

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, March 6, 2012 at 7:00 p.m. in City Council Chambers at City Hall.

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

The pledge of allegiance was recited.

READING OF THE MINUTES. Regular Meeting of February 21, 2012 & Special Meeting of February 28, 2012. Councilmember Bolton noted a correction to each set of minutes. The correction to the minutes of February 21, 2012 was to the vote reflected on the (first reading of the) ordinance revising the requirements to the Tourism Board whereby Councilmember Shew's name had been reflected as voting in both the affirmative and negative. (The correction was made to reflect him voting affirmatively. A second correction was made to reflect that Mayor Rino voted nay.) Regarding the minutes of the special meeting of February 28, 2012, Councilmember Bolton requested the minutes be corrected to completely reflect what occurred whereby she asserted that she advised that she had objections and the Mayor didn't allow her to speak and he said he heard enough. Councilmember Baca Gonzalez asked that the record also note that citizens were not allowed to speak though several had signed up to speak. The sheet was about half-way full. A motion to approve the minutes as corrected was made by Councilmember Shew and seconded by Councilmember Velasquez. The motion carried by a unanimous roll call vote.

REPORT BY CITY MANAGER. GOCO grant update for the soccer field and the recycling grant. City Manager Gil de Rubio advised Council that through his discussions with the City Planner, they have decided to pull the GOCO grant application for the soccer field and the recycling grant application. Primarily the GOCO grant (soccer field) application was coming in a little bit above budget so they decided to pull it this year. The recycling grant application looked as though it was geared for a different application than what the City had hoped for. At this point the City is not ready to step up to a grant of this magnitude. He said staff hopes to look at the ordinance to get the scales at the landfill going to generate revenue to jumpstart a recycling program here.

Bikes Belong grant application. City Manager Gil de Rubio told Council that the Bike Belong grant application went out this week. He credited the fantastic work of Planning Intern Kelly Farabee on the application.

Clubhouse RFIs. Council was informed by City Manager Gil de Rubio that four RFIs had been picked up and two returned RFIs, one of which he said he would more or less deem as a rejection as it was only one page long. He said he would give Council copies of the RFIs at work session, at which time they can decide on the interview process. There is an excellent candidate.

Clubhouse. City Manager Gil de Rubio said the work on the clubhouse is coming along really well. The kitchen equipment is being ordered and the work is proceeding on time. Hopefully it will be done by the end of May.

CAMU survey. City Manager Gil de Rubio told Council that the CAMU survey that comes out every January is out. Copies can be made for Council. He said it is a rather extensive survey of electric rates throughout the state. He offered to e-mail the survey to Council alternatively. City Manager Gil de Rubio told Council that once again the ARPA members were on the bottom, however Trinidad moved up one or two spots depending on what category you look at. He reiterated that the ARPA municipalities are on the bottom again.

North Lake. City Manager Gil de Rubio advised Council that the City received notice yesterday from the CRCRD Board that they would like a conservation plan from the City. He said he will be meeting with Supt. Fernandez on that plan. He continued that he and Supt. Fernandez will be going with the engineers at the end of March for the City's grant and low interest loan interview once again. It is hoped that the project will start in April or May and that it will be complete by the end of December. Once the City gets final word or an update from the Conservation Board, he said he would pass it on to City Council.

Financial Reports. Council was told by City Manager Gil de Rubio that financial reports should be done to be distributed to Council by the end of March. He thanked Council for their patience but pointed out that it takes a long time to close out the books for 2011. Thereafter he said he would start giving monthly updates again. He said he's been told the City looked pretty good for 2011, finishing a little above the black and sales tax was about 4.5% better than 2010. He reiterated that at the end of March he would give them financial reports to substantiate those numbers.

Ribbon cutting. City Manager Gil de Rubio told Council that there was an excellent ribbon cutting ceremony today down by the river for Trout Unlimited's fly fishing project. The ceremony was well attended and it was nice to see so many people out in the sunshine for a worthy project.

Clubhouse RFIs. Councilmember Bonato asked if the four clubhouse applicants that he screened, was there any way they could schedule an interview of the two that returned RFIs. City Manager Gil de Rubio clarified that he didn't screen them and said he'd give Council the documents at the work session and it will be up to Council how they wished to proceed. Councilmember Bonato said he'd like to hear from those applicants at the work session. City Manager Gil de Rubio said he had hoped to be able to give Council the documents and then call them in thereafter. He clarified that on Tuesday he would give Council the documents and then Council will come back and let him know how they wished to conduct the interviews.

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Opera House. Councilmember Pando asked the status of the Opera House. City Manager Gil de Rubio said the City has been waiting for three weeks for a contractor to give us a cost to make the building reasonably sound. He said by reasonably sound he means to where the barricades down Main Street and the alleyway can be removed. The contractor promised him today to get numbers by middle of next week. It is ongoing, and he said he's been trying to stay on top of it. There is still an interested party, an investment group, but a lot has to do with what the numbers look like to make the building substantially sound. He asked Council to bear with him another week and hopefully he'll have some more news for them.

GOCO grant. Councilmember Baca Gonzalez asked for further clarification on the grant. City Manager Gil de Rubio said the one not being pursued is for the soccer field; however stated that the City is still applying for one down by the river walk.

REPORT BY CITY ATTORNEY. ARPA litigation. City Attorney Beatty told Council that the City's mediation for the litigation with the Arkansas River Power Authority is in the process of being confirmed for Thursday, April 19th and Friday, April 20th in Pueblo at the Cambria Suites Hotel.

Conflict of interest. City Attorney Beatty reminded Council of a letter provided them by Attorney Dennis Malone at the special meeting last week asserting that he has a conflict of interest that would preclude him from representation of the City regarding item 11g on this evening's agenda. He pointed to the third-party legal opinion he obtained countering Mr. Malone's assertion. He continued that no conflict of interest exists in his representation of the City related to the possible removal of City Manager Gil de Rubio. The applicable Rule of Professional Conduct in this circumstance is Rule 1.13 which provides that a lawyer employed or retained by an organization, such as the City of Trinidad, represents the organization acting through its duly authorized constituents. Therefore in the matter coming forward he stated that he wished to explain clearly that he represents the City of Trinidad and not Mr. Gil de Rubio.

