

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, December 11, 2012 following work session at 12:00 p.m. in City Council Chambers at City Hall pursuant to the following call:

CITY OF TRINIDAD
TRINIDAD, COLORADO

SPECIAL MEETING

There will be a Special Meeting of the City Council of the City of Trinidad, Colorado, on Tuesday, December 11, 2012 following work session at 12:00 p.m. in the Council Chambers at City Hall

The following items are on file for consideration of City Council:

- 1) Approval of Employment Agreement with John Thomas Acre as Acting City Manager
- 2) Resolution of the City Council of the City of Trinidad, Colorado, amending Resolution No. 1405 levying general property taxes based upon the 2012 certification of valuation
- 3) EXECUTIVE SESSION – For a conference with the City’s attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – New Elk Coal Company’s request regarding water
- 4) EXECUTIVE SESSION – For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(c) – Union negotiations

The meeting was called to order at 2:10 p.m.

Roll call was taken.

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

The pledge of allegiance was recited.

Approval of Employment Agreement with John Thomas Acre as Acting City Manager. City Attorney Downs identified at Council’s seating places an updated copy of the agreement. He said they were making changes to the agreement up until just before the meeting. Councilmember Miles asked City Attorney Downs to identify the changes made. City Attorney Downs pointed to the housing allowance language included in paragraph 9 at the top of page 4. He explained that since Mr. Acre is having to relocate it is proposed that while acting in the interim capacity that reasonable housing expenses be provided for. He said that he has secured living arrangements above the Chronicle News and began moving in last night. The monthly rent is \$900. In talking with Monica Violante, the property manager, they learned that the lowest utility bill was about \$50 and the highest around \$150. Therefore, a monthly housing allowance of \$900 and up to \$200 month for utilities was included in the agreement. Regarding the term of the agreement, City Attorney Downs emphasized that every contract for an Acting City Manager would be for no more than 180 days. There is nothing in the City’s Charter or ordinance that says a person can’t have a subsequent appointment as Acting City Manager, but the contract term expires after 180 days in accordance with the Charter. He explained that doesn’t represent a change in the agreement from the first draft, it is just being brought to their attention that it is in accordance with the Charter. City Attorney Downs referred to paragraph 14 of the agreement whereby indemnification language was largely new language to the agreement. Also, the 40-hour work week language was modified. The relocation expense allowance is standard. He also pointed to paragraph 12a which provides for a one-month’s salary and benefit allowance if terminated and 12b that speaks to voluntary resignation, not at the request of City Council, requiring a two week notice. Councilmember Bolton asked who was involved in the contract and salary negotiations. City Attorney Downs said he was with the Acting City Manager as he is tasked with that responsibility. He said he hoped Council was satisfied with the terms. Councilmember Bolton pointed out that the Acting City Manager is one of the few positions that answers to City Council. In the past Council held discussions concerning terms as a whole but this time they weren’t involved. City Attorney Downs reiterated that his understanding was that he was responsible as City Attorney to negotiate the agreement. He added that he never wanted to step on anyone’s toes. Mayor Baca Gonzalez recalled that on a previous occasion with respect to salary there had been a question asked during the interview. However, no one asked during this last interview session. City Attorney Downs said he thought offering what the Acting City Manager’s predecessor, Mr. Gil de Rubio, was making annually was a good starting point. He told Council that he was accepting of their criticism if they felt it was due. However, he informed Council that Mr. Acre took a huge cut in pay to come to Trinidad which he learned after contract negotiations. Councilmember Bonato asked if Mr. Gil de Rubio had been given a housing allowance when he lived above the Chronicle News. Councilmember Shew said he wasn’t. Councilmember Bonato asked if that would be his permanent arrangement. Mr. Acre answered that it will be for the short time until it is decided whether he is staying or leaving – only while he is in this interim position. If made permanent or if

