that they have found tremendous support in the community. Last year they gathered 220 signatures and 22 letters of support and this year they have over 650 signatures and close to 50 letters of support. Ms. Leuszler said they have really been going hard and heavy for it and thanked the City. She said the Arts and Culture Advisory Commission has also provided funding to the Trinidad Community Foundation/ Mount Carmel who have printed posters that will go up around town supporting Art Trek. Mayor Baca Gonzalez asked if she's correct that if the City is given the designation it is ours and we don't have to reapply. Ms. Leuszler said that is correct and added that the City would get \$25,000 from the state for technical support, which they would hope to leverage up to \$75,000. We would also get signage from CDOT along I-25 in both directions saying "You are entering a Colorado Creative District." We would tie into Colorado's tourism and marketing dollars without having to put anything into it. Creative Industries currently has grant funding through 2014. If the funding is discontinued there may only be 12 Creative Districts in the state. This designation ties into so many things on a larger scale that will be helpful to us for economic growth. Councilmember Mattie asked if other communities seeking the designation are on an interstate. Ms. Leuszler said Pueblo and Colorado Springs are; there are several. Trinidad got a designation the first round. Pueblo is a Prospective Creative District so they are one tier above Trinidad. Colorado Springs and Parker are on the same level as Trinidad. The ones we are vying against are places like Ridgeway and Telluride. At the recent Creative Industries summit in Pueblo they overheard Parker representatives who were upset that their City Council couldn't figure out where to spend \$25 million - whether to upgrade their arts and cultural center or build a new police station. So, she said they hope they see it the way we see it, in that places like Telluride and Parker don't really need this - Trinidad really needs this. We want it to be a sustainable economic engine that will help everyone in the community, not just the arts.

MAY 21, 2013

COUNCIL REPORTS. Councilmember Bonato reminded everyone about the annual spaghetti dinner at the Harry Sayre Senior Center on Sunday, June 2nd and encouraged people to attend to support the seniors. He said it is from 11:00 a.m. to 1:30 p.m. and the cost he believed is \$7.00 per person. Secondly he thanked everyone who participated in the Armed Forces Day parade held last Saturday. In particular he extended appreciation to the Girl Scouts and Kiwanis who provided the food at Cimino Park after the parade.

Councilmember Velasquez reminded everyone about the Santa Fe Trail Festival coming up on June 7th and 8th. There will be a street dance and live entertainment, children's games, food and craft vendors as well as the coal car race again this year. She encouraged people to support this local event.

Councilmember Miles reported that she and Councilmember Shew and City Manager Acre will be participating in mediation for the ARPA lawsuit this week. She said they can't comment publicly on it, however if Council members wanted an update they could either call she or Councilmember Shew. Mediation is scheduled for this Thursday.

Councilmember Mattie said he anticipates the COG meeting next week.

Councilmember Bolton thanked the organizers of the Water Festival. It was an incredible day for our community's children. She said she participated as the 'Water Wizard' and there were several City employees who assisted. She reiterated that it was a great day.

Mayor Baca Gonzalez thanked the Chamber of Commerce for organizing the Armed Forces Day parade. It was a pleasure and it is beautiful to honor our veterans. She said she hoped next year's event is even bigger. Councilmember Bonato added that he had a chance to visit with Lt. Col. Joseph Mauer who, along with his unit, will be stationed in California in the hot desert for the next month. He asked people to keep them in their prayers. Mayor Baca Gonzalez said they will be deployed to the Middle East this October and with the issues in Syria, Iran and North Korea they will be in harm's way and so the troops need our support.

Councilmember Bolton asked if the City will be participating in the coal car race and if we still have the car. City Manager Acre said we still have the car and can recruit a team. He suggested getting together a Council/staff team.

REPORT BY CITY MANAGER. Commendation. City Manager Acre called to Council's attention at their seating places a commendation the City received from the Colorado House of Representatives for City of Trinidad National Train Day Showcase. He said it showed up in his office with no note on Friday. He thanked whoever was behind this honor being bestowed upon the City. He added that we had a good showing at the train station for National Train Day.

Transportation Meeting. City Manager Acre said he and La Junta City Manager Rick Klein are trying to coordinate what they are saying at the Regional Transportation meeting to get CDOT's attention.

Electric Rates. City Manager Acre said regarding the questions about General Electric versus Large Light and Power rates and the difference, it is related to the demand placed on the electric utility.

Regional Transportation Meeting. City Manager Acre pointed to the information about the upcoming Regional Transportation meeting provided to Council.

