

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, April 19, 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 Manager	Gil de Rubio
	City Attorney	Beatty
	City Clerk	Garrett

The pledge of allegiance was recited.

READING OF THE MINUTES. A motion to approve the minutes of the regular meeting of April 5, 2011, as submitted was made by Councilmember Shew and seconded by Councilmember Velasquez. The motion carried unanimously, excepting Councilmember Toupal who abstained due to his absence from the meeting.

PUBLIC HEARING. New hotel and restaurant liquor license request by Brix at 231 E. Main Street. Mayor Garduno called the hearing to order and announced that she would be presiding over the hearing. She stated the purpose, an application for the issuance of a new hotel and restaurant liquor license filed by Brix, Incorporated, for a restaurant to be located at 231 E. Main Street, Trinidad, Colorado. Mayor Garduno then instructed those present on the order in which evidence and testimony would be heard as follows: Opening statements or remarks from the applicant followed by the same by the City Attorney, then applicant's evidence and testimony of witnesses. Next she advised that she would call for the City's evidence and testimony of witnesses. She then advised that she would thereafter call for a presentation of evidence and any testimony of witnesses by any party in interest. Rebuttal evidence would then be called for and finally closing arguments by the applicant, the City and any party in interest. Mayor Garduno said that the hearing would then be closed and she would call for a motion and discussion. She additionally advised that an executive session may follow the hearing, or the authority may choose to postpone its decision on the matter for a period of up to 30 days. She asked anyone who was going to testify to come forward and be administered the oath and said she reserved the right to limit testimony or questioning that was repetitive, cumulative, or argumentative and to set a limit on the duration of testimony if necessary. Also, formal rules of evidence would not be followed and the testimony and exhibits will be liberally admitted. She told those present that if they had an objection they should raise their hand and she would call upon them. She advised that she would rule on the objection and it would stand unless a council member requests a vote on that ruling, in which case admissibility of the testimony would be decided by a majority vote of Council present. Mayor Garduno announced that the neighborhood boundary set by the Liquor Licensing Authority is the corporate City limits and that the application packet constitutes the exhibits for this hearing in addition to any other documents offered by the applicant. Mayor Garduno asked the applicants, Clayton Marquez and Joseph Salazar, if they were present and if they were satisfied with the rules. Both responded affirmatively. Mayor Garduno called for opening statements from the applicants, if any, reminding that opening statements are not evidence but rather an opportunity to briefly summarize each respective position on this matter. Opening statements may be waived. Clayton Marquez addressed Council and offered their appreciation to Council for listening to their request for a liquor license. He told Council that he was born and raised in Trinidad and has done many things here, including attending high school and college here as well as operating a furniture store, serving on the Chamber Board and the Home Rule Charter Commission many years ago. He said that he and Mr. Salazar have been working on the building for about four to five years. Prior to that, Mr. Marquez said his grandfather had purchased the building in the late 1960s and has been in his family for quite some time. At first they started just trying to save the building, pointing out that it is in the historic district, however not on the historic register. After the big snow storm they thought they were going to lose the building. They replaced the roof of the building with a totally engineered 8,000 square foot roof. They have also replaced the second floor and have replaced 36 windows, stuccoed the back of the building with eight pellets of stucco, removed all of the paint to expose the brick. He surmised that it has been quite a feat. Joseph Salazar provided in his opening statement that he too was born and raised in Trinidad and graduated in 1993. He said he moved to Denver 15 years ago and has been back and forth visiting his family here, to include his grandma who just celebrated her 80th birthday. He said he has a close family and is married and has three children. They are trying to do better things for Trinidad and liven it up. When he visits they pick and choose where to go out and lately it has been Tequilla's mostly. They would like to bring something to the town area. City Attorney Beatty offered as an opening statement that the location of the proposed premise on Main Street, 231 East Main Street. The building is on the west side of Main Street in the same block as Century Savings & Loan. The neighborhood boundary was defined as the corporate city limits. Currently there are ten hotel and restaurant licenses within that boundary. Mayor Garduno called for the applicant's evidence and testimony. Clayton Marquez presented a copy of "Log Home and Living" magazine and pointed out that Trinidad made the top ten list to build cabins in Trinidad. The comments were that they loved Trinidad and thought it was great but wished it had a few more great eateries, mentioning Rino's Italian Restaurant and Steakhouse. Mr. Marquez explained the reason for evidence and testimony is because they are planning on operating a restaurant and he said he feels there's a great need for it. The magazine was given to City Attorney Beatty to pass around for Council's review. Joseph Salazar provided that lately they have found out that there aren't many places for reunions, wedding receptions, meetings, or large parties. He said they weren't able to find a venue for his grandmother's birthday party because their family had too many people. He said their facility will have a 75x44-foot wide area just for receptions, with seating for 439 people. Mr. Salazar said they've already been approached by people for wedding receptions. The only other place large enough is Sebastiani Gym and they would have to decorate it themselves. It will not only be a restaurant but also a place for receptions, meetings and class reunions. They'll have televisions on the walls for use as a picture slide show. He said he hoped Council gets a chance to see the 22,000 square-foot building because there's no other place like it in Trinidad. He reiterated that they've worked on it for five years and commented that he has never worked so hard. They want a place for receptions with nice bathrooms. Mr. Marquez added that another issue with being in the historic district that they've tried to address is parking. He said he's spoken with Tom Murphy about renting his parking lot next to the soccer field on Elm Street. That would afford them an estimated 30 to 40 spaces and they would provide valet parking. He said he has also spoken to Mr. Welch who owns the Social Security office

