

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, September 16, 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 September 2, 2014 and Special Meeting of September 3, 2014 and September 9, 2014. A motion to approve the minutes as presented was made by Councilmember Bolton and seconded by Councilmember Bonato. The motion carried unanimously.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Thomas Murphy regarding CORA. Mr. Murphy addressed Council. Mayor Reorda commented before Mr. Murphy began that Council was elected to represent the entire City, and they allow people to speak. He said it would be appreciated if when they approach they introduce themselves and tell Council who they are and do it with some respect without any innuendos or threats. If you are going to sue, he said to bring it to the City Manager and she will bring it to Council. Mr. Murphy told Council that based on the letter he received from Nathan, Bremer, Dumm & Myers, he said he has a few questions he'd like answered and is willing to wait a couple of weeks for the next official meeting so that it can be answered in a public forum. He said the letter stated "as noted in the response from Audra Garrett dated August 12, 2014, the City of Trinidad does not have copies or the originals of any documents you requested in your records." He said his question is why don't they exist - he'd like a full explanation - the basics, who, what, when, where and why? He said the likelihood is those were produced on a computer so were they erased from the computer? If they were, who did that? Who, what, when, where and why? In the same paragraph he said the letter states "as for the remaining two agreements, the respective employees have advised that they no longer have the originals or any copies of the agreements." He said he'd like official confirmation in a regular meeting of who those two employees are. He again read from the letter "I want it 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." He said he'd like a list of what all those reasons are as to why they don't exist, including that they were never reviewed or approved by City Council, none of the agreements are valid and enforceable. He also asked to be provided two or three examples of the City Council reviewing or approving any contracts other than the City Manager's and the City Attorney's. He said he has tape going back to 2005 and can verify that. Mr. Murphy continued, asking Mayor Reorda where in the Constitution, as he stated in 2012, did he get the authority to hire someone without telling the rest of Council. Mayor Reorda said he doesn't hire. Mr. Murphy said he's asked him this before and if he needs to play the tape for him he can do that. Mr. Murphy told Council that there's been the claim that since Mr. Acre left lots of things have been done. He reminded that there is a matrix and he said he'd like to see and hear from Council what exactly has been done. He concluded that the thing that disturbs him most right now that's not on the agenda is that they have known the City is in financial straits. There's no discussion, there's no plan and the year is almost over. There's nothing you guys are doing to try to help us out financially, he said. And, the City's accountant has told them that come the end of the year there's going to be problems. What are you doing?

Stephen Hamer addressed Council concerning ADA compliance. Mr. Hamer said he was before Council with a heavy heart because he and the disabled community were denied physical access to the work session on September 9<sup>th</sup>. He asked if the City has no shame for such discrimination. It was not an excuse that the elevator was out of service. Individuals without disabilities were able to access the work session but those with disabilities were not, which he said he was very troubled by. As a result of the City's evident discrimination, disabled individuals were denied access to City services, programs and activities. Acting City Manager Mike Valentine went on with the meeting, which he said is illegal under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. He suggested the City should have cancelled the meeting and found a more suitable, accessible location, but that did not happen. He added that he understands that elevators break down but that doesn't excuse the City of its responsibilities under the ADA or Section 504 Rehabilitation Act to find an alternate location that's accessible. He continued that it troubles him for two reasons, one is the evident discrimination that he personally endured and the second is that there's no back-up plan in case the elevator breaks down and he said it had been acting up the day before it broke down and he thought the previous Friday. He opined that there was sufficient knowledge that there should have been an alternate location. The courts have an alternate location established. It happens in Huerfano County. People in wheelchairs, motorized scooters, walkers, canes and crutches and with other mobility aids were denied access to the Council meeting and it was a flagrant violation of the law. Mr. Hamer said he called the U. S. Department of Justice self- help line two times and spoke with different individuals and both times he was told that the City should have had an alternate location. He called on Council to have an alternate location in place so it is an easy transition. Mayor Reorda told Mr. Hamer that Acting City Manager Valentine doesn't decide what meetings take place, he decides. He said it was an accident that it happened and that the City has no control over those things. Mayor Reorda asked Mr. Hamer who he represents. Mr. Hamer answered that he represents Stephen's List. Mayor Reorda asked who his boss is. Mr. Hamer said that he is the founder of Stephen's List and it is comprised of disabled volunteers. He offered to provide a list of names. Mayor Reorda said he wanted to know if he has a boss. Mr. Hamer said he does not. Mayor Reorda commented that consequently he is not responsible to anyone when he just runs rampant and screams at everybody and insult them. Mayor Reorda said the City will be prepared from now on. Mr. Hamer said that's all he is asking. He asked that he blame the right person, not Mr. Valentine.