Trinidad State Junior College. City Manager Acre told Council that he met with Dr. Bohlen from TSJC and was able to tour the campus. He said he will be providing information on some of the programs and the economic benefit of having the college in Trinidad. As Dr. Bohlen is leaving, he will be introduced to the new President. He said there is a good relationship between the County, School District and College being formed.

Fort Carson. City Manager Acre said he met with the feasibility collaboration group at Fort Carson on May 20th. He said the program pre-dated his employment with the City and it is about working with the Army to look for cost savings and joint efforts. The most significant effort is working on recycling. They currently are not recycling at Pinon Canyon so recyclables are being disposed of at our landfill. They are looking for cost effective solutions.

Library. City Manager Acre told Council he read Duck on a Bike last week at the library.

Miscellaneous. City Manager Acre said he's also attended an Economic Development meeting, a SET meeting, and the Southern Colorado working group meeting was here in Trinidad at the courthouse. Out of that meeting he and the County Administrator are trying to put together a plan to have some PTAC training. City Manager Acre said he's talked to representatives at Fort Carson on providing some mentorship to businesses working to gain experience. He added that he is still in the throes of deciding on a Finance Director and he hoped to make a decision next week. Mayor Baca Gonzalez said she liked the PTAC training and mentorship idea. She said Redwing Electric has been through that training and are now eligible for government contract work. If other local merchants can take advantage it will be helpful to them and they'll be more competitive. Councilmember Miles thanked City Manager Acre for getting the flags up. She asked if they are different than the ones that were there before. City Manager Acre said he hoped they are more weather resistant and the new flags are slightly smaller in size. He told Council that the Charter information he provided them can be discussed at their next work session or their first meeting in June. Councilmember Miles anticipated it to be a lengthy discussion and Councilmember Bolton suggested the earlier the better because there's a lot to go over. City Manager Acre said it can be on May 28th and he won't include the building code item on that same agenda. He also reminded Council of the joint meeting with the School District that evening. Councilmember Miles suggested the Charter item be on the May 28th meeting to at least get the discussion started. Councilmember Bolton asked if the non-profit funding will be on that work session. City Manager Acre answered they would.

REPORT BY CITY ATTORNEY. Amendment 64. City Attorney Downs told Council that the Governor will be signing legislation next Tuesday at 11:00 a.m. started by Amendment 64. Legislation was passed before the session ended on May 8th. He said he called the Governor's office because he had not read anything about it. Mayor Baca Gonzalez asked

ORDINANCE NO.

AN ORDINANCE CORRECTING ERRORS AND OMISSIONS WITHIN SECTION 12-12 OF ARTICLE 2 OF CHAPTER 12, OF THE CODE OF ORDINANCE OF THE CITY OF TRINIDAD RELATING TO THE CITY'S ELECTRIC SERVICE, POWER AND ENERGY RATES

Resolution supporting application to the Colorado Office of Economic Development and International Trade – Creative Industries Program – to secure a Creative District designation. A motion to adopt the resolution was made by Councilmember Miles and seconded by Councilmember Velasquez. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 1411

A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, SUPPORTING APPLICATION TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE – CREATIVE INDUSTRIES PROGRAM – TO SECURE A CREATIVE DISTRICT DESIGNATION

Consideration of professional service agreement with Black & Veatch for engineering for Water Treatment Plant improvements design. Utilities Superintendent Jim Fernandez addressed Council. He said the agreement has been approved by Black & Veatch. He called to Council's attention the inclusion of a paragraph on page three setting forth a force majeure clause and a signature page that wasn't included in the copy provided at work session. Also included was Exhibit A, the scope of services, which is the proposal Kevin Meador presented to Council at an earlier meeting. He concluded that the agreement is a City document and that approval is recommended. Councilmember Bonato asked if in his professional opinion the \$91,900 expenditure is pretty close to what needs to be done. Supt. Fernandez reminded Council that the expenditure is not for the physical work; rather it is for the engineering work to design the changes at the plant. He said he realized that it is expensive and wished it was cheaper, but we pay for quality. A motion to approve the agreement as presented was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote of Council.