APRIL 19, 2011

and dentist office and he is supportive of their endeavors and has tentatively agreed to allow them use of their parking lot after 5:00 p.m. which is about another 15 spaces. In his estimation he said he thinks they have about 55 parking spaces secured for after 5:00 p.m. Mr. Marquez said he hasn't yet spoken to Century Savings & Loan about using any of their parking, but said they've been real accommodating and he thinks there's something that can be worked out. He called on Kim Schultz from the Chamber of Commerce as a witness to provide testimony. She stepped forward and was asked to identify herself and provide her address. She identified herself as Kimberly Schultz and her address as 226 Wyatt Court, Trinidad, Colorado, 81082, and she was sworn in. Ms. Schultz thanked Council for allowing her the opportunity to speak on behalf of the Brix project and thanked Mr. Marquez and Mr. Salazar for their considerable investment in our community and said she'd like to see their project come to fruition. Ms. Schultz testified that in her capacity she meets with people trying to bring meetings, conferences, and groups into Trinidad as well as locals looking for a facility for weddings and reunions. Ms. Schultz said she really wanted to stress the need for venue space of this size. We have venue space, but are maxed out in capacity for a group to come in and put together some sort of an event. If you are going to have a gathering of more than 120 people, you have to be in a position to be able to build the event from the ground up. If you want an event at Sebastiani Gym, those people are great to work with, but you have to provide your own tables and chairs and caterers and liquor license if you want alcohol. The Wild Turkey Federation's annual event consists of about 250 people and they can't walk into a venue for it, rather they have to create their own venue. She said she feels there's a great need for this type of facility whereby one can book a facility and all of those needs are taken care of. We have lost larger groups in this community because of the lack of space, or for lack of space with good technology or with adequate heating and cooling or with a liquor license or the hours or the infrastructure that they need. This venue will fill a major gap of service that we need in our community in order to obtain to group gatherings. Ms. Schultz concluded that it is their recommendation from the Chamber of Commerce that we need this type of facility, we need more diverse restaurants and we need some new business in our community and she said she really feels these gentlemen and their families will bring that to the table for us. Mayor Garduno called for questions by the City. City Attorney Beatty asked Mr. Marquez and Mr. Salazar if they are each 50% owners of the business and if they are at least 21 years old. Both responded affirmatively to each question. He noted Mr. Marquez stating that he owned a furniture store previous and asked if either one of them have ever operated a liquor licensed business. Mr. Marquez said he has not. Mr. Salazar also said he has not. When asked to explain his past business experience, Mr. Marquez said he operated a furniture store at this same location a number of years ago around 1991 to 1995. It was a family business selling new furniture. It did well, but about the third year into the business there were three or four other furniture stores that opened and it crowded out the market. He closed, but held onto the building and the dream to fix it up and it has taken a good number of years and man hours to fix it since it is such a big building. Mr. Salazar said he did not have any past business experience in Trinidad. He said he currently owns Elite Restoration which is a business that restores structures damaged by fire, mold and flood damage. He noted that he has a contractor's license to work in Trinidad and is currently working on Glenn Moltrre's home that sustained damage from a fire. He continued that he also owned two other businesses, Horizon Restoration which was bought out from him, and a dry cleaning business which after a year and one-half he retired early from. Thereafter he opened Elite Restoration by himself and has operated it for 12 years now. City Attorney Beatty asked if both owners would be involved in the day-to-day operations. Both answered affirmatively. City Attorney Beatty reminded that this class of license requires they offer regular meals and that the sale of food be 25% of their business gross income. He asked their plans. Mr. Marquez said they intend on being a full-service restaurant, serving lunch and dinner. He said they think weddings and banquets and business events could be a major part of the business just because of the great need. They intend to model the