Proposed LED lighting project. City Attorney Beatty told Council that he felt compelled to address the proposed LED lighting project, adding that he didn't intend his remarks to be adversarial, rather to provide some clarification to Council. The sales pitch to Council included representations that the Federal mandate requires the City to convert its street lights to LED technology by 2014. He said that is a falsehood. City Attorney Beatty elaborated that he had consulted with the American Public Power Association which is the premier trade association for power entities and they have confirmed that there's no Federal legislation either enacted or pending that requires the City to convert its street lights to LEDs. The Energy Independence and Security Act of 2007 which has been cited in support of the sales pitch has also been misrepresented in its application to the City of Trinidad. As it regards lighting, this 2007 Act primarily imposes stricter energy efficiency standards for incandescent bulbs, and primarily for indoor use. He reported that there are zero incandescent bulbs used in the City's street lighting system. Our street lighting system consists primarily of high pressure sodium lamps with a small percentage of mercury vapor lamps and metal halide lamps. He continued that a portion of this 2007 Act does impose energy efficiency standards for metal halide ballasts that are manufactured after a certain date; however the Act imposes no requirement that the City upgrades or converts those lights. He said that if the City Manager believes that he has misapplied the law to the City's circumstances, he respectfully insist that he prove otherwise to Council. City Attorney Beatty reiterated that he is still very much in favor of such a project because it is intended to be a cost savings measure for the City, so he is pleased that City Manager Gil de Rubio is still proceeding with the project. He also reiterated that he was advising City Manager Gil de Rubio to proceed with the competitive sealed bid process from the onset. Right after the first time it was presented to Council he said he met with him and provided a copy of the City's procurement policy and explained the process and when it came up again he did the very same thing. His counsel wasn't really followed at that time. When the project shifted into overdrive at the beginning of this year, City Attorney Beatty said he did his best to make an exception in the City's procurement policy fit. During the City Council's first work session he said although he didn't deviate from his stance that going out to bid was the best course, he did indicate that the project could proceed under an exception to the City's procurement policy. He reminded that he was challenged, rightfully, and so he decided he simply wasn't going to assume the risk because his counsel wasn't really followed in the first place. City Attorney Beatty apologized for equivocating on that point, but reminded that he let Council know at the next meeting that he wasn't comfortable with proceeding without the bid process. It was at that final meeting that it was actually placed on the agenda for formal consideration.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. Public hearing for consideration of an ordinance amending Chapter VII ("Finance and Taxation"), Section 7-47.1(1), of the Code of the City of Trinidad, Colorado, for the purpose of revising requirements of membership in the Tourism Board of the City of Trinidad, Colorado. Mayor Rino opened the hearing and called for comments for or against the ordinance. Councilmember Bonato asked if this ordinance considers County residents to be on the Tourism Board. Mayor Rino said it does. Councilmember Bonato said he was a little confused on first reading because he thought it was just for City residents. Councilmember Pando asked if this ordinance supersedes a portion of the City's Charter. City Attorney Beatty said it does not. The real intent behind this ordinance was to make it more consistent with the Charter. The attempt was made by omitting one of the sentences in section 1 of Section 7-47.1 which attempted to summarize Section 8.3 of the Home Rule Charter within a single sentence. It got the general rule but didn't really include the exceptions to that general rule that all members of the board need to be a resident of the City. The proponents of this ordinance were seeking to strike that sentence so that we can follow the procedure of the City's Charter. This was deemed to be a little more restrictive than the City's Charter because it required someone to be a resident of the City. City Attorney Beatty pointed out an oversight to the ordinance as approved on first reading. He stated that City residency is also mentioned in Section 4 of the existing ordinance. He pointed to a red-line and amended version of the proposed ordinance at Council's seating places that also proposes to delete existing Section 4, which provides that if any member ceases to reside in the City, his or her membership on the board shall immediately terminate. City Attorney Beatty asked if Council wishes to consider this ordinance further they do so with the amendments reflected in the revised version. Councilmember Baca Gonzalez said at the first reading her understanding was that the ordinance would expand the pool of applicants to not only include members of the City but also of the County. She said in re-reading the ordinance she felt it was even more broad than allowing membership of the City or County. She said she didn't know if they wanted it to be so broad as to

allow someone who owns a business here but lives in Colorado Springs for example to be on the Board. She asked if that is a possibility under the ordinance, even as modified. City Attorney Beatty said we would follow our Charter language which provides as a general rule that members of our boards need to be City residents but also provides that in the event that a board or commission may have responsibilities that affect areas outside the City limits, the City Council may appoint qualified residents of the affected area to that board or commission provided that the majority of the voting members of such board or commission shall always be residents of the City. As it pertains to the Tourism Board he said he thought it potentially could be argued that the Board's functions and duties do affect an area larger than the corporate limits of Trinidad. In that event someone from the affected areas could seek membership on the Board. Councilmember Baca Gonzalez asked if he was interpreting affected area to mean City or County and beyond that wouldn't be credible. City Attorney Beatty said that findings would be determined by City Council. It would be up to Council to make a finding whether or not the applicant is from an affected area. Councilmember Baca Gonzalez suggested Council's consideration in adding an additional sentence to read 'the five members shall be residents and registered voters of the City of Trinidad or residents and registered voters of Las Animas County, Colorado.' She said it may be overkill, but she was concerned that the ordinance might be too broad. Mayor Rino said that he voted against the ordinance on first reading because he thought they were going to allow membership if a resident of the County had a business within the City. That was what he wanted to see, not just a resident of the County, but one who had a business in the City. Councilmember Baca Gonzalez opined that she felt the Mayor's addition is right on target because the reason they are considering expanding membership is to ensure there is adequate representation in the business area. Councilmember Shew added that he thought that was the original intent also. Councilmember Bolton questioned how Council can move forward when they are already to the second reading and now have a revised version. Mayor Rino said that's what the second reading is for, so they can revise it and make changes. City Attorney Beatty clarified that the ordinance may be amended on second reading, but said if the changes are substantial Council may move to commit or postpone and come back with a new version. Councilmember Bolton asked the appropriateness of Council just getting the revision when they come into the meeting. Mayor Rino called for a motion to table the ordinance pending the changes recommended by Council. Councilmember Shew moved to table the ordinance until they get clarification and revise the ordinance. Councilmember Baca Gonzalez seconded the motion, which carried unanimously upon roll call vote.

Second reading of an ordinance amending Chapter VII ("Finance and Taxation"), Section 7-47.1(1), of the Code of the City of Trinidad, Colorado, for the purpose of revising requirements of membership in the Tourism Board of the City of Trinidad, Colorado. No action was taken.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER VII ("FINANCE AND TAXATION"), SECTION 7-47.1(1), OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSE OF REVISING REQUIREMENTS OF MEMBERSHIP IN THE TOURISM BOARD OF THE CITY OF TRINIDAD, COLORADO

Public hearing for consideration of an ordinance amending Chapter III ("Alcoholic Beverages"), Section 3-18 ("Prohibited acts; penalty"), of the Code of the City of Trinidad, Colorado, for the purpose of allowing the consumption of fermented malt beverages at the Upper Field Baseball Facility of Central Park. Mayor Rino opened the hearing and called for comments for or against the ordinance. There being none, the hearing was closed.

Second reading of an ordinance amending Chapter III ("Alcoholic Beverages"), Section 3-18 ("Prohibited acts; penalty"), of the Code of the City of Trinidad, Colorado, for the purpose of allowing the consumption of fermented malt beverages at the Upper Field Baseball Facility of Central Park. The ordinance title was read aloud. A motion to approve the ordinance was made by Councilmember Bonato and seconded by Councilmember Baca Gonzalez. The motion carried unanimously upon roll call vote. The ordinance was approved and will become effective on March 16, 2012.