Discussion regarding scheduling of informal evaluation of City Attorney. Mayor Baca Gonzalez pointed out that Council conducted an informal evaluation of the City Manager on April 16, 2013. She said in the interest of being fair and consistent with those whom Council supervises she asked that this item be placed on the agenda so Council could discuss if they wish to conduct a similar informal evaluation of the City Attorney. She clarified that the actual evaluation would not be discussed this evening. Councilmember Miles asked City Attorney Downs how he felt about the review process. She sought his input on how it should be conducted or not be conducted. City Attorney Downs responded that he welcomed being evaluated by them and didn't care if it was done publicly or privately or formally or informally. He pointed out that Mr. Acre has it in his contract that he will be evaluated. He said he by contrast was a local attorney and signed the first contract that was put in front of him, without changes. He said he asked for a certain amount of money and that's what he got. He said not the Charter, code of ordinances or his contract requires him to be evaluated. City Attorney Downs said that his respectful objection to Council was that prior to 3:00 p.m. on Friday, had any of them come to him and said Council wanted to evaluate him, he would have signed up for it under any conditions. Instead there was no Council communication and he had no idea it was coming. A member of staff came to him and told him that Council wants to evaluate you. He said that was pretty rough and he was afforded less courtesy and consideration than what he would afford anyone. He added that he is not a victim. If they want to evaluate him he said that's fine, but the first thing they might want to do is reconsider his contract because he said he thinks it needs to be in his contract. He reiterated that had he been asked he would have done an evaluation without concession or consideration. He also reminded Council that his contract does not have an allowance for annual leave for six months or severance pay. He asked that they have an executive session where they renegotiate his contract to have in there that Council will evaluate him and agree on a procedure. This came up on Friday and he sent an e-mail to Council on Saturday. He said he didn't know how or why this came up. He continued that he works his butt off for Council and that is one reason it is astounding to him that this was just added on and it affects him personally and professionally. He had no indication as to why or what precipitated this. He said he didn't want to bring about drama or perpetuate it. Councilmember Mattie commented that if his contract didn't include a clause about an evaluation it probably should have and it was an oversight on Council's part. He said he got the sense that City Attorney Downs felt disrespected or disrespected that. At the same time performance evaluations could be a good thing. How do you know you are not getting a big raise for doing a good job for the City? Every employee is subject to evaluation. The fact that he was not notified doesn't mean a lot to him, he said because of his personal and professional experiences. He explained that if he were told to do something he didn't always know why for instance. It could be a mutual exchange of information. It could be an opportunity for him to call to their attention what they don't recognize and for them to offer him guidance of what their expectations are. He said he gets the sense that until his contract is renegotiated to include such a clause he is reluctant to do so. City Attorney Downs said there is a way things are done in city government. It is appropriate to let someone know something will be on the agenda especially when that person is accessible seven days a week, 24 hours a day. There was no Council communication. Although he said he thought it should probably be in his contract, he doesn't want to be unevaluable. He wants to be evaluated. He said he understands they need to decide with his feedback whether they want it in executive session. It can be in executive session with just the seven of them and him. Councilmember Mattie said he didn't mean to minimize or scoff his point. They have enjoyed a pretty healthy relationship and he apologized if he is responsible for him being offended. He said there was a big to-do over something minor in his mind. It shouldn't be an obstacle to a continued meaningful and healthy relationship that they've had to this point and asked when would be a good time to do the evaluation. City Attorney Downs said it is not minor when you don't know how this came up or why. Everything else on the agenda has a Council communication but this did not. An oversight like this need not happen. Councilmember Bolton asked why this item was on a meeting agenda when it isn't an action item. Discussions are meant for work sessions. What is the urgency? Councilmember Velasquez said she didn't think this was urgent and told City Attorney Downs that she thought he was making it bigger than what it really is. Mr. Acre was evaluated, so what is so wrong with it? Councilmember Bolton pointed out that the Charter is silent as to an evaluation of the City Attorney, but not the

if after the signing there will be a flurry of information from Colorado Municipal League and the state. City Attorney Downs said there will be and the state will be trying to get the Department of Revenue's regulations in place by July. He said it will be nice to attend the CML conference in June. There will be a big presentation on Amendment 64 then. It will also be nice to visit with other municipal people. To begin with it looks like only medicinal marijuana dispensaries will be allowed to sell recreational marijuana for the first year. That will be a legal requirement. Since Trinidad doesn't have any dispensaries we will not be able to participate in 2014.

UNFINISHED BUSINESS. 3.2% Beer Retail (Off-Premises) renewal request by Safeway Stores, Inc. d/b/a Safeway Store #722 at 457 W. Main Street. Mayor Baca Gonzalez ascertained that a representative was present. Steve Forbes, Store Manager, addressed Council. A motion to approve the license renewal was made by Councilmember Shew and seconded by Councilmember Bolton. Roll call was taken and the motion carried with all Council members present voting aye, except Councilmember Velasquez who abstained.