restaurant after Texas Roadhouse, with great food at a great price with expected food sales at greater than 25% of their overall sales. City Attorney Beatty asked if they intend to serve food after 8:00 p.m. Mr. Salazar said their current plan is to sell food until 11:00 p.m. There is no place currently where a person can watch a sporting event and be served food. They also want to try serving breakfast on the weekends, but will try to take it slow because once you get a bad reputation it is difficult to get customers back. He said they want to listen to their customers. Anyone can cook steak, but it's how good you can cook it. Right now you're limited in Trinidad. City Attorney Beatty asked their plans for security. Mr. Salazar asked if he's referring to a security system or in the restaurant. City Attorney Beatty answered that he's referring to the liquor sales and surveillance and cameras - maintaining a safe atmosphere. Mr. Salazar said they have 15 cameras ready to go. ATD will be installing a system and it can be monitored from their phones or on-line with access rights. He described a break-in that occurred there one month ago and said that if the license is granted, that is their plan. Mr. Marquez said with respect to security in the building, it will really be a zero-tolerance venue. They want families to feel safe to come in. He added that in speaking with local law enforcement he learned that they cannot work as security off-duty, but talked about using the Sheriff's department for large events. They also want to train in-house security to handle large crowds and weddings, etc. They'll wear headsets and radios and there'll be cameras, but they want to create an attitude that doesn't get out of control. They also want people to dress appropriately. He concluded that he's been looking for training and hasn't found anything yet, but has read quite a few things on the internet. City Attorney Beatty reminded that as applicants they bear the initial burden to proving that the reasonable requirements of the neighborhood and the desire of the adult inhabitants are not being satisfied by existing liquor licensed outlets. Within the liquor authority's packet there were petitions with signatures that reflect support of the restaurant. He asked if they knew how many signatures were on the petitions. Mr. Marquez estimated that there are around 120 signatures. City Attorney Beatty asked if they ran into much opposition. Mr. Marquez said he ran into one person who was opposed out of the 120, but that it was in regard to parking. Mr. Salazar added that all of the neighboring businesses signed the petition in favor of it. City Attorney Beatty asked if they see a need for a venue offering space of this size. Mr. Marquez said as they were fixing up the building more and more people wanted to know what was going on at their building and over and over people came in looking for a place for a gathering. He opined that the need is really great. After talking to Kim Schultz, the need was solidified in their minds. City Attorney Beatty asked the Licensing Authority to take judicial notice of the character reference letters. He asked Mr. Salazar about a charge of alcohol possession or consumption by a minor in 1992 whereby he plead guilty. Mr. Salazar explained that he was 17 at the time. He had two good friends who were getting ready to go into the military and they got caught drinking in a car in Pueblo. No one was driving. He went to court and thought it had been dropped. The two friends were let go because they were going into the military. He reiterated that he thought it had been dropped and said when his dad went recently to inquire about it, the court couldn't find the case. City Attorney Beatty identified in the reports that both the Fire Chief and Building Inspector reported that the premise was not ready for inspection. He asked what other improvements need to be made besides what was done thus far. Mr. Salazar reiterated and elaborated in detail the work already done. Mr. Salazar said they have electrical work, drywall, four new commercial-grade heating units to install, air conditioning, plumbing and the store front, when designed. Mr. Marquez added that the building can be anything; it somewhat hinges on what happens here tonight. It looks good so far, but they don't want to do more unless they can move forward with their plans. City Attorney Beatty advised that if the license is

granted those improvements are needed prior to the license being issued. The applicants acknowledged that they understood the requirement. City Attorney Beatty pointed out that there is one off-street parking space required for each 100 square foot gross leasable area unless a variance has been granted, and noted that there was testimony of the building being 22