

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, September 2, 2014, at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bolton, Bonato, Fletcher, Mattie, Miles, Torres
Also present:	Acting City Manager	Garrett
	City Attorney	Downs
	Asst. City Clerk	Valencich

Mayor Reorda called the meeting to order.

The pledge of allegiance was recited.

**APPROVAL OF THE MINUTES.** Regular Meeting of August 19, 2014 and Special Meeting of August 22, 2014. A motion to approve the minutes as presented was made by Councilmember Bonato and seconded by Councilmember Bolton. The motion carried unanimously.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Tom Murphy addressed Council concerning CORA. Mr. Murphy read aloud an e-mail addressed to Les Downs from Bernadette Baca Gonzalez dated Monday, October 29, 2012, subject 'individuals employed by contract' - "FYI - just wondering why the Assistant City Clerk has a contract and Mr. Fernandez does not." Mayor Reorda reminded that personnel cannot be discussed in public. Mr. Murphy said this is his time for public comment and reminded that the Mayor discussed the City Inspector last week. Mayor Reorda reiterated that personnel matters can't be discussed. Mr. Murphy stated that he is reading something he obtained through Freedom of Information so it is public information. City Attorney Downs said it is in response to a CORA request so it is a public document, so Mr. Murphy is probably able to comment on it. He said if it goes into the area of personnel or specific matters concerning employees, he may reconsider. Mr. Murphy reiterated that it is a public document. He started again "FYI - just wondering why the Assistant City Clerk has a contract and Mr. Fernandez does not. If Gagliardi or anyone else proposes doing some last minute nonsense with contracts, please let me know immediately. Had that happen one time in Texas. Someone attempted to protect his buddies and tried to give away the ranch on the eve of the new CEO coming in. It got real ugly. Would you obtain a copy of each of those contracts so we can discuss them at a later date?" Mr. Murphy said the next thing he was going to read was an e-mail he received on Friday from Nathan, Bremer, Dumm & Myers, the attorneys representing the City as per his CORA request. He stated that this was in regard to the August 8<sup>th</sup> CORA request to the City of Trinidad - "Dear Mr. Murphy - This firm serves as Special Counsel for the City of Trinidad. It is my understanding that the City already responded to your request dated August 8, 2014, which appears to have been made under the Colorado Open Records Act, although it does not specifically state that. As noted in the response from Audra Garrett dated August 12, 2014, the City of Trinidad does not have copies or the original of any of the contracts you requested in its records. That said, in an attempt to go above and beyond to respond to your request, I have attempted to obtain copies of any such agreements, if they still exist. In that regard, I have obtained a copy of an agreement involving Ms. Ridolfi. Mr. Fineberg apparently has a document, but declined to provide me a copy. As for the remaining two agreements, the respective employees have advised that they no longer have the original or any copies of the agreements. Based upon the information I have obtained, there are only two documents which currently exist, albeit neither are in the City's files. In yet another attempt to go above and beyond what is required, I have been asked by the City to provide you with a copy of the one agreement I have been able to obtain. By providing you this record, I want it to be clearly understood that the record does not exist in the City's files, but rather had to be obtained from another source and the City's position is that for a variety of reasons, including that the agreements were never reviewed or approved by City Council, none of the agreements are valid or enforceable." Mr. Murphy said this is like a shell game, but the pieces of the puzzle are coming together, it will just take him a little more time.

Chris Gerardo, Gladiator Boxing, addressed Council. Mr. Gerardo told Council that he is a former MMA champion. He reminded that he used to coach Pitbull Boxing Club in 2000. After Pitbull Boxing he transferred to MMA and did pretty well. He said he is returning to the basics of boxing and trying to get the kids off of the streets and where they need to be, instead of using alcohol and getting in trouble and in fights. He said he was before Council to introduce them to Gladiator Boxing. He said he has coaches helping him as well. At some point they want to be able to get some gear but they are starting from scratch, working out outside. So they will need some funds in the future to get on their feet. Council thanked Mr. Gerardo for what he is doing. Upon inquiry he said when Pitbull Boxing was operational they had ten participants. Councilmember Bonato asked where they are located. Mr. Gerardo said they are right across the street from the fairgrounds. There's a house their coach is letting them use and a barn where they will set up their bags. They run around the fairgrounds to train and use the bleachers. They need gear and he said he'd like the City to help them in the future, perhaps through a non-profit grant.

