

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, October 4, 2011 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Garduno, presiding
	Councilmembers	Aragon, Pando, Rino, Shew, Toupal, Velasquez
Also present:	City Attorney	Beatty
	City Clerk	Garrett
	City Manager	Gil de Rubio

The pledge of allegiance was recited.

READING OF THE MINUTES. Regular Meeting of September 20, 2011. Mayor Garduno called for any questions, additions or discussion. A motion to approve the minutes as submitted was made by Councilmember Rino and seconded by Councilmember Toupal. The motion carried unanimously excepting Councilmember Velasquez who abstained due to her absence from that meeting.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Las Animas County Commissioner Gary Hill addressed Council regarding health insurance and passed a booklet on to the City Manager. He explained that the County belongs to the County Health Pool, the board of which consists strictly of County Commissioners and he is one of them. He said that since the City is looking at their budget now if the plan saves them a dime it would be good for the City. Mr. Hill said the board held their annual meeting two weeks ago and where the national trend is 9 to 16% increases in health insurance costs, the county was able to hold their increase to 4% for next year. He added that although he hasn't used the insurance, he understands that it is a good plan. Councilmember Rino asked what kind of insurance it is. Mr. Hill said it is health insurance through CTSI, who also sells every other type of insurance. City Manager Gil de Rubio further clarified that this is a governmental pool.

Tom Murphy addressed Council regarding ethics violations and the golf course clubhouse. He said he just wanted to let Council know that tomorrow or the next day he would be delivering a verified complaint of the Code of Ethics to City Attorney Beatty on behalf of Councilmember Pando, Councilmember Velasquez and Mayor Garduno. He said he felt it important for him to show up and look them in the eye and let them know he was going to do so. He continued that last week at the meeting Councilmember Rino made two very profound statements regarding the golf course – the City should have hired an engineer because of the problems we are having now and that the Golf Association had absolutely nothing to do with the purchase of the clubhouse. He said his observation is that we have a Council who reacts rather than plans. Mr. Murphy continued that his understanding is that Council members Pando and Rino attended a Golf Association meeting and said he was not sure if they shared that with the rest of the Council, but the next time that is on the agenda if they have shared that meeting with the rest of Council he would like to know about it at the next meeting, noting that he may be wrong about it based on the way Councilmember Pando was rolling his eyes. He reiterated that he would be delivering the complaints tomorrow or the next day. Councilmember Pando asked Mr. Murphy if he doesn't ever have anything positive and why he is such a negative person. He asked why he doesn't try to come up with something positive in his newspaper – there's got to be some beautiful things happening in Trinidad. It seems like he survives just on the negatives and jabbing, he said, and that it was very evident at the 'Meet the Candidates' forum. He re-asked why he doesn't come up with something positive that is beneficial since he talks about what is good for Trinidad and what is good for the community. He suggested he come up with something good. Mr. Murphy rebutted, asking why he doesn't look at 30 years of investment in this community. He said he'd show him in his bank records what he has done for this community – he's bought locally and hired locally, so he said he found that very insulting that he would say that. Councilmember Rino told Mr. Murphy that he is the liaison between the Golf Association and the City and therefore he is entitled to go to the meetings. Mr. Murphy said that's why he asked. He questioned the fact that he said the City should have hired an engineer. Mr. Murphy said he was here and there had been no talk about buying the clubhouse. It just popped up and was one of the last things Jim Soltis did. He asked that he be shown on the tapes when it had been discussed. It was done in an instant, it just happened, there was no discussion. That's reaction, not planning. Councilmember Rino said he may be right but on the same token every Council member voted on the purchase of the clubhouse. Mr. Murphy agreed that they did, but when you talk about long-range planning that isn't it. Councilmember Rino agreed. Mr. Murphy reminded that there was money taken out of the budget, over \$200,000 and it is not chump change. Councilmember Velasquez told Mr. Murphy that the last time she remembered this is America – not guilty until proven. Mr. Murphy said he's not saying she's guilty.

REPORT BY CITY MANAGER. 2012 Draft Budget. City Manager Gil de Rubio identified at Council's seating places the draft 2012 budget. He said they have been spending time the last week putting together the budget and thanked Finance Director Rose Blatnik for her diligent work on it as well as the department heads. He described it as a hectic week however they have produced a formidable budget. He asked Council to take this ensuing week to go over the budget and mark it up and any questions they have will be answered at the next work session.

ARPA. City Manager Gil de Rubio pointed out that Council had received a report regarding the last ARPA meeting.