**COUNCIL REPORTS.** Councilmembers Mattie, Fletcher, Torres and Mayor Reorda had nothing to report.

Councilmember Bolton reported that the Southwest Chief Commission's public meeting will be held in LaJunta tomorrow followed by a celebration for having secured the TIGER grant. Councilmember Miles thanked Councilmember Bolton for her hard work in this pursuit. Councilmember Bolton likewise thanked Councilmember Miles as well and said she will be attending. Mayor Reorda also advised that he will attend.

Councilmember Miles reminded Council of the reception/meet and greet to be held this Thursday at 5:30 p.m. to welcome the Trinidad-Las Animas County Economic Development part-time Executive Director Walt Boulden at the Bell Block building. He has hit the ground running. She also reminded that Economic Development is subleasing space for their offices from the college foundation.

Councilmember Bonato commented that the ArtoCade was a well-attended great time. He said Rodney Wood did another terrific job and thanked everyone for attending.

**REPORTS BY CITY MANAGER.** Events. Acting City Manager Garrett echoed Councilmember Bonato's comments and appreciation for those involved in the Artocade and extended additional appreciation to the Tourism Board for sponsoring the event and all of the volunteers who made it successful. She also welcomed to the community the TrindieFest this weekend and Rural Philanthropy Days at the end of next week.

**Hazard Mitigation Plan.** Acting City Manager Garrett told Council that regarding the Multi-Jurisdiction Hazard Mitigation Plan the County has been working on that Councilmember Mattie spoke of at the previous work session, she will be signing a letter of intent to participate on behalf of the City. The City's commitment will be \$7,500 in-kind and will come in the form of the Police and Fire Chief's salary as well as other possible personnel for participation in the plan preparation and table-top exercises.

**Special Meeting.** Council's consideration was sought by Acting City Manager Garrett in holding a special meeting on Tuesday, September 30, 2014, for executive session for legal advice concerning the contract with Sun Construction and it will include Mike Graber from RJH Consultants.

**REPORTS BY CITY ATTORNEY.** North Lake Dam Project. City Attorney Downs called to Council's attention in their information packet a letter received from Sun Construction. He also pointed to a proposed response at their seating places and welcomed their input. Council members Miles and Bolton said they felt the letter was well drafted. Mayor Reorda questioned the language in the letter concerning the type of pipe. City Attorney Downs explained that the Contractor submitted a change order to change the pipe to a cheaper-grade pipe encased in concrete to stabilize it. It was a change order submitted immediately by Sun Construction. The change order was accepted by the powers that be. Councilmember Bonato noted that the Contractor told Council that it would be better pipe than the original pipe proposed. City Attorney Downs concluded that it was clearly an inferior grade of pipe.

**Speed limit.** City Attorney Downs informed Council that the City received an e-mail that the speed limit on I-25 going through Trinidad will be increased to 65 miles per hour. A traveler will no longer have to go from 75 miles per hour to 55 miles per hour. They will just reduce down to 65. He noted that it may cut down on the ticket revenue.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Hotel and restaurant liquor license renewal request by Wonderful House Trinidad, Inc. d/b/a Wonderful House Trinidad at 415 University. A representative was present on behalf of the applicant. Councilmember Bolton moved for the license approval and Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

New Medical Marijuana Optional Premises Cultivation Operation license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road. Robert Schultz was present to represent the applicant. Councilmember Bolton made a motion to set the license application for public hearing at 7:00 p.m. on Tuesday, October 21, 2014. The motion was seconded by Councilmember Torres and carried by majority with all Council members voting aye except Councilmember Bonato who cast a dissenting vote.