ORDINANCE NO. 1926

AN ORDINANCE AMENDING CHAPTER III ("ALCOHOLIC BEVERAGES"), SECTION 3-18 ("PROHIBITED ACTS; PENALTY"), OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSE OF ALLOWING THE CONSUMPTION OF FERMENTED MALT BEVERAGES AT THE UPPER FIELD BASEBALL FACILITY OF CENTRAL PARK

Consideration of Monument Lake 2012 Operations Plan. Mike Robb, Westland Resources, addressed Council. He expressed his appreciation for Council having been courteous and patient in the delays with him addressing Council. He explained that the proposal for 2012 includes their basic rates remaining the same as the last year. All of the basic services provided, cabin and lodging rentals, services in the restaurant, catering, etc., will remain the same. With respect to the marketing and merchandising program he said they have relied heavily on their website for the past four years and it has done a relatively good job. They have also done some print ad locally and those types of things. Mr. Robb said he will continue those marketing strategies. The list of employees and job descriptions was the same also, he said. They employ 22 to 23 seasonal employees each year. Mr. Robb said their security, safety and law enforcement regulations and the outline of their safety protocol was submitted with previous plans as noted. With this submittal, none of that has changed either. Their conservation fund this past year generated \$2,999.50. These funds are held for projects above and beyond the other projects that involve conservation and some special projects. Mr. Robb said he applied for a grant through the Colorado Division of Wildlife Motor Boat Access Program which involves federal funding for new boat docks, two sets at the boat ramp and a larger set at the store near the main headquarters. He called Council's attention to a portion of the plan titled "Other Grants" and said the numbers contained therein are incorrect and distributed a copy of the grant sheet. He said the total grant was \$15,532 of which \$7,920 would be provided by Westland Resources and the remaining \$7,612 will be supported by the Sport Fish Restoration Program. Mayor Rino asked about the status of the bathhouse. Mr. Robb said his understanding is the City allowed a certain amount of money in the 2012 budget for construction of the bathhouse and Westland Resources would have to seek grants on top of that. He said they don't have an actual construction budget for the

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project other than an estimate of about \$120 per square foot measuring about 1,200 square feet. Mayor Rino asked if the intent is to tear down the old one and build a new one or add onto the existing one. Mr. Robb said he is looking at, depending on the timing so as to have a functional bathhouse during the summer season, probably the construction of a new bathhouse out and in front of the old one, closer to the roadway. Then once it is complete, the portion of the old bathhouse would be torn down. Mayor Rino asked if he will seek grants for his portion of the cost. Mr. Robb said he is. He continued that they had applied for a grant for the fish hatchery last year, however were unsuccessful. He asked the City to resubmit the grant again this year. It requires \$10,025 in match funds, \$5,000 from Westland Resources and \$5,000 from the City. The grant is about \$40,000 and would enable them to make engineering assessments and have plans drawn up with any renovations needed to be done to the fish hatchery. Mr. Robb said there are still repairs to be made to the thresholds on the upper level of the lodge building which will amount to about \$1,200. That work was left over from last year that had not been completed. He continued that based on the County's new requirements regarding fire restrictions, they have to have spark arresters on all of the chimneys. Mr. Robb said the cost for the spark arresters on the lodge is about \$20 each plus \$10 for installation, for a total of about \$650. He said he also budgeted to install 65 fire pits that are spark arresting fire pits that he personally designed. They completely contain the fire and the only time a spark escapes the pit is if there's a pop in the fire. Any spark that does come out dissipates within 12 inches of the fire pit. He said they work really well and he's been working on them for about eight months now and he's gotten them finished out. Folks can cook on them and use them for campfires. They have screen on certain parts of them so you have the ambiance of the campfire. That cost is \$13,948 for a portion which will total the \$28,823, the total they needed to spend in the first four years to satisfy the contract agreement. His lease contribution for this next year will take up the balance of installing the new fire pits of \$13,736.35. In doing so, in front of the cabins he said he'll have to do some landscaping and fill so people don't back into them and run them over. He said he'll have to use some timbers and fill to accomplish that at a cost of about \$5,800. Therefore the lease contribution for next year will be right at \$20,000 from Westland Resources. Councilmember Bonato asked if he understood that the fire pits are installed. Mr. Robb said they are not installed; he just finished the design phase and making sure they work properly. They are ready to start building them. The installation will involve installing them on a 3' x 3' concrete pad. Mr. Robb concluded that as the basic plan. Mayor Rino asked Mr. Robb the cost of a season pass. Mr. Robb said there are no season passes. He sells annual passes at a cost of \$30 and it renews from date of purchase. Councilmember Baca Gonzalez asked in connection with the security, safety and law enforcement provision and since there are families that visit, including children, if he does criminal background checks on his employees. Mr. Robb answered that he does not. Mayor Rino commented that he really thinks Monument Lake is a real asset to the County and City and that Mr. Robb is doing a great job, has cleaned it up pretty well and is keeping up the facility maintenance-wise and has helped the City's property itself. A motion to approve the 2012 Operations Plan was made by Councilmember Baca Gonzalez and Councilmember Bolton seconded the motion. Roll call was taken and the motion carried unanimously.

MISCELLANEOUS BUSINESS. Special Events Permit (Malt, Vinous and Spirituous) request by Mount Carmel Health, Wellness & Community Center at 911 Robinson Avenue for March 16 and 17, 2012. Councilmember Pando moved to approve the permit and the motion was seconded by Councilmember Bolton. Upon roll call vote, the motion carried unanimously.

Special Events Permit (Malt, Vinous and Spirituous) request by Conderacion Mutualista Mexicana e Hispano Americana at 150 E. Main Street on March 31, 2012 (Peacock Ball for Noah's Ark at A. R. Mitchell Museum). A motion to approve the permit was made by Councilmember Shew and seconded by Councilmember Velasquez. Councilmember Baca Gonzalez asked if this organization is the same as the La Confederacion organization in Jansen. City Clerk Garrett responded affirmatively. Roll call was taken on the motion, which carried unanimously.

Tavern liquor license renewal request by Monte Cristo Bar, Inc. at 124 Santa Fe Trail. Councilmember Pando moved to approve the license renewal and Councilmember Bolton seconded the motion. Upon roll call vote, the motion carried unanimously.

Consideration of Facility Use and Concessionaire's License Agreement with the Trinidad & Las Animas County Chamber of Commerce. Councilmember Shew made a motion to approve the agreement. The motion was seconded by Councilmember Bolton and carried unanimously upon roll call vote.

Consideration of bid results for Aluminum Sulfate. Utilities Superintendent Jim Fernandez pointed to the bid summary in Council packets. He said two bids were received for the supply of Aluminum Sulfate used in the City's water treatment process and recommended Council accept the low bid received from DPC Industries of Albuquerque in the amount of \$32,193. He noted that it would be delivered in two shipments. A motion to accept the low bid as recommended was made by Councilmember Bolton and seconded by Councilmember Bonato. Roll call was taken on the motion which carried unanimously.

BILLS. A motion to approve the bills was made by Councilmember Velasquez. The motion was seconded by Councilmember Shew. Councilmember Baca Gonzalez commented that she noticed payments to Trinidad Drapes and Shades and S & S Services, two entities owned by City Council members. She asked if they have to abstain or if there is some provision in the Charter or Colorado law that takes care of that. City Attorney Beatty answered that Council members may bid but we'd follow the competitive bid process for that as well. He read aloud Section 9.22 from the Home Rule Charter "No elected official, appointed officer, or employee of the City shall be financially interested, directly or indirectly, in the sale of any land, material or supplies to the City in excess of \$500.00 except be it by competitive bidding." Councilmember Baca Gonzalez surmised that then there's not a requirement that an individual abstain from the vote. She asked if at some point in time Council could be provided with information regarding the billboards because she noticed some payments to Hess Arts & CBS Outdoors. City Manager Gil de Rubio asked if she wanted a spreadsheet. She said she'd like an overview, perhaps a report on what they are doing in terms of activities since Hess Arts has assumed those responsibilities. Councilmember Baca Gonzalez said she noticed a check in the amount of \$40,556.48 to the law firm assisting the City with Arkansas River Power Authority and asked if any of that is covered by the City's insurance. City Manager Gil de Rubio said none is, having checked with the City's insurer, CIRSA. It is coming out of the City's budget. Roll call was taken on the motion. The motion carried unanimously, however with Councilmember Pando abstaining on item #39548.