Stephen Hamer, Stephen's List, addressed Council. He stated that tonight's agenda includes an item concerning a sidewalk situation, changing it from a five foot to a four-foot unobstructed pathway. He reminded that Stephen's List does not oppose that. However, he said this past week there has been a lot of infractions. The Corner Café and Fabilis Wings had encroached completely on the sidewalk. The Corner Shop does not have a license as of Friday, so they are out there with their tables and chairs illegally. He said he understands the City will act on that once the new ordinance goes into effect. He reminded that there has been a five-foot ordinance for a number of years that was never enforced. If the four foot is not enforced it will be an issue with the disabled community because it is required. He explained that the ADA requires three feet, but for people with service dogs and on crutches, with a walker or other mobility aids, three feet would be difficult; four feet is marginal. He said if the City hasn't enforced the five-foot requirement he hopes they will enforce the four-foot requirement. He said he is aware of discussion about painting lines and thought that to be extremely commendable, although it may be unsightly. He opined that the police response in this matter has been very tepid. They need to step up

enforcement. It's the law and it's creating barriers for the disabled community. He added that he'd like to see a lot of interest on behalf of enforcement. It is critical because accessibility around the City is limited as it is. He asked Council to consider strict enforcement if they vote to approve the change tonight. Councilmember Miles agreed with Mr. Hamer's sentiments. Shantell Quintana addressed Council. She asked if the City is allowed to enforce handicap parking at Walmart and Safeway since they are private. City Attorney Downs thought they were. Ms. Quintana said she made a report once and was told that because they were private the City had to get permission in order for the police department to enforce the handicap parking. City Attorney Downs didn't believe they had to and thought Safeway and Walmart would want the police to enforce it. Mr. Hamer said people are even parking in the areas designated for the handicap accessible vans where it is indicated by striping. If there's no one to enforce it, it is meaningless. Councilmember Mattie said Title 42, scope and effect, limits the statutes to applicability on private property, the parking lots to which they speak. Those involve alcohol and drug-related violations. All of Part 16, the accident violations, careless, reckless and the like, apply, but he didn't recall parking to be included. Councilmember Fletcher said it was included. City Attorney Downs said it may be but was not saying people don't get away with violations, because unfortunately they do. He thought that if someone is called they could enforce it immediately. Ms. Quintana asked what the City can do to differentiate the areas that are ramp accessible only parking spaces for vans. She asked that the City consider doing that around town. She said they don't mind parking at the end of the parking lot so long as no one blocks the ramp. City Attorney Downs suggested this be discussed at a work session. Councilmember Mattie noted that certain law enforcement agencies have programs whereby a citizen can report dangerous drivers. A person could sign a complaint as a witness. He asked if citizens could do something like that since the police can't be everywhere. The officer could then respond to the citizen's complaint as a witness. He said his understanding is they just want enforcement. Mr. Hamer said the problem is that the cops aren't everywhere but when it comes to the disabled community they are not anywhere, any time. When they are called the complainant is told they need to call City Attorney Downs. He said that needs to stop. If it is a violation we need enforcement from the Police Department. There is no enforcement. He called upon City Council to think about putting teeth into this. Councilmember Bonato said he knows it is hard to get around town. He said he thinks this Council, City Manager and City Attorney have heard the disabled and will move forward to solve the problems as soon as possible. Council agreed to discuss this further at the next work session.

**COUNCIL REPORTS.** Councilmembers Bonato and Torres had nothing to report.

Councilmember Miles announced that Trinidad-Las Animas County Economic Development (TLACED) hired a part-time Executive Director recently, Walt Boulden. She said TLACED was trying to set up a meet and greet with City Council but schedules conspired against it. She welcomed him and added that she hoped if the marijuana tax gets passed and there are funds dedicated to community development the job could turn into a full-time position. At this point TLACED just can't afford a full-time Executive Director. Councilmember Miles also reported on her and Councilmember Fletcher's attendance at the ARPA Board meeting last Thursday. At this point she said she can't discuss the terms of the long-term power purchase agreement except that it was extended by three years by vote of the board. She said that is good because it protects us from future fluctuations in gas prices. With ARPA shutting the facility down, ARPA would have otherwise been exposed to those fluctuations in gas prices. She next reported on her attendance at the Certified Local Government (CLG) task force meeting where they discussed the draft ordinance which is in its advanced stages to form the CLG. She reminded that becoming a CLG would allow the City to promote some very significant tax benefits that will start in January, 2015, for people doing projects on their buildings which meet minimal standards of historic preservation. Councilmember Miles also told Council that she met and had coffee this morning with Senator Crowder. They discussed renewables and the future of energy in our area.