Consideration of transfer of property to Las Animas County abutting the Perry Stokes Airport land. Councilmember Bolton commented that this is a way for the City to assist the County in getting grant funds to improve the airport which will be a benefit to the whole area. A motion to approve the agreement was made by Councilmember Bolton. The motion was seconded by Councilmember Miles and upon roll call vote carried unanimously. Mayor Reorda added that the City wants the work with the County to continue. He suggested the Council and Commissioners meet once per month for breakfast.

Approval of Property/Casualty and Workers' Compensation insurance coverage renewal through CIRSA (Colorado Intergovernmental Risk Sharing Agency) for 2015. Councilmember Fletcher moved to accept the renewal quotes received from CIRSA and Councilmember Mattie seconded the motion. Upon roll call vote, the motion carried unanimously.

Approval of the City of Trinidad Safety Manual. Councilmember Fletcher moved to accept the Safety Manual as revised and Councilmember Bolton seconded the motion. The motion carried unanimously upon roll call vote.

Resolution concerning amendments to the Operating Principles for the Trinidad Dam and Reservoir Project. A motion to adopt the resolution bifurcating the amendments to Trinidad's Operating Principles was made by Councilmember Bolton. Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

Resolution in support of H.R. 3997 and H.R. 4964 concerning the retention of local Social Security Administration Offices and the Senior Access to Social Security Act. Councilmember Bolton moved for the adoption of the resolution and Councilmember Fletcher seconded the motion. Roll call was taken on the motion and it carried unanimously.

RESOLUTION NO. 1438

RESOLUTION IN SUPPORT OF H.R. 3997 AND H.R. 4964 CONCERNING THE RETENTION OF LOCAL SOCIAL SECURITY ADMINISTRATION OFFICES AND THE SENIOR ACCESS TO SOCIAL SECURITY ACT

Consideration of Mutual Aid and Assistance Agreement for Electric Utilities between Arkansas River Power Authority and the Colorado municipalities of Holly, La Junta, Lamar, Las Animas, Springfield and Trinidad. City Attorney Downs said regarding the issue Councilmember Miles raised regarding indemnification, he spoke with Craig Johnson who said that because this is a cooperation agreement between cities, it is an effort to indemnify everyone participating in this agreement. In that regard the municipalities are being responsible for their own employees and equipment and would be indemnifying the other municipalities. Councilmember Miles said she's not sure she likes that. She exemplified that if someone from Holly gets hurt in La Junta because of some dispute there about the work conditions, Trinidad is indemnified. We are cross-indemnifying everyone. City Attorney Downs said if a worker from one jurisdiction is injured in another, their home town would be responsible. He said he understands if someone were to commit a tort or felony while doing this we may be indemnifying wrong-doing. Councilmember Miles re-asked if someone from Holly is in La Junta and La Junta does something negligent, and the worker from Holly and/or the City of Holly sues La Junta, is Trinidad liable when we weren't even on the scene? City Attorney Downs said no. First he said they would probably be seeking workers' compensation remedies and that would be all they would be afforded if hurt on the job. He said what it is saying is that they are responsible for their own people. If we had a work crew from Holly in Trinidad and someone was injured, his understanding is that they would basically be responsible for their own people. Mayor Reorda didn't think there was blanket insurance coverage for the whole coop. Each individual City has their own insurance. Councilmember Miles read the language in Section 3, Liability, paragraph 4, "To the extent permitted by law, all Participants in this Agreement hereby agree to indemnify, defend and hold Coordinator, the Participants, and their respective officers, agents, employees, and directors, harmless from and against any and all claims, demands..." so she said the participants include all six member municipalities. All participants are indemnifying all participants for things where we weren't even on the scene. She said she understands Craig Johnson's response about smearing around this risk but she reiterated that she's not sure she likes that. If someone sues for a wrongful death claim and its many millions of dollars and Trinidad is 150 miles away, she didn't see why we would be party to an indemnification. City Attorney Downs said he didn't think Trinidad would have to contribute a portion of any settlement. Councilmember Miles said it would indemnify someone for the contributory nature of our negligence. Mayor Reorda said the entire group wouldn't have their own insurance policy to cover the entire area. Each City would be responsible for their own City. Councilmember Mattie asked if that is just an assumption. He said he doesn't see it written in the agreement. Councilmember Fletcher said she sees it as an insurance pool. Councilmember Miles agreed and said she doesn't know that there's a precedence for the same. Councilmember Mattie commented that he thought it might be more acceptable if language existed in the agreement that says each member municipality is responsible for their own. The paragraph in the agreement speaks to good will and good intention but it probably makes sense and would be easily addressed if there is a clarifying statement added to that effect. City Attorney Downs said the latter portion of that section talks about no one party to the agreement being liable to third parties and them not waiving immunity under the Colorado Governmental Immunity Act. It also stipulates that each participant shall keep and maintain such insurance as is necessary to protect the interests of the participants, employees, agents or contractors. Such insurance shall include worker's compensation and general liability, and automobile liability coverage. He said he would make sure that it specifically says the City is not protecting or agreeing to insure another employer's worker. Councilmember Mattie pointed out that the language infers that the participants are responsible for their own, but it does not specifically state that. Councilmember Bolton added that as it is we are subject to interpretation. She moved to table the agreement to the next regular meeting. The motion was seconded by Councilmember Bonato and carried by a unanimous vote. Councilmember Miles offered to participate with City Attorney Downs on a call with Craig Johnson.