PAYROLL, February 18, 2012 through March 2, 2012. A motion to approve the payroll was made by Councilmember Bonato and seconded by Councilmember Pando. The motion carried unanimously.

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Upon conclusion of the above agenda items, and in anticipation of a large gathering of people for ensuing agenda items, the regular meeting of the Trinidad City Council was relocated to Sebastiani Gymnasium, 206 N. Animas St., for consideration of the following items:

Mayor Rino advised those present who have signed up to speak that they would be allowed three minutes and that Council will show the courtesy of not interrupting. Additionally comments should be focused on the issue at hand and comments that are personal in nature will not be allowed. He stressed that he wanted everyone to understand that this is a very serious concern this evening and that it needs to be kept under control as best they can. He asked that they show respect to the speakers and Council members. He also asked those present to refrain from outbursts that might disrupt the entire proceeding. He reminded that they are still in session. Mayor Rino turned the microphone over to Councilmember Pando who had requested to make a statement. Councilmember Pando stated he wanted to respond to what he thought were very inappropriate remarks made by Councilmember Baca Gonzalez at their last meeting. He said when she campaigned for election last November she was quoted as saying "We must work together in a coordinated manner, like five fingers on a hand." But he said what she did and said at the last meeting cut off those fingers. He asked how a hand can work without fingers. He continued that she unfairly attacked certain members of City Council as if she was the judge in charge of Council. She must understand that she is not in charge here but rather one of seven with only one vote. Councilmember Bonato did not deserve the attack made upon him. He may be new to this Council but this term is not his first rodeo. He served as a Council member not too long ago and has much more Council experience than Councilmember Baca Gonzalez. He knows Trinidad and has lived here all of his life. Councilmember Pando added that Councilmember Velasquez did not deserve her wrath either. Of all people, as a lawyer, Councilmember Baca Gonzalez should know that a person is innocent until proven guilty. In her supposed wisdom, she pronounced her guilty. Councilmember Velasquez has the same rights as Councilmember Baca Gonzalez to sit on this Council and vote her conscience. She is owed an apology by Councilmember Baca Gonzalez. As for Mayor Rino, he asked what makes Councilmember Baca Gonzalez think that he has no right to preside over the meetings and make decisions. He was elected the Mayor. Where are these ideas coming from? Lastly he said in his own defense, she stated that he was upset because he believes City Manager Gil de Rubio was somehow involved in his recall. He said didn't know that her law degree or her election conferred upon her the ability to read minds. How in the world did she arrive at this conclusion? He said, objectively we all know that the people who have filed the petition for his recall are the ones responsible. How about we wait for the lawyers to tell us what the outcome will be. In the meantime, she should know by her training that he has every right to vote on every issue that comes before Council. Councilmember Baca Gonzalez was entirely wrong to attack the four of them without any legal basis whatsoever. This is not the way to foster a working relationship among Council. Her comments towards them were very disrespectful. Councilmember Pando said he respectfully requested that Councilmember Baca Gonzalez apologize to Council and the citizens of Trinidad for her bad behavior. To Tom Murphy, Councilmember Pando stated that no one helped him write this response. He told him that he must accept the fact that we Hispanics can read, write and speak without any help.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Phil Rico, Trinidad Community Foundation, addressed Council. Mr. Rico said he was before Council to reaffirm the proposal from the Trinidad Community Foundation for the purpose of mediation. He re-read the proposal given Council last week: "Elected Members of the Trinidad City Council, (re.) The proposed firing of Ed Gil de Rubio, City Manager; the recall of Councilman Alfredo Pando – The Trinidad Community Foundation recognizes that Mayor John Rino, City Manager Ed Gil de Rubio, and each elected member of the City Council are invested to make the City of Trinidad a better community. The Trinidad Community Foundation takes the side of the community regarding the issues that face Trinidad and its future. As community leaders, the Trinidad Community Foundation humbly submits an offer to mitigate and/or facilitate a resolution to these issues. We as community members and they as community leaders need to redirect our energy and refocus on the path to prosperity. We can do so by allowing the Trinidad Community Foundation to be involved with the Council and all affected parties to continue working with Kim Krisco, International Consultant, to bring collaborative leadership back to our community in a productive way. Respectively submitted, Phil Rico, President, Trinidad Community Foundation." He said they have additional adopted a mission statement for their mediation activity which reads "With one voice the Trinidad Community Foundation will turn the energy of these conflicts into a positive plan through mediation to bring harmony between City employees and City Council for the benefit of a deserving community." Mr. Rico thanked Council for their time and asked for an opportunity to re-address them at the end of the meeting if the Trinidad Community Foundation is granted the opportunity to provide mediation.

Mayor Rino called on Harry Sayre who had signed up, however, Mr. Sayre was not present.

Robert Fabec, citizen of Trinidad, addressed Council in support of City Manager Ed Gil de Rubio. Mr. Fabec said that he is before them for no other reason than that City Manager Gil de Rubio's retention would bode well for this community. In him we have, not just a nice man in City Hall, but a manager who gets out into the community, meeting people, wanting to know their concerns and thoughts. He visits our City shops and plants seeking to know how things work and how they can be improved. As a result, Mr. Fabec said he even perceives that there may be an improvement in the morale and performance of the City's work force. Personally he said he was impressed after just going along with ARPA, Arkansas River Power Authority, we had a Manager question the benefits received from that association versus the cost. Then when he saw the costs were outweighing the benefits, he had the guts to commence extracting us from or amending our participation in that organization. Mr. Fabec said after hearing about the possible dismissal of our City Manager he met with Councilmember Bonato and talked on the phone with Mayor Rino who raised some concerns on the phone about the Manager. He said he made an appointment and met with City Manager Gil de Rubio for the first time last Friday. He said he voiced concerns raised by the Mayor and the Councilman, and to his satisfaction, being a former Mayor, he belayed any concerns he would have had about those issues. He told the Mayor and City Council that it is their responsibility to act in the best interest of this community, not themselves or a particular family, not a clique set of friends or just who they think voted for them, but for everyone. He also stated that if they have a personal problem or issue that will not allow them to act in this community's best interest, they should recuse themselves from discussion or voting on our Manager's retention. If they do not or cannot understand the question at hand and all that it entails for the future of Trinidad, or are unable to weigh the pros and cons of retaining or dismissing the City Manager, then they would be serving the community best by not voting

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on this question. Mr. Fabec concluded that from his perspective they will be doing this community a disservice by dismissing City Manager Gil de Rubio. He urged Council to please vote to retain him and put this issue behind us.