Councilmember Bolton expressed her delight on the City's selection for the Governor's Award for Downtown Excellence. She said she understands that it is specifically for Best Downtown Management Program. She thanked everyone involved in helping the City attain that status.

Councilmember Fletcher announced that the Chamber of Commerce is going to be moving to the Pioneer offices on First Street. She said they took a tour of it and it will be very accommodating and the rent is really good. Councilmember Bolton asked how soon the move would occur. Councilmember Fletcher estimated it to be within the month. She added that they are very pleased.

Councilmember Mattie stated that last Thursday he and Cy Michaels visited with the Rotarians at their meeting. There were ten to 12 members in attendance. They discussed the City's issues on the upcoming ballot. The Capital Improvement Project tax referendum was handled by Ms. Michaels. She did really well and relayed a lot of information that he thought surprised some who may not have realized some of the projects the tax has funded. He told Council that he discussed the proposed marijuana tax and explained that it is a tax that users pay and not everyone would. He said that point needs to be made. They had occasion to address the wording of those two ballot issues which can be misleading if you don't know what it is about. He pointed out that the marijuana tax question reads "Shall the City of Trinidad increase taxes by \$100,000" and a line or two later it speaks to marijuana. Those adamantly opposed to tax increases will read that first sentence and see the word marijuana and vote no. He reiterated that it is a tax that users pay. He said they were very clear in their presentation in making that distinction and they were well-received by the members. He concluded that he was quite pleased by the outcome and the reception they received.

Mayor Reorda had nothing to report.

**REPORTS BY CITY MANAGER.** Special Meeting. Acting City Manager Garrett reminded Council of the special meeting slated for tomorrow afternoon at 3:00 p.m. to meet with the City's water attorney regarding several issues.

Upcoming Meetings. Council was also reminded by Acting City Manager Garrett of the luncheon sponsored by Action 22 on September 18<sup>th</sup> and asked them to let her know if they can attend so she can RSVP on behalf of the City. Council was also asked to let her know if they intend to attend the CML Districts 7 & 14 meeting in Pueblo on September 23<sup>rd</sup>. The RSVP deadline is September 15<sup>th</sup>. The meeting starts at 4:00 p.m. that afternoon.

Annexation. Acting City Manager Garrett advised Council that an annexation petition was filed in her office for the property located south of the City's limits. She told Council that they will next consider a resolution to set the matter for hearing, it is referred to the Planning Commission and there are several other deadlines that will need to be met. Upon inquiry the property was identified as that which encompasses Tequilla's, Wendy's and the Shell station south of the City.

**REPORTS BY CITY ATTORNEY.** Airport property. City Attorney Downs pointed to Council's seating places where he placed a memo and some maps and legal descriptions. He explained that County Attorney Dixie Newnam called him asking that she be allowed to address Council at the next work session concerning the County's request for the City to convey a small parcel of land to the County which is part of the Perry Stoke's Airport that resulted from a 1948 land swap. The City gave the County land for the airport and the County in exchange gave the City the land for Central Park. However there was one small piece of land that was left out, constituting about one acre. He pointed it out on the map he provided to Council. He explained that the County is applying for a number of FAA grants and needs to have ownership of the immediate surrounding property. There are a couple of legal considerations. State statute says a municipality cannot give land away without an election if it is currently being used for a legitimate municipal purpose, which he said he didn't think this land was being used in such a way. There are a couple of cases that say Home Rule cities can sell property without an election. He said it will be discussed next Tuesday. Councilmember Bonato asked if it would be transferred through a quit claim deed. City Attorney Downs answered affirmatively.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Hotel and restaurant liquor license renewal request by Rino's Restaurant, LLC d/b/a Rino's Restaurant at 400 E. Main Street. Frank Cordova was present on behalf of the applicant. Councilmember Bolton moved for the license approval and Councilmember seconded the motion. Upon roll call vote the motion carried unanimously.