Budget. Councilmember Rino asked if the 2012 proposed budget includes a 2% increase and doing away with furloughs. City Manager Gil de Rubio advised that it does.

REPORT BY CITY ATTORNEY. Town of Cokedale. City Attorney Beatty advised Council that the City has been contacted by the Town of Cokedale who desires to secure a contract stating the City will continue to sell water to the town. The City has been doing so since at least 1957, however there's no written agreement in place. City Attorney Beatty explained that the reason for their request at this time is because of their pursuit for funding from the Colorado Department of Public Health and Environment for the completion of a sewer project in the town. He concluded that Council may

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anticipate a draft agreement before them in the next few months.

Trinidad Lake Reservoir Project. City Attorney Beatty informed Council of a Trinidad Lake Reservoir Project annual review meeting to be held this Friday morning, October 7th. The US Bureau of Reclamation and the Colorado Division of Water Resources and other parties will be in attendance. Utilities Superintendent Jim Fernandez and other City staff members will attend as will Jeff Kahn and the City's water engineer Gary Thompson. The City will be requesting that the Arkansas River Compact Administration consider two amendments to the operating principles for Trinidad Lake Reservoir. One is the use of water rights outside of the Purgatoire River Water Conservancy District boundaries and the second is to increase the number of acres under the Johns Flood Ditch for which the City can claim consumptive use credit. Those issues may also be discussed this Thursday at 7:00 p.m. in Council Chambers by the Purgatoire River Water Conservancy District during their meeting.

Labor Unions. City Attorney Beatty advised Council that the City's labor unions will seek renewal of their contracts with the City. City Manager Gil de Rubio is leading the negotiations and there are a number of items the City will seek to address with the union, which might include injury leave provisions, compensatory time off provisions, pay increase for temporary assignments to work in a higher job classification, and funeral leave, among other aspects of the contracts.

Personnel manual. City Attorney Beatty told Council that the work on the personnel manual is still underway. It is anticipated to be provided for Council's consideration in the next few months as well.

City Manager evaluation. Councilmember Pando requested City Attorney Beatty get a ruling on what was correct in terms of the arguments with respect to the City Manager evaluation. He said he recognizes the Open Meetings law but the Charter says something different. The City Manager's contract is nearly exact language to the Charter. Someone needs to make a ruling. He said he contends that Council determines how the evaluation is done. He challenged City Attorney Beatty to prove him right or prove him wrong. He added that he doesn't know what he has to do to find it out, but either find it out or it goes to the next level, which will be determined by him. City Attorney Beatty reminded him that they had discussed this issue on a few occasions and that he provided his opinion. After review of the employment agreement, the conservative approach is to air on the side of caution. Councilmember Pando reiterated that Council needs to get another opinion at a higher level. City Attorney Beatty questioned what higher level. Councilmember Pando said he doesn't know but that City Attorney Beatty would be more familiar. City Attorney Beatty reiterated that he rendered his opinion but can solicit another opinion. He re-asked what the next step would be. Councilmember Pando said he'd think it over and he would hear about it. City Manager Gil de Rubio interjected, reminding that Council determined the method of evaluation and there was a motion and second and voted for approval for each Council member to provide him with their written evaluation and to meet with him one on one. Therefore he said the Charter has been fulfilled as far as the Council determining the method of evaluation. Councilmember Pando said that may be true for this year, but then we are talking about for next year. It doesn't mean that's for every year. We have time to work on it. City Attorney Beatty said he can consult with someone else. Councilmember Pando suggested maybe the Colorado Municipal League.

Budget. City Manager Gil de Rubio advised that there will be copies of the draft budget for the public but if any of the Council or Mayoral candidates wanted to have a copy they may stop by and obtain one.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. None.

MISCELLANEOUS BUSINESS. First reading of an ordinance amending Section 7-47.1(1) of Chapter VII ("Finance and Taxation") of the Trinidad City Code to revise requirements of membership in the Tourism Board of the City of Trinidad, Colorado, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Toupal and then read aloud in its entirety. Mayor Garduno sought City Attorney Beatty's clarification, recalling that Council had approved two questions for the ballot in November to change the Charter. She said they had to do that to make changes to the Charter. She asked how they can make changes now through an ordinance. City Attorney Beatty explained that the ordinance proposed doesn't change the Charter language. It is a proposed amendment to the Code of Ordinances, Section 7-47.1(1). He said that he believes the impetus for this ordinance was the fact that the City is having difficulty staffing the Tourism Board at the moment. There are three members and the ordinance calls for five. The two members needed on the board need to be from the hotel and the restaurant industries. Although there have been efforts made to recruit, they haven't been successful. He said he thought City Manager Gil de Rubio would like to make this ordinance provision not any more restrictive than our City Charter. The City Charter provides the general rule that members of the City boards and commissions shall be residents but there is additional language in Section 8.3 that provides "in the event that a board of commission may have responsibilities or duties which affect certain areas outside the City limits, the 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." Where the current ordinance for the Tourism Board membership restricts membership to residents of the City of Trinidad, he said the Home Rule Charter actually provides a window for appointment to someone who doesn't live in the City limits. He advised that in the event that City Council entertains a motion to appoint a non-resident, it would need to be accompanied with a finding that the board or commission has responsibilities which affect certain areas outside of the City limits and that person resides in an affected area. Councilmember Rino suggested that it seems they could do a better job in recruiting citizens. He added that he spoke to a couple of people today, and one person who said she might be interested. Before they do this and open it up, they should stick with the way the ordinance is and Council should try to recruit. If they are unable to get members in the City limits, then they can reconsider extending it out of City limits. He reiterated that they can try to recruit the two people. He opined that would be the best way to proceed. Mayor Garduno recalled that in the past Council members used to take the responsibility of recruiting a member of the community to serve on boards and commissions, and that seemed to work fairly well. She added that she's not convinced that this proposed ordinance will fix the problem and that the City lodging tax board should be filled within the City limits. City Manager Gil de Rubio said this ordinance was to be a prototype for other boards. He pointed out that the Parks & Recreation Advisory Committee cannot get members either and they had difficulty filling the Library Board. City Manager Gil de Rubio applauded Council for trying to get members, but said he didn't see how this ordinance would hurt, reminding that Council still has discretion in making the appointments. Mayor

Garduno reiterated her opinion that since this is a City lodging tax, her preference is that the board be staffed with local members. Councilmember Aragon moved to approve the ordinance on first reading and consider it further at a public hearing to be held at 7:00 p.m. on October 18, 2011. Councilmember Toupal seconded the motion. Roll call was taken and the following votes were cast:

Aye - Aragon, Shew, Toupal
Nay - Pando, Rino, Velasquez, Garduno

The motion failed and consequently the ordinance died on first reading.

ORDINANCE NO.

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

Appointments to the Planning, Zoning and Variance Commission. Mayor Garduno announced that two letters of interest were received for three positions. The letters received were from Glenn T. Davis and Cherie Kollander, both seeking re-appointment to the Commission. A motion to re-appoint Glenn T. Davis and Cherie Kollander was made by Councilmember Rino and seconded by Councilmember Velasquez. The motion carried by a unanimous roll call vote.

Setting of Public Hearing date for Capital Budget Estimates and 2012 Annual Budget (10/18/11). Councilmember Rino moved to set the public hearings for 7:00 p.m. on October 18, 2011. The motion was seconded by Councilmember Velasquez and carried unanimously upon a roll call vote.

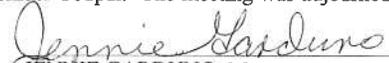
BILLS. A motion to approve the bills was made by Councilmember Rino. The motion was seconded by Councilmember Toupal. Councilmember Rino said he didn't know if his question was for the City Manager or the Tourism Board, but noticed a \$175 payment to Barrack Properties for moving the trolley storage. He asked if the individual who owns the building where the trolley was previously stored had been informed that it was going to be moved out. He asked if the City had a lease agreement with that individual and if it had been checked out because he understands there was a lease agreement. City Manager Gil de Rubio said his understanding is that person had been notified. Councilmember Rino rebutted that he wasn't. City Manager Gil de Rubio said he'd look into it. Mayor Garduno noted that the City was paying M & M \$100 and this is an increase to \$175. She asked if there was a reason for the move. City Manager Gil de Rubio said he'd look into it. Steven Kelley, a member of the Tourism Board, stated the reason for the increase is because they are storing the trailer there as well as the trolley. Councilmember Rino said the trolley had been stored at the previous location for close to 20 years and questioned why it was moved. City Manager Gil de Rubio said he'd look into it and get back to Council. Roll call was taken on the motion. The motion carried unanimously.

PAYROLL, September 17, 2011 through September 30, 2011. A motion to approve the payroll was made by Councilmember Shew and seconded by Councilmember Toupal. 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 Shew and seconded by Councilmember Toupal. The meeting was adjourned by unanimous vote of Council.

ATTEST:


AUDRA GARRETT, City Clerk


JENNIE GARDUNO, Mayor