Steve Bolton addressed Council. He said he wished to clarify a few things for the community and Council tonight. The Trinidad Community Foundation recently got involved in mediation between City Council and the City Manager. He applauded their actions for trying to come up with a solution to this ongoing problem. A person only has to live here for a short while to know the good things that the Trinidad Community Foundation and the generousities of members like Jay Cimino have provided for our community. He said he believed if they asked any of the members of this organization they would tell you that they are a-political. He said he believes their mission is to make Trinidad a nicer place to live, not to affect politics. The responsibility to control and affect our political situation lies on the rest of us. We as a community have the ultimate voice on how our town is run and that voice is your right as an individual to vote. Along with that, we citizens have the right to file and sign petitions without the fear of threats or reprisals - petitions that keep in check and remove politicians who have broken promises, lied, acted with disgrace and in general let the public down while in office. Mr. Bolton said he believes Councilmember Pando to be such a politician. Since the filing of the recall petition, he and the Trinidad Recall Action Committee have been met with Councilmember Pando's supporters with lies, threats of economic boycotts, personal attacks, threats of violence and destruction of personal property. This is all they have been able to come up with to defend Councilmember Pando's position. Regardless of what has been said or done over the last couple of weeks, and regardless of what is said or done tonight, Mr. Bolton said he still believes the recall of Councilmember Pando to be a solution to correct a City Council that continues to take us nowhere and an action that will ensure we retain the best City Manager that this town has ever had. He told those present to exercise their right and tell this Council that their adverse actions and bullying will not be tolerated any longer. He urged the support of the Trinidad Recall Action Committee and citizens to sign their petition to recall Alfredo Pando and ensure the future of the success of Trinidad.

Ted Martinez addressed Council. He read "This situation is causing a great deal of unrest in our community. Again the City suffers to become a destination point for travelers and putting friends and neighbors at odds with each other. Before the Home Rule Charter was introduced, the voters were asked if they wanted a Home Rule Charter as opposed to being governed by the State. The voters indicated that they preferred the Home Rule as it allowed us more freedom in situations that are unique to our City and to our circumstances. The numerous members of the Home Rule Charter (Commission) were elected by the voters, of which he was one, for the purpose of writing the Charter. The members were divided into subcommittees to study the Home Rule Charters from other cities that were of our size and location. They then wrote a draft, presented it to Council, it went on the ballot and was approved by a large margin. It became the governing criteria for the City of Trinidad and can only be amended or repealed by the majority vote of the registered voters. Among other things the Charter made it crystal clear that the City Manager serves at the pleasure of the City Council and can be hired or fired by the majority of the Council. It is not an elected position and is not subjected to taking office or being recalled by the public. The right falls within the domain of the City Council as well as the hiring and removal of the City Attorney and Municipal Judge. Chapter 6, Manager, Section 6.6 states very clearly that the City Manager shall be held accountable to the Mayor and Council for his/her actions and those of his/her subordinates, and the Mayor and City Council retain the prerogative of requiring the City Manager to make verbal or written reports concerning his/her activities, those of his/her subordinates, and the administrative service under his/her charge. He continued that there are many instances in Chapter 6, Manager, regarding the authority and accountability that serves for this scrutiny. In the event of the City Manager dismissal, he as well as every other employee has a right to a hearing, as this would fall under the employee/labor relations it would not be held as a public meeting." He concluded that the intent of the letter is to remind the voters that the Home Rule method of self government, instead of matters of state-wide concern, is a method they approved. The elected officials were voted into office to act in the City's best interest and part of their duty is to hire or fire the City Manager by a majority. These are the laws approved by the voters to perform an orderly process of administering our laws. To do otherwise, would lead to a lynch mob mentality at the least and anarchy at the worst.

Geoff Peterson addressed Council. He said he is a voting and tax-paying citizen of Trinidad and a supporter of a group of concerned citizens called Occupy Trinidad. The goals of their group don't include the crazy things seen on tv with other occupy groups, such as camping out on the City lawn across the street and expecting Chief Glorioso to kick them out, etc. There is however some chief goals they have in their group. Some of these goals are as American as apple pie. Chief among them is transparency of action from our elected officials. He said he thinks everybody is tired of the lack of transparency at the national level and it's disappointing to see that at a local level. We need to see transparency at a local level and following proper rules and proper governing principles. Mr. Peterson told Council that their actions to date really don't meet with these fundamental expectations. He continued that Occupy Trinidad supports Ed Gil de Rubio. They believe he has done a fine job as City Manager and has implemented many progressive ideas. Also, they see no justification for his firing and urged the Council to take advantage of the opportunity for outside mediation by the Trinidad Community Foundation in order to resolve these issues between the Council and the City Manager. He concluded that Council has an opportunity in front of them to resolve this issue with the help of mediation and help mend the community and he asked that they take that opportunity.

Terry Sears addressed Council next. He said he was here to strongly urge each member of Council to take this opportunity for a breather and take advantage of the mediation that's been offered. Mr. Sears presented comments based on his experience. He said he saw some young people in the back with signs that said "Protect our future". He said he wanted to say to them that if a small majority wins what they view as a fight to fire the City Manager, those young folks are actually having their future damaged. He said he read in today's paper that the City of Pueblo took the offer of the LED lighting that was offered to the City of Trinidad through the hard work of Mr. Gil de Rubio. They took it without bids and are saving themselves hundreds of thousands of dollars which will now be on the shoulders over a period of about four years to the young folks who are saying 'help our future.' He continued that some of the Council members have complained that the City Manager didn't communicate with them. Mr. Sears said in doing a little research he saw a lot of missed opportunities. He said he saw that every Councilmember at least a week before any meeting or work session was provided an entire set of work papers about the issues. The City Manager also had an open door policy to allow any of them to come in and speak about those issues or anything they didn't understand. Most of those folk didn't take advantage of that. He said during the review process the City Manager was supposed to have last year, one Council member walked out and it didn't happen in the public forum the City Manager had a right to. The City Manager agreed to do one-on-one review. Only three Council members came in and did that review. Those Council members who did not come in did not fulfill their duties as a

representative of all citizens of Trinidad. People have a mistaken idea, he said based on 27 years of hard battles of this nature between boards and managers, at-will employment doesn't simply mean you can fire someone without consequences. Yes you may fire someone, but it doesn't come down to you just giving them a paycheck and saying goodbye and they're gone. If you have broken the contract with them, if you have created a hostile work environment, if you have broken your City Charter, there's the very real possibility that this premature termination of this Manager would run the City a minimum of \$150,000 to \$400,000. Mr. Sears reiterated that he based his comments on his experience and said a lot or most of that money would go to attorney's fees. Usually there's a settlement that takes place, a year's salary and 18 months of COBRA. Then if the mediating attorneys or judge determines the Council was at fault and created a hostile work environment, broke the manager's contract, they can do punitive damages. That's where it starts to get expensive. He concluded by urging the Council members to remember that they represent everybody in the City of Trinidad, take this opportunity for a breather, take the mediation.

Tom Murphy addressed Council. He reminded that a couple of weeks ago he approached Councilmember Pando and asked if he was the person identified in his letter to the editor and he confirmed that he was and that he had written it. When asked if he had any assistance, Councilmember Pando said he didn't. Councilmember Pando's letter described him as the root of most problems in Trinidad. Mr. Murphy said this is one of the best pieces of democracy at work right here. He said to those who think this is a bad process, he respectfully disagreed. This is probably what makes our country great. He continued that the next day he had received a threatening e-mail from Jesse Manzanares. It said 'I understand that you are trying to prove that I wrote Mr. Pando's letter. Be advised Mr. Pando wrote his own letter. You need to be careful here. J. M.' Mr. Murphy said he took that as a very threatening e-mail. He asked the audience how many people knew what metadata is. Not many people do. The source of the letter Mr. Pando sent to their editor came from Mr. Manzanares' computer. Mr. Murphy opined that the fact that he wants to say he wrote this makes him believe that Mr. Manzanares is using Mr. Pando and Mr. Griego, because their letters are almost identical, as human shields in order to have his own agenda. He said the people in the back of the audience say he is the leader of this group. He said he is only a man who will stand up and speak his mind. He concluded that City Manager Gil de Rubio and his wife are friends of his and he has a great deal of respect for them. As Winston Churchill said "You judge a man by his enemies" and he hears them cheering.