Public hearing for consideration of an ordinance amending Chapter 14, Planning and Zoning, Division 11, Zone District Regulations for the PUD – Planned Unit Development District, Section 14-74, Conditional Uses, Section 14-76(4)(b) and (6), Standards and Design Requirements, Section 14-78(4), Review and Approval, Section 14-79, Failure to Meet Development Schedule, and Section 14-80, Zoning Review, of the Code of Ordinances of the City of Trinidad, Colorado, to provide greater flexibility within the Planned Unit Development Zoning District. Mayor Baca Gonzalez declared the public hearing open and called upon anyone wishing to make comments to step forward. There were none. She ascertained that neither staff members nor City Council members had comments or questions, and closed the hearing.

Second reading of an ordinance amending Chapter 14, Planning and Zoning, Division 11, Zone District Regulations for the PUD – Planned Unit Development District, Section 14-74, Conditional Uses, Section 14-76(4)(b) and (6), Standards and Design Requirements, Section 14-78(4), Review and Approval, Section 14-79, Failure to Meet Development Schedule, and Section 14-80, Zoning Review, of the Code of Ordinances of the City of Trinidad, Colorado, to provide greater flexibility within the Planned Unit Development Zoning District. The ordinance title was read aloud. A motion to approve the ordinance was made by Councilmember Mattie. Councilmember Shew seconded the motion which carried by a unanimous roll call vote.

ORDINANCE NO. 1938

AN ORDINANCE AMENDING CHAPTER 14, PLANNING AND ZONING, DIVISION 11, ZONE DISTRICT REGULATIONS FOR THE PUD – PLANNED UNIT DEVELOPMENT DISTRICT, SECTION 14-74, CONDITIONAL USES, SECTION 14-76(4)(B) AND (6), STANDARDS AND DESIGN REQUIREMENTS, SECTION 14-78(4), REVIEW AND APPROVAL, SECTION 14-79, FAILURE TO MEET DEVELOPMENT SCHEDULE, AND SECTION 14-80, ZONING REVIEW, OF THE CODE OF ORDINANCES OF THE CITY OF TRINIDAD, COLORADO, TO PROVIDE GREATER FLEXIBILITY WITHIN THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT

MISCELLANEOUS BUSINESS. Special events permit request (malt, vinous and spirituous) by Trinidad & Las Animas County Chamber of Commerce, Inc. at 160 N. Commercial Street for June 7 & 8, 2013. Chamber Board President Tara Marshall addressed Council. She told them that this application is for the Santa Fe Trail Festival the evening of Friday, June 7th, and all day Saturday, June 8th. She said the coal car race will be a part of the festival and that they would love the City to participate. They will have a country and western band on Friday night and Tobias Rene on Saturday. Band 7 will open for Tobias Rene on Saturday. In addition at the Miner's Memorial there will be stage performances including historical renditions and special performances by SCRT and Daughters of the American Revolution, dancing by K-Inspire, and KCRT Radio will be holding an American Idol-type singing challenge. The event will be driven toward family and kids during the day. There will be approximately 40 vendors. She said the special event permit being considered is for the municipal parking lot this side of the Work Force Center. The fenced beer garden will operate from 3:00 p.m. to 11:00 p.m. on Friday and 10:00 a.m. to midnight on Saturday. They will have a horseshoe tournament on Saturday. Everywhere else will be alcohol free. A firefighter challenge and a euro bungee will also be featured. Ms. Marshall encouraged Council to join them at the festival. Councilmember Bonato asked if the number of vendors is up or down from last year. Ms. Marshall answered that it is up from last year but down from previous years when there were 60 to 70 vendors. They are including a lot of local non-profit groups. Upon inquiry from Mayor Baca Gonzalez, Ms. Marshall said the Kiwanis will hold the annual duck race again this year at 5:00 p.m. on Saturday. She added that the festival will not be held on Sunday this year. A motion to approve the special events permit was made by Councilmember Velasquez and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

Special events permit request (malt, vinous and spirituous) by Confederacion Mutualista Mexicana e Americana for June 1, 2013 (Rocky Mountain Elk Foundation Banquet) at 206 N. Animas Street (Sebastiani Gym). Ralph Ponce, President of Confederacion Mutualista Mexicana e Americana, addressed Council. He said the Rocky Mountain Elk Foundation members have asked their organization to again serve spirits for them at the event. So far in the past it has been pretty good, he said, adding that it has been a money maker for their organization for school supplies in August and coats for their coat drive in October. It is a lot of work, but they enjoy it. Councilmember Bonato moved for the approval of the permit. The motion was seconded by Councilmember Velasquez and carried by a unanimous roll call vote.

First reading of an ordinance correcting errors and omissions within Section 12-12 of Article 2 of Chapter 12, of the Code of Ordinance of the City of Trinidad relating to the City's Electric Service, Power and Energy Rates, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Bolton and 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 June 4, 2013 was made by Councilmember Mattie. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote of Council.