Resolution setting a hearing date for the annexation petition for the Southside Annexation. Councilmember Bolton moved to adopt the resolution setting the public hearing for the annexation petition for the Southside Annexation for 7:00 p.m. on November 5, 2014. Councilmember Fletcher seconded the motion. The motion carried unanimously upon roll call vote.

RESOLUTION NO. 1439

A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, SETTING A HEARING DATE FOR THE ANNEXATION PETITION FOR THE SOUTHSIDE ANNEXATION

Letter and resolution supporting the placement of the John Wilbar sculpture at the CDOT roundabout location. Mayor Reorda commented how the art piece stands out. Councilmember Bolton added that once it is re-displayed at the permanent location it will be prominent for those in town and those driving down Interstate 25. She moved to approve the letter and resolution supporting placement of the sculpture. Councilmember Torres seconded the motion. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 1440

A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, SUPPORTING THE

INCORPORATION OF PUBLIC ARTWORK WITHIN COLORADO DEPARTMENT OF  
TRANSPORTATION FACILITIES

**BILLS.** Councilmember Bolton moved to approve the bills and Councilmember Bonato seconded the motion. The motion carried unanimously upon roll call vote.

**PAYROLL,** August 30, 2014 through September 12, 2014 and September 13, 2014 through September 26, 2014. A motion to approve the payroll was made by Councilmember Bolton and seconded by Councilmember Torres. Roll call was taken and the motion carried unanimously.

**EXECUTIVE SESSION** – For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Conditional Use Permit Appeal; 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) – Colarelli Construction, Inc. regarding Cougar Canyon. A motion to enter into executive session for the stated purpose was made by Councilmember Bolton and seconded by Councilmember Torres. The executive session ensued at 7:45 p.m. and that portion not constituting legal advice was recorded in accordance with the open meetings law of the state. Upon conclusion of the executive session the meeting resumed at 9:17 p.m.

*I, Les S. Downs, City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 16th day of September, 2014, was permissible under CRS Section 24-6-402 (4)(b).*

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

\_\_\_\_\_  
*Les S. Downs  
City Attorney*

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

ATTEST:

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

\_\_\_\_\_  
DONA VALENCICH, Asst. City Clerk

rected  
07/2014