Peggy Westmoreland next addressed Council. She addressed Council to share her own personal experience. Ms. Westmoreland said she sued her former employer for wrongful termination, harassment and violence in the work place. To Councilmember Bonato she reminded he had asked at one of the Council meetings the cost to the community for the recall election. It was a couple thousand dollars and he clicked his tongue at that. Ms. Westmoreland said she really appreciated that. That showed her that he is concerned about how our taxpayer money is being spent. She asked Council to please understand that we are not looking at \$1,000 here with Mr. Gil de Rubio, we are looking at hundreds of thousands of dollars. That's what she settled with her lawsuit and another one that came right after it. She said her lawyer considers Trinidad a gold mine for wrongful termination and harassment. She asked Council to please take into consideration every step they take here because it is taxpayer money, not their money that is going to be paid out from this lawsuit. She opined that Council is not going to win, they have nothing backing and they haven't even come forward to tell the community why they think he should be fired except for very vague reasons. Ms. Westmoreland said it is an at-will state and a person can be fired by an employer, but you can't harass them. She told Council they have already done that personally. She clarified that harassment isn't calling him names or leaving text messages in the middle of the night, it is telling him he was not doing his job when they themselves did not read that package to find out that he was. She pleaded that they take a breath and do this slowly and not spend their money like this. Even the opposition pays their taxes and that tax money shouldn't go toward a lawsuit. Councilmember Bonato asked Ms. Westmoreland, since she was looking at him directly often while she was speaking, if she was addressing him personally. Ms. Westmoreland answered that she was however she was unable to provide her reasoning because Mayor Rino advised that her three minutes were up.

Lee Phelan addressed Council. He told them that 11 years ago he and his wife invested millions of dollars in a business in this community. One of the processes they go through each year as they try to plan and to grow their business is by asking if they are better than where they were last year or where they started. He said he is a little confused tonight because it seems there are a lot of people with knowledge as to why City Manager Gil de Rubio is pending to be fired. He requested a list of those particulars. Mr. Phelan continued that as people in Trinidad are trying to refinance their homes today they are finding out that the value is only 60% of the worth. When you look at everything going on, we need to ask ourselves are they better off? And, he said when we are still paying some of the highest utility rates in the entire state, and as we sat for at least the last decade with the last City Manager as the City sat on its thumbs with no economic development, being sanctioned by the State of Colorado for our sewer, for our dam which people need to realize is at lower capacity today than it was a year ago, after suffering the eight years of the highway reconstruction and not having the way-finding signage in place to support business, through the losses of businesses on Commercial Street when the City shut them down - are those people better off today than they were before? He said when he looks at the 11 years that he's been here, there's been only one person willing to try to make a difference, Mr. Gil de Rubio. Instead of embracing his knowledge and trying to work together, it seems like we are trying to run him out of town. He said he needs to ask why. Mr. Phelan concluded that he has talked to a lot of people here in town including a number of Council members and he has yet to understand why they are trying to fire this individual. Therefore, he said he'd like to make an official request for that list of particulars. He said if they can't produce it, is this the focus we should be having right now for the City? Is this where we are going to use our limited resources at this time, for this tit for tat play that we are playing? This is not going to attract the jobs that we need and it is time that we elevate ourselves to discuss ideas and not wallow in the discussion of people.

Lee Hadaway addressed Council. He said he works at the City Garage for the City of Trinidad and had been asked to speak on behalf of AFSCME Local 1074, the City workers' union which he believes he can say all support City Manager Gil de Rubio. He said the reason the union supports City Manager Gil de Rubio is because of the mutual respect and trust they share. Mr. Hadaway said they didn't have that with the former administration. City Manager Gil de Rubio has been a breath of fresh air. He has been a straight shooter with the union from the day he set foot into this town. They feel he is leading the City in the direction we need to go. He said Mr. Fabec was correct - the morale of the City employees has improved tremendously, after four year of no raises. The employees finally did get a raise this year, but he said morale would still be higher had they not. Mr. Hadaway said he read in one of the paper last week that one of the Council members said they 'want things the way they were'. Mr. Hadaway said he is not from Trinidad. He came here in the late 1980s and went to gunsmithing school here. He said he saw what Trinidad was like after the mines shut down and didn't think

anybody wants to go back to that. City Manager Gil de Rubio is taking us into the future and he's taking us with some people kicking and screaming, but in the right direction. He concluded that he believes they need to listen to their constituents, other than their own friends and families, because right now he is representing 110 City union employees and you have to figure they each have five votes they can count on too. He surmised he is talking about 700 people for City Manager Gil de Rubio.

Bruce Clay addressed Council in support of City Manager Gil de Rubio. He said he has done a good job and is a good man, an upstanding man. Mr. Clay said he is newbie to Trinidad, having been here for four months and the City utilities are about to put him out of business. He said he may be a possible employer in the future here. Mr. Clay said he doesn't like how the City is run, he finds a lot of waste. He is barely open for business at this point. Mr. Clay said he loves it here, having come here from Denver, and has lived in Pagosa and Santa Fe. Three hours from all of his friends. Trinidad is the center of the universe for him and where he wants to make home. He told Council that if this City is going to be such buttheads about how they run it, they just lost a future employer.

Tim Peters addressed Council. He told Mayor Rino that he was happy for him when he was elected. He said he thought between working with City Manager Gil de Rubio and him that he would just be a superstar Mayor. He was also happy because they had been friends a long time. Right now they are on opposite sides of the issue and he said he'd like to see if he and City Manager Gil de Rubio could work together to bring town back together. Mr. Peters said he doesn't want this divide in town to go on like it is. He said he very much supports City Manager Gil de Rubio, who is leading us into the future and he is very much concerned with the future since he is invested up to his ears in Trinidad and is not going anywhere. He concluded that he wished they could work it out because he'd like to see Mayor Rino as the superstar Mayor that he has the opportunity to be.

Ed Trommter addressed Council to comment favorably about Mr. Gil de Rubio. He told Council that as a businessman in Trinidad he was fairly surprised when he met City Manager Gil de Rubio. The first week he was here he stopped into Mr. Trommter's office and introduced himself and asked about the community and City Manager Gil de Rubio told him about his commitment to help make this place a better place to live. Under his direction is the first time since he's been in his office that the landscaping done by the State of Colorado has been maintained on a regular basis. The weeds weren't as big as the flowers last year and that's the first time that had happened. He continued that on three different occasions City Manager Gil de Rubio has called him at home on the weekend to arrange for people to come in from out of town and look at some of our vacant buildings. He asked how often a civil servant works on a weekend. He was trying to generate an interest in our town from out of town people to make an investment here to provide jobs and opportunity for our citizens. On another occasion he called and asked him to schedule a showing of five buildings because he had scheduled a meeting with the State Historical Society, a member from the Governor's office and of the State Office of Economic Development, all again in an effort to generate interest in our community. Mr. Trommter said City Manager Gil de Rubio is very committed to our community. He added that at the same time that he supports City Manager Gil de Rubio he supports Council in the job they have to do. He said he knows that this is a Council-form of government and knows they understand that termination is usually associated with egregious behavior and he can't believe that a man who is so committed has done something so egregious to warrant termination. Mr. Trommter concluded with the sincere hope that Council will go back and consider the comments made this evening and will try to come to a resolution with this matter and support and keep Ed Gil de Rubio as our City Manager.