New Medical Marijuana Center license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road; New Retail Marijuana Store license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road; New Retail Marijuana Cultivation Facility license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road; and New Retail Marijuana Product Manufacturing Facility license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road. Robert Schultz was present on behalf of the applicant. City Attorney Downs noted that this is four license applications at one facility. Councilmember Bolton made a motion to set the four license applications for public hearing at 7:00 p.m. on Tuesday, October 7, 2014. The motion was seconded by Councilmember Fletcher and carried by majority with all Council members voting aye except Councilmember Bonato who cast a dissenting vote.

Consideration of Agreement with Crossroads' Turning Points, Inc., for the providing of detoxification /evaluation Services. Acting City Manager Garrett advised that the financial report required to be provided to the City pursuant to the terms of the agreement is in her possession if anyone on Council wishes to look at it. A motion to approve the agreement was made by Councilmember Bolton. The motion was seconded by Councilmember Fletcher and upon roll call vote carried unanimously.

Resolution amending sidewalk cafe criteria. A motion to adopt the resolution reducing the pathway from five feet to four feet was made by Councilmember Bolton. Councilmember Fletcher seconded the motion. Upon roll call vote the motion carried unanimously. Councilmember Miles noted that the quid pro quo is enforcement.

**RESOLUTION NO. 1435**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, AMENDING CRITERION ASSOCIATED WITH THE LICENSING OF SIDEWALK CAFES**

Resolution in support of an application to the Colorado Department of Transportation TAP Program to secure funding for Section One of the Old Sopris Trail Plan. Councilmember Bolton moved to adopt the resolution and Councilmember Fletcher seconded the motion. The motion carried unanimously upon roll call vote.

**RESOLUTION NO. 1436**

**A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, SUPPORTING APPLICATION TO THE COLORADO DEPARTMENT OF TRANSPORTATION - TRANSPORTATION ALTERNATIVES PROGRAM TO SECURE THE FUNDING NECESSARY TO IMPLEMENT THE REMAINING UNFUNDED PORTIONS OF SECTION ONE OF THE OLD SOPRIS TRAIL PLAN**

Consideration of an agreement between the City of Trinidad, Las Animas County, Trinidad-Las Animas County Economic Development, Inc. and Southern Colorado Economic Development District to seek grant funds for the Trinidad/Las Animas County Industrial Park Development through the Economic Development Administration Economic Adjustment Program Grant. A motion to approve the agreement was made by Councilmember Bolton and the motion was seconded by Councilmember Fletcher. Upon roll call vote the motion carried unanimously.

Consideration of 2014 unexpended fund disbursements to non-profit entities. Councilmember Bolton made a motion to allocate funding as follows: Southern Colorado Repertory Theatre - \$1,000; Southern Colorado Developmental Disabilities Services, Inc. - \$1,350; Trinidad Area Arts Council - \$4,250; and A. R. Mitchell Museum - \$1,000. The motion was seconded by Councilmember Fletcher and carried unanimously upon roll call vote.

EPA Brownsfield Grant RFP issuance authorization. A motion to approve the issuance of the RFP was made by

Councilmember Bolton and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

**BILLS.** Councilmember Bolton commented that in the payments she saw that the Parks Department received the new mowers. She asked if anyone has heard any feedback on them. City Attorney Downs said he knows they are happy to get the new equipment and offered to follow up. Councilmember Bolton moved to approve the bills and Councilmember Bonato seconded the motion. The motion carried unanimously upon roll call vote.

**PAYROLL,** August 16, 2014 through August 29, 2014. A motion to approve the payroll was made by Councilmember Fletcher and seconded by Councilmember Bolton. Roll call was taken and the motion carried unanimously.

**EXECUTIVE SESSION** – For discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees – City Attorney evaluation. A motion to enter into executive session for the stated purpose was made by Councilmember Fletcher and seconded by Councilmember Bolton. The executive session ensued at 7:40 p.m. and was recorded in accordance with the open meetings law of the state. Upon conclusion of the executive session the meeting resumed at 8:20 p.m.

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

ATTEST:

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JOSEPH A. REORDA, Mayor

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DONA VALENCICH, Asst. City Clerk