City Manager. This is one of the numerous things that need to be addressed in the Charter review. An evaluation was not in the prior City Attorney's contract either. Councilmember Velasquez said she understands but asked City Attorney Downs if he wouldn't want to know how each one of them feels. Who is to say what they are going to say? She reiterated her sentiment that he was over-reacting. City Attorney Downs respectfully disagreed. If you have an agenda in any business or office you notify people who are affected by that agenda. He stressed that he is always reachable and added that Mr. Acre's contract states that in the first year he will be reviewed each 90 days. Councilmember Bonato asked City Attorney Downs to put his personal feelings aside. He said the way he was talking to City Council and responding was because his feelings were hurt. He said he thinks there's a possibility that by doing the evaluation there are questions City Council has of him and he has of City Council. He asked if he is willing to do the evaluation or not since he's pointed out that it is not in his contract. Councilmember Mattie commented that his feelings are his. What he is trying to find out is what it takes to get past this so Council can provide him with feedback and he can present his considerations to Council. He concluded that they screwed up and he's sorry. City Attorney Downs said they can get past this. He said they can do an evaluation in executive session at the next regular meeting. Councilmember Bolton re-asked what the urgency is that made this go on the agenda. Councilmember Miles commented that she thinks he should have been notified and added that she read about it when she got City Attorney Downs' e-mail. She also asked if they can move past this. She said if he wants to extend the conversation that was fine but didn't think that anyone intended to hurt him. She acknowledged that it is not in his contract and he should have been notified, but that it was inadvertent and asked to move on. City Attorney Downs said he feels very strongly that this was an important point that needed to be made and they can move on. In the future it should be in his contract. He agreed to be evaluated on June 4th in executive session. Councilmember Bolton said she doesn't know how they can do what the Charter doesn't say they can do. Councilmember Miles said it doesn't say they can't, rather it is silent. Mayor Baca Gonzalez told City Attorney Downs that when she received his e-mail where he claimed that City Council could not evaluate him she took that claim very seriously and talked to Tami Tanoue at CIRSA asking her if since it is not in his contract or in the Charter if they need to pull this agenda item. Ms. Tanoue told her in no uncertain terms that he is subject to evaluation and the fact that it is not in the Charter is not a limitation. Something has to be stated positively in the Charter to be prohibited. At the end of the day she told him he is paid with taxpayer money and it would seem to her that they need to get on and do the evaluation. This item was properly posted and they can set the date for the evaluation. City Attorney Downs said that if he previously said they could not evaluate him he didn't mean to say that.

BILLS. A motion to approve payment of the bills as presented was made by Councilmember Bolton. The motion was seconded by Councilmember Shew. Roll call was taken on the motion to approve the bills and it carried unanimously.

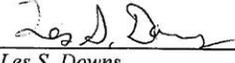
PAYROLL, May 11, 2013 through May 24, 2013. A motion to approve the payroll was made by Councilmember Mattie and seconded by Councilmember Velasquez. The motion carried unanimously.

Marilyn Leuszler announced to Council that after her presentation to them, Frank Leone offered to supply the concrete for the pedestal for the structure free of charge. Council expressed their sincere appreciation to Mr. Leone for his generosity.

EXECUTIVE SESSION. To discuss the purchase, acquisition, lease, transfer, or sale of real, personal or other property interest under C. R. S. Section 24-6-402(4)(a); and/or for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C. R. S. Section 24-6-402(4)(e) – School District No. 1 Administration Building; and for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402-(4)(b) – Potential litigation regarding rate misquotes by NMPP. A motion to enter into executive session for the stated purposes was made by Councilmember Bonato and seconded by Councilmember Velasquez. Upon roll call vote the motion carried unanimously. The executive session ensued at 8:53 p.m. That portion of the executive session not constituting legal advice was electronically recorded pursuant to the Colorado Open Meetings/Open Records Act.

I, Les S. Downs, City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 21st day of May, 2013, was permissible under CRS Section 24-6-402 (4)(b).

As City Attorney, it is my opinion that the discussion of the matter announced in the motion to enter into executive session constituted a privileged attorney-client communication. Therefore, it is my recommendation that no further record be kept of this executive session.


Les S. Downs
City Attorney

Upon conclusion of the executive session at 9:30 p.m., the meeting resumed.

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 Bonato. The meeting was adjourned by unanimous voice vote of Council.

ATTEST:

BERNADETTE BACA GONZALEZ,
Mayor

AUDRA GARRETT, City Clerk