Jennie Garduno addressed Council. She said she is a proud Trinidad native and has been extensively involved in the community and cares very much about its welfare. She said her approach is not to advise Council one way or the other as she trusts they have been elected by the majority voters and will do what they think is best for our community. This community has been built by many families of different ethnicities. We have accept each other's differences, have learned from each other, have worked together and this is what has made our community a great place to live. It has taken decades to build this community to where it is. We have a wonderful community, a wonderful town and we have wonderful people living in it. We have people who care about the community and we have people who invest their time, unpaid volunteers. Without those people we wouldn't have gotten where we are today. Ms. Garduno told everyone to look around and said the things we have are because of the hard work of the many caring individuals. She continued that she was here tonight out of concern and despair. She said in her whole adult life she has never seen the turmoil within our City that she is witnessing today. Is this the image we want for our town? Is this how we want to be seen? She said she is embarrassed that we are being seen today as a dysfunctional City. Will people want to come to our City? We talk about tourism and wanting people to come here and trying to get businesses to come here – with this kind of an image that we are portraying would people want to come here? She said she believes what is happening today is a slap in the face to those many individuals who have worked very, very hard to build this community. It has been pure destruction that will take a very long time to repair. How long do you think it will be before we can trust each other once again? She added that she believes some of the concerns they are seeing that have caused this despair within the City are misguided concerns. We have workers losing their jobs, people unemployed or underemployed, those without health insurance and people who are struggling. Yet we have chosen a fight that has split the City in two. These are divisions within our community that we have never had before – divisions within our City departments, within our neighbors, and workers. There are wasted energies that have been focused on the negative. Why can't these energies be used to promote the positive? There was an article in the newspaper that said this Manager has done more than the last ten Managers. Ms. Garduno said she takes issue with that and has a list and would like to talk to that man so he could show her his list. She said she has a list of the very many opportunities and things we have accomplished here. Under our former City Manager's watch we have a new swimming pool, a very nice park. There's been a lot that has been done. She reiterated that she takes issue with the comment that not much has been done. If you read in the news, you see all the negative things, such as the tornadoes and all of the people who have lost their homes, have lost their lives, and they have come together and are working together and they thank God just for the fact that they are still living, though many of them don't have homes to live in. Meanwhile what are we doing? What do we read in the newspapers - bashing of our elected officials. The disrespect that she said she sees for our elected officials is very disgusting to her. She added that she doesn't believe that any person decides to go into office with the intent of being a bad official. She told Council that they were elected by the majority of the people and she has confidence in them and that they will do the right thing. Councilmember Bonato served on Council before and people chose to elect him again so he must have done a good job. Councilmember Velasquez was elected for two terms. Councilmember Pando and Mayor Rino served in the past and continue to serve, so they must be doing something right.

Glenn Moltrer told Council the first thing he wanted to say was that he was at the delegate meeting and had to come down to speak. Mr. Moltrer said he travels a lot with his business. The first thing he does when he gets to a motel is pick up a local newspaper to see what the town is about. If he picked up a paper in Trinidad right now he said he would not come back. He said he is proud to say he has taken anger management. Most of the people present know him as his family has been here since the early 1900s. Anger management taught him that there is an action that makes you upset and how you react to that action are what the consequences are. When City Manager Gil de Rubio first came to town he said he asked the City employees what they thought of their new boss. Obviously, he pointed out that Council has seen from the City's union representation that they like him. Mr. Moltrer said he had to personally meet him. In their business he said he deals with a lot of municipalities. He said there have been things that he disagrees with what City Manager Gil de Rubio has done, but what Council needs to realize is with his business he has management. He asks his employees if things can be fixed with respect to the management or if he should count their losses and move on. He suggested Council wait before they make a decision and work with the Trinidad Community Foundation. Like anger management tells you, he suggested they count to ten before they react to an action. He opined that Council is pushing this a little too fast and asked them to please look at everything. Look at what it will cost the City if they fire the City Manager with the litigation. We already have one Council member who is going to be on a recall petition, and in four months they will do it again. They will go after the Mayor and the other Council members. He re-asked them to look at everything and not cost this community any more. Mr. Moltrer said they have six businesses based in Trinidad. They invest back into our community and had donated \$10,000 into the 56 Flags Project. Mr. Moltrer said he received a thank-you letter from City Manager Gil de Rubio and had never gotten a thank you letter from any of the Council members, not saying they don't appreciate it. He urged them to think before they make a harsh decision.

Kim Schultz addressed Council on behalf of the Trinidad & Las Animas County Chamber of Commerce. She said she wanted to take this opportunity to say what seems to be a common denominator this evening – let's take this approach – let's get some mediation and let's have some discussions. She told Council that she thinks the bridges that have been broken far surpass City staff and Council at this time. They have a fractured community on their hands as well. How this turns out is how we move through the future. She added that she's preaching to the choir knowing how hard Council works for this community and everyone in this room. But, she said, when we look at businesses and the outer community, she said she talked to a gentleman today who's going to take over the Cougar Canyon operation in April. He asked her what's going on in Trinidad and what he can expect. Ms. Schultz said she is on the front line to deliver that answer over and over and over again. She said she wants to be in a position to give positive feedback, as you know she is a very positive person and really tries to bring positive things to this community through the Board of Directors and the business community, because you have a fantastic one. She continued that she really hates to see the divisiveness that is occurring now in the community because our economy just can't stand it. She said we really need to take a step back. The Board of Directors would like Council to look at the mediation process and whatever that ultimately is because some sort of mediation needs to occur, whether it's with staff, amongst themselves and with the community. She thanked Council for the opportunity and expressed appreciation for what they do. She added that it is hard to put your best foot forward and to get things accomplished. Everyone is trying to work in that direction and all of the budgets are tight. She wished Council the best as well as the business community. She reminded that she's worked with the business community for ten years now and she's proud to say they are just 100%. She suggested they all look at that and into the future try to make some really solid decisions on behalf of our community.

Consideration of Trinidad Community Foundation mediation offer. Councilmember Shew moved to accept the Trinidad Community Foundation's mediation offer. The motion was seconded by Councilmember Baca Gonzalez. Roll call was taken on the motion and the following votes were cast:

Aye – Baca Gonzalez, Bolton, Shew

Nay – Bonato, Pando, Velasquez, Rino

The motion failed by a majority vote. Mayor Rino said he's to the point where he didn't think mediation would do any good. He added that he thinks they are at a point now where they need to make a decision one way or the other.