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he leaves the living arrangement will cease. City Attorney Downs said it seemed appropriate for him to make this offer because of the interim status and because to retain a professional of Mr. Acre's caliber it required a little give and take. If he goes back or if he's made permanent the housing allowance stops, then Council would have to consider compensation. Councilmember Bonato said that was not a concern. Councilmember Miles pointed out that it is justified to pay housing because Mr. Acre is having to maintain two households during this interim period, whereas Mr. Gil de Rubio was permanent and didn't have to do the same. Mr. Acre can't sell his house until he knows if he is going to be moving here permanently. Councilmember Bolton acknowledged that Ralph Gagliardi offered up a salary amount he sought and they didn't ask these applicants, but recalled having a conversation about what the Acting City Manager would be making when they were considering appointment of Louis Fineberg to the Acting City Manager position. Councilmember Bonato reiterated that Mr. Acre is taking a large cut in pay to help our City and that he has no problem with paying the rent and utilities. However he said he had concerns about the location that he would discuss privately with the Acting City Manager at a later time. Councilmember Bolton clarified that she wasn't complaining about or worried about the salary, just the method used. City Attorney Downs apologized and reiterated his position that his understanding was that it was his job to enter into negotiations with Mr. Acre. If he overstepped his bounds he was sorry. He added that everyone is unique and different and that Louis Fineberg had been a candidate for the Acting City Manager position only because he was already in City Hall but had no City Manager experience. Conversely, Mr. Acre has a tremendous amount of Deputy City Manager experience in a major metropolitan area and tremendous credentials and qualifications. He concluded that he felt comfortable doing what he did and will accept criticism for it. Mayor Baca Gonzalez stated that she would not let City Attorney Downs take all the heat. She said what she's hearing is that the concern is that she didn't drag Council into executive session to hash through all of the details of the contract, and for that she apologized. If there are provisions that are giving Council members indigestion, she said she'd take responsibility for that as well. City Attorney Downs told Council that he spoke to Sam Mamet and Tami Tanoue and Mr. Mamet said it is the job of the City Attorney to finalize the contract with the City Manager. That is universal. He said he was doing what he was told was his job to do and sign up Council's finalist. Councilmember Shew commented that he didn't see any issues. The concern is that all of Council wants to be informed about what goes on. He suggested that as a courtesy Council should have been allowed to look at the contract, however he didn't see anything wrong with it. Council wants everyone to communicate. That's the biggest issue. City Attorney Downs recalled the guy sitting in his chair for the past six months was criticized for taking action that wasn't transparent with respect to contract negotiations. He said his understanding was that he was not required to go back to all of them with the offer. His understanding was that he was supposed to go to Mr. Acre and not give away the farm but to negotiate with him so that he didn't refuse the job. His job was to negotiate within reason. He added that he does not want to keep things from Council he just understood that was how he was supposed to do it. Councilmember Bonato commented that was how it has been done for a long time. He said he doesn't see a problem with the contract. They need to get it done and get Mr. Acre in place for the important issues the City has to address. Councilmember Miles thanked City Attorney Downs for making this happen and thanked Mr. Acre for what he is doing for Trinidad, complimenting his talents. Mr. Acre said he wanted to be fair in the contract and was not trying to take advantage of the situation. He said the negotiations were good and they treated each other with respect. He concluded that he will live up to their expectations and will move things down the road. Councilmember Bolton asked why the effective date of the agreement is identified as Saturday, December 8th. Mayor Baca Gonzalez answered that City Attorney Downs reminded that Mr. Gagliardi's contract expired December 7th and it was to ensure there wasn't a gap in coverage in case there had been a problem. Councilmember Bolton recalled his agreement to expire on December 11th rather than December 7th. City Clerk Garrett explained that it did not state a date certain, rather 180 days. The 180th day was December 7th. A motion to approve the employment agreement at their seating places was made by Councilmember Miles and seconded by Councilmember Shew. The motion carried unanimously upon roll call vote. Mayor Baca Gonzalez thanked Acting City Manager Acre for being here. Acting City Manager Acre said he is glad to be here and for them to feel free to contact him.

Resolution of the City Council of the City of Trinidad, Colorado, amending Resolution No. 1405 levying general property taxes based upon the 2012 certification of valuation. Mayor Baca Gonzalez reminded Council that they had previously acted upon the mill levy on December 4th and this resolution proposes to amend that resolution. She pointed to the resolution provided to Council. The specific changes were identified, however it was noted that the total mill levy for the City of Trinidad remained at 17.579 mills. Mayor Baca Gonzalez compared the previous resolution and proposed resolution and advised that the 2012 valuation for assessment for the City is \$73,369,390, whereby previously it was stated to be \$73,259,140; the committed levy for the library support was 2.341 mills and is now identified as 2.338 with the tax proceeds remaining the same; the committed levy for the fire and police pension obligation was identified as 1.114 mills and is now proposed to be 1.112 mills with the tax proceeds remaining the same; and the committed levy for the support of the general fund was identified as 14.124 mills and \$1,034,686 and is amended to 14.129 mills and \$1,036,624. A motion to approve the resolution amending Resolution No. 1405 was made by Councilmember Bolton and Councilmember Shew seconded the motion. Roll call was taken and the motion carried unanimously.

RESOLUTION NO. 1406

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, AMENDING RESOLUTION NO. 1405 LEVYING GENERAL PROPERTY TAXES BASED UPON THE 2012 CERTIFICATION OF VALUATION

EXECUTIVE SESSION – For a conference with the City's attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – New Elk Coal Company's request regarding water; and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e) – Union negotiations. A motion to enter into executive session for the stated purposes was made by Councilmember Shew and seconded by Councilmember Bonato. The motion carried unanimously upon roll call vote and the executive session ensued at 2:47 p.m. Executive session was electronically recorded in its entirety in accordance with the Colorado Open Records Act and pursuant to legal counsel's determination that the legal advice could remain on record.

There being no further business, Councilmember Shew moved to adjourn the special meeting and Councilmember Bonato seconded the motion. The motion carried unanimously upon roll call vote and the meeting adjourned at 4:41 p.m.

ATTEST:

BERNADETTE BACA GONZALEZ,
Mayor

AUDRA GARRETT, City Clerk