

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, July 17, 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: Acting City Manager Gagliardi  
City Attorney Beatty  
City Clerk Garrett

The pledge of allegiance was recited.

**READING OF THE MINUTES.** Regular Meeting of July 3, 2012. A motion to approve the minutes as submitted was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** None.

**REPORT BY CITY MANAGER.** Acting City Manager Gagliardi asked Council's consideration in allowing him to report from his seat in the future because he feels more comfortable addressing them and the audience from that location. Council concurred.

**Sales tax.** Acting City Manager Gagliardi reported that the sales tax report as of (end of May, 2012) June 1<sup>st</sup> showed an increase of 11.2% over May, 2011. Year-to-date the City has realized an increase of 3 ½% over last year's sales tax through the same time period. He pointed out that it is creeping upwards and noted the Finance Director's presence if Council had any questions.

**Departmental visits.** Acting City Manager Gagliardi reported to Council that in the past two to three weeks he has been visiting the departments and department heads and has visited with all except two, the Police and Fire Departments. He said he has been met with cordiality and sincerity. There were some issues with a couple of departments, however not personnel issues. He concluded that he will be providing a memorandum of his findings and can answer any questions that arise following his written communication to Council.

**REPORT BY CITY ATTORNEY.** North Lake Dam Project. City Attorney Beatty called to Council's attention at their seating places an update memorandum regarding the North Lake Dam Rehabilitation Project. He advised that the Colorado Water Conservation Board will consider a funding modification tomorrow afternoon at its meeting in Gunnison. Acting City Manager Gagliardi, Supt. Fernandez and he will be attending the meeting should questions arise. This funding modification will allow the City to use CWCB grant funds without the loan and the City will finance the balance of the project from the Water Fund's cash reserves. The modification was approved at the Arkansas River Basin Roundtable meeting this week. Mayor Rino asked if Council will know if the funding modification is approved tomorrow or if it will be learned at a later date. City Attorney Beatty said his impression is that they will know tomorrow and he will notify Council.

**Multi-model.** City Attorney Beatty reported that regarding the Amtrak multi-model transit center proposed for the City, staff met with representatives from South Central Council of Governments, BNSF Railway, Amtrak and Colorado Department of Transportation last Thursday. He said he walked away with the feeling that they all came with the desire to see the project come to fruition. BNSF and Amtrak explained that due to the nature of the project being proposed as a multi-model it causes delays in their approval processes because it introduces more liability to those entities with third parties entering into their properties. Going forward, BNSF Railway will continue to evaluate the City's proposal for a lease or acquisition of their land adjacent to the newly constructed platform. They will also provide the City information so that we may accurately price our insurance for the facility. Simultaneously the City will evaluate with CDOT possible other locations for the multi-model center. The further away from the railroad tracks, the less liability there is for all parties involved. However, it is an Amtrak station and should be as close as possible to the tracks. He concluded that the Amtrak representative was a former Mayor from the state of Washington who went through a similar process with Amtrak, and said it took his municipality seven years to accomplish.

**Water Works Building.** City Attorney Beatty said he was pleased to announce that Phase 1A of the Water Works building project is complete with the exception of a few punch list items. The City will conduct a walk-through with the contractor on August 7<sup>th</sup>.

**Wildfire Mitigation IGA.** City Attorney Beatty reported that regarding the IGA with Las Animas County for fire mitigation concerning the extraterritorial properties the City owns, North and Monument Lakes, staff has been continuing efforts to draft and finalize an agreement. They are involving additional input from Stonewall Fire Protection District and the State Forest Service.

**Personnel Manual.** City Attorney Beatty told Council that the City's proposed personnel manual is still being reviewed by the City's insurer.

**Brownfield Project.** City Attorney Beatty deferred to City Planning Director Louis Fineberg to provide an update regarding the Brownfield project. Planning Director Fineberg addressed Council. He told them that last Wednesday Jesse Silverstein from Colorado Brownfields, Inc. came to Trinidad and conducted a tour of the Schneider Brewery, the Main Street building next to Del Monico tavern, and the Hughes Lumber Building. The Brownsfields organization is a non-profit that provides municipalities funding for the remediation of buildings. If contamination is found, they can get the City

JULY 17, 2012

funding to remediate it as part of the rehabilitation process. Mr. Silverstein conducted the three initial tours with the idea of coming back and doing more if the City wants him to. He added that his assistant, Karen Wolf, attended a workshop last Thursday where they went over the process of remediation in older buildings. It was a very informative meeting. She learned about materials used back then and how we can find funding to do proper rehabilitation work.

North Lake Project. Councilmember Baca Gonzalez stated that as she understood, the grant/loan originally required 20% cash up front from the City and then 40% was to be loan funds and the other 40% grant funds. Now she said it looks like 60% of the project will be paid by the City and 40% by the grant. She said if she did her math correctly it is \$1,108,851 that the City is going to have to put cash on the barrel whereas before it would have been only \$369,616. Councilmember Baca Gonzalez said she is concerned given the mine has closed and we are still in an economic downturn and doesn't understand what the problem was in being unable to get that low-interest loan. City Attorney Beatty explained that the issue that had arisen is that the terms of the proposed loan agreement from the Colorado Water Conservation Board provided that the City would be in receipt of loan and grant funds in equal proportions upon submittal of progress reports to the CWCB and upon approval of the work completed the City would receive the funds. The City has a Charter provision in place, Section 9.24, which is deemed to conflict with the manner in which those loan proceeds are expected to be provided through the CWCB. He said they are working through a modification that will enable the City to make use of the grant while still pursuing this project while favorable conditions exist this year. Councilmember Baca Gonzalez asked who brought the problem with the Charter language to the City's attention. City Attorney Beatty answered that bond counsel did. Councilmember Baca Gonzalez asked when the City learned of it. City Attorney Beatty said that they have been working through this and keeping Council advised for two weeks now. Councilmember Baca Gonzalez asked if it was back in March. City Attorney Beatty said the City didn't have the contract until May, so it was thereafter. Councilmember Baca Gonzalez said she is concerned, explaining that there are reserves in the water fund, but given the matter of the backflow meter problem that could run into a lot of money, she was really hoping the City could have some assistance with the loan so we could hang on to more of the reserves and it sounds like that's not a possibility. City Attorney Beatty agreed, not as the loan agreement is proposed by the CWCB. Mayor Rino asked the sum of Sun Construction Company's bid for the project. City Attorney Beatty said it was in the neighborhood of \$900,000 and change. Mayor Rino recalled the City's share initially was \$369,000 of the estimated \$1.8 million. The proposed funding from the CWCB was about \$700,000, so the City's will be about \$369,000, which is a minimal amount. There's over \$4 million in the water fund, and he said he felt it critical to get it done rather than wait to see where we get the grant money from. Councilmember Baca Gonzalez agreed that the City needs to have it taken care of but said her concern is if the City has legal counsel why the loan wasn't explored sooner and issues addressed so the City could take advantage of the low cost loan. Mayor Rino said it is in the Charter that we have to have the money in hand before we could let out the bid. Councilmember Baca Gonzalez opined that we should have spotted that problem a long time ago or been aware that it could have presented a hurdle to this process. She continued that she is very concerned about the City putting as much cash on the table right now as we may be expected to, given the fact that we are in further economic contraction. Perhaps it will wash, but she reiterated her concern that the City wasn't able to proceed with a loan covering part of this cost. Mayor Rino said we'll have to change the Charter. Councilmember Bolton asked if instead of the City contributing 20%, we will now be contributing 60%? Mayor Rino said that was correct, but that 60% is going to be about \$369,000. The City got the grant that is about \$700,000 and all we'll have to come up with is \$369,000. Councilmember Baca Gonzalez stressed the importance of making sure our engineer holds Sun Construction's feet to the fire because she said she knows there can be cost overruns very easily that can be incurred in connection with change orders and added that she will be extremely upset if the monitoring engineers do not hold a firm handle on the work that's being done by that construction company. She added that her understanding is that the bid is going to expire on July 31<sup>st</sup>. Acting City Manager Gagliardi corrected that it is August 31<sup>st</sup>. He added that if the City doesn't act on this bid by August 31<sup>st</sup>, it goes away. There's a timeframe to do that work because of the weather. If the City doesn't pursue this work the State will come in and the City will lose another approximate 500 acre-feet of water because they will make us drop that water level. The water itself is valuable. Councilmember Baca Gonzalez said her overarching concern is that the City's back is against the wall. She said she hoped we hold the engineer accountable for ensuring that Sun Construction does a good job and stays within budget. Acting City Manager Gagliardi said that would happen in any job, even if it were clear sailing. That's why we have a superintendent to look this over. If this did not happen we would have to wait for a year and that water can never be replaced. Then we have an issue with the weather and if we have another dry summer we will probably be put on water restrictions and will have one heck of a pickle. As for the Charter, he said although he is new, he remembers this coming up at the first meeting he attended which he equated to have been on June 12<sup>th</sup>. That's when bond counsel alerted the City Attorney during a meeting in the conference room. City Attorney Beatty and Utilities Superintendent Fernandez then got to work on alternatives and this is where we are. Also staff attended a roundtable meeting last Wednesday and received help from a former State Water Engineer and Chairman, Mr. Hammel. They saw the urgency for this. Acting City Manager Gagliardi added that he's from the old school – if you've got the money, use it. Don't wait for a rainy day – this is a rainy day. He said as a banker he would instruct his customers if they had the money not to borrow it. The City has the money and are earning only about one-half percent on it. Councilmember Baca Gonzalez clarified that she's not saying we shouldn't proceed; rather her real concern is what she sees as a failure of planning. Acting City Manager Gagliardi argued that there was not failure of planning. The fault lied with the City's Charter. Nobody caught that. Councilmember Baca Gonzalez said that is the failure of planning and the due diligence that's needed and expressed that she was very upset about it. Acting City Manager Gagliardi said it is what it is and we've crossed that hurdle and thinks we are going to get the job done and thought it to be a happy ending. As for her concern with Sun Construction, there is a project superintendent to oversee and make sure the job is done in accordance with the plans. Councilmember Baca Gonzalez said her experience, having done a lot of construction work, and when a project is going to be they immediately did an all call for all contracts, loan documents, warranties, and guarantees so they could be analyzed and identify any problem areas months before the bid was even let out.

**COMMITTEE REPORTS.** None.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Consideration of Comment Letter to the Fort Carson Garrison commander regarding the U. S. Army's 2012 Draft Environmental Assessment entitled "Fort Carson Combat Aviation Brigade Stationing Implementation". Paula Ozzello commented that she read the letter City Attorney Beatty drafted and that it was excellent, having hit the main point of local concerns. Councilmember Bolton moved for the issuance of the letter and the

Appointment of Director of Emergency Management for the City of Trinidad. Mayor Rino pointed out that the appointment is required and it has been the City Manager historically. Acting City Manager Gagliardi advised that he informed City Attorney Beatty that he should defer appointment since his tenure is expected to be only for about another five months. However, he expressed his willingness to serve if Council chose to appoint him. Councilmember Bonato asked if the position has to be posted in-house. Mayor Rino answered that it does not as it is not an employment position. Councilmember Baca Gonzalez moved for the appointment of Police Chief Charles Glorioso to serve as the Director of Emergency Management until such time as Council employs a full-time City Manager. The motion was seconded by Councilmember Bolton and carried unanimously upon roll call vote.

Formal advisement of receipt by the City Clerk of recall petition and Council's acknowledgement of the requirements set forth as a result of the filing. Mayor Rino announced that this item requires no action. It is just a notice that it has happened.

**BILLS.** A motion to approve the bills as presented was made by Councilmember Baca Gonzalez. The motion was seconded by Councilmember Shew. Roll call was taken on the motion to approve the bills and carried unanimously.

**PAYROLL,** July 7, 2012 through July 20, 2012. A motion to approve the payroll was made by Councilmember Shew and seconded by Councilmember Baca Gonzalez. The motion carried unanimously.

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

ATTEST:

\_\_\_\_\_  
JOHN RINO, Mayor

\_\_\_\_\_  
AUDRA GARRETT, City Clerk