Removal of City Manager. Councilmember Pando moved to place City Manager Gil de Rubio on administrative leave with pay until Council makes a decision. Councilmember Pando said Council has to present the City Manager with the reasons and he has the right to ask for a hearing. Therefore, Council can't make a decision yet until he has been presented with those reasons. Councilmember Velasquez seconded the motion. Mayor Rino called for discussion. Councilmember Baca Gonzalez called for point of order with connection to the posting of this meeting as there was no posting or contemplation of placing Mr. Gil de Rubio on administrative leave with pay. She said she is very concerned about that because shortly the City will be going into a mediation to try to resolve the Arkansas River Power Authority lawsuit and she is very concerned if Mr. Gil de Rubio is not there the City will be at a clear disadvantage. She added that she is concerned that they may be violating the Open Meetings Act. Mayor Rino asked City Clerk Garrett to present the reasons provided by Councilmembers to City Manager Gil de Rubio. The reasons were provided. Councilmember Bolton asked when Council members will learn of these reasons. Mayor Rino advised that copies were made for them and the City Clerk will provide them next to Council and they were. Mayor Rino asked City Manager Gil de Rubio if he was requesting a hearing. Attorney Dennis Malone, representing Ed Gil de Rubio, addressed Council. He said he had a couple of things he'd like to make records on this evening as a precedent of a lawsuit that the City can expect. First he said he will pass out a letter stating that Mr. Gil de Rubio is represented by counsel and he is that counsel. The second letter to be passed out is one he said he previously provided regarding a conflict of interest on the part of City Attorney Jerod Beatty. He recognized and said he appreciates having received a contrary point of view from another law firm earlier this evening, but these sorts of issues are determined by the Colorado Supreme Court Grievance Counsel and not by him or any other law firm, so he said he'd proceed with that. He additionally said he'd provide a request for written reasons and a request for a public hearing. He questioned as much as you can read the Charter, the ordinances, the law and the statutes, he found it a little odd that without a vote of Council tonight to approve the reasons and just having the reasons stuck in front of them, he questioned who approved them. He said he thinks the answer is no one in particular, a net was just put out hoping to catch any possible number of complaints. No one on Council has raised their hands and said this is their doing. He said he thought for Council to present these reasons in this form to Mr. Gil de Rubio without even a vote will be the downfall and is a defense to this action that he couldn't have been handed better. Mr. Malone said it's not that he doesn't like such things but that he thinks in fairness he needed to raise that at the earliest possible moment. He explained that he doesn't want to see anybody making mistakes and that he just doesn't understand where this is coming from as a matter of procedure. He said if that is how

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Council wants to complete its meeting tonight then they'll understand that's the way it is going to be. But he said he simply didn't want this Council to think this is not a serious defect. Mr. Malone said the only other letter he will give them tonight is one that requests that Mr. Gil de Rubio be granted the right to special counsel. It is in the Charter that he is and it's one of the things that can happen, that special counsel can be appointed at the City's expense, only through the consent of Council. He said if he were to guess if that were to be approved it would be a four to three vote, but he still has to raise it and they will get a letter accordingly. He asked Council to consider it, realizing that it's something they weren't probably expecting tonight but hoped they'd consider it at their earliest convenience so they can find out how Mr. Gil de Rubio is going to pay for his counsel and so that counsel upon being appointed can have sufficient time to prepare for a hearing. He reiterated in summary the requests made of Council (and tendered in letter form to each and for the record), including a list of the reasons in a proper manner, a hearing, appointment of special counsel, and for that counsel can be approved so that person can prepare for the hearing City Council will have for City Manager Gil de Rubio. Mr. Malone concluded that this is a dispute, a dispute amongst neighbors unfortunately in our town and one that he said he feels real bad about. He added that lawyers like disputes because sometimes they want to make money and other times they want to crack heads, but this is an uncomfortable feeling. It is an uncomfortable feeling to see seven of them who are friends and neighbors who cannot accept a man who has come to town, who is totally talented, with a tremendous resume, and we are booting him. He advised in closing that Mr. Gil de Rubio will say nothing this evening and Council can proceed as they want, they have provided Council with their notices and thanked Council for their time.

City Attorney Beatty addressed Council. He agreed with Mr. Malone on certain points – there hasn't yet been a vote on any item. Pursuant to Section 6.2 of the Home Rule Charter for the City, Mr. Malone has made a request on Mr. Gil de Rubio's behalf for a written statement and hearing. He is entitled to those due process items pursuant to the Home Rule Charter. Written statements have been compiled by the City Council regarding proposed reasons for Mr. Gil de Rubio's removal. If the Council deems them to be acceptable, he asked for a motion to accept those statements as those written statements to be provided to Mr. Gil de Rubio pursuant to Section 6.2 of the Home Rule Charter. Thereafter there should be a formal motion to set a public hearing on the City Manager's removal at the City Council's discretion. City Attorney Beatty said he heard this evening an indication to place Mr. Gil de Rubio on paid administrative leave, that would also need to be formalized with a motion if Council so desires. He concluded those to be his recommendations for Council this evening. Mayor Rino asked if the motion to place Mr. Gil de Rubio on administrative leave with pay should be withdrawn and start with the dispensing of the reasons. City Attorney Beatty answered that in conferring with the City's insurer regarding that possibility, they are of the opinion that it is within the scope of the stated agenda item of removal of the City Manager, however he recommended they first adopt a written statement pursuant to Section 6.2 of the Charter, then schedule a hearing and then if Council desires to place him on paid administrative leave they may do so at that time. Mayor Rino asked if that should be done at the next regular meeting or a special meeting or tonight. City Attorney Beatty said it may be done tonight if that is the Council's desire, but they should leave it as the final item under this agenda item. City Attorney Beatty assisted Council. He stated that Dennis Malone on behalf of Mr. Gil de Rubio, pursuant to Section 6.2 of the Home Rule Charter has made a request for a written statement for reasons for his removal. He said his understanding is that written statements have been gathered. He asked Council to entertain a motion to formally adopt those written statements as those that are to be provided to Mr. Gil de Rubio pursuant to Section 6.2. Mayor Rino asked that the motion on the floor to place Mr. Gil de Rubio on leave be withdrawn. Councilmember Pando withdrew his motion and Councilmember Velasquez her second respectively. Councilmember Bonato moved to present Mr. Gil de Rubio with the written statements submitted by the Council members. The motion was seconded by Councilmember Pando. Mayor Rino confirmed with Mr. Malone that the written statements were in the possession of City Manager Gil de Rubio. Councilmember Baca Gonzalez stated she wanted to go on record that she did not submit any reasons and that she thinks the proceeding is entirely out of order. She added that she will vote no but was reserving all of her objections to the procedural validity of what was occurring here tonight. Roll call was taken on the motion and the following votes were cast:

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

The motion carried by majority.

Mayor Rino advised the next motion should be to give Mr. Gil de Rubio an opportunity to have a hearing. Mayor Rino asked Mr. Gil de Rubio if he was requesting a hearing. Dennis Malone answered that a written request for that hearing had been tendered to Council. Councilmember Bonato made a motion to grant Mr. Gil de Rubio a hearing as requested. The motion was seconded by Councilmember Velasquez. Councilmember Baca Gonzalez pointed out and reiterated that a reasonable time must be offered to legal counsel to prepare a defense, whether that is Mr. Malone or other retained counsel and she hoped if that counsel comes forward requesting a reasonable opportunity to schedule a meaningful hearing that it is granted. Roll call was taken on the motion and the following votes were cast:

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

The motion carried by majority.

Mayor Rino stated that the motion now should be to place Mr. Gil de Rubio on administrative leave. Councilmember Pando moved to place City Manager Gil de Rubio on administrative leave with pay. Councilmember Velasquez seconded the motion. Councilmember Baca Gonzalez stated that she would like to go on record that she doesn't believe this action was properly noticed and that she's preserving that procedural objection despite the fact that she will officially vote no. She said she doesn't believe this was properly noticed for that type of conduct. Roll call was taken on the motion and the following votes were cast:

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

The motion carried by majority.

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

ATTEST:

JOHN RINO, Mayor

AUDRA GARRETT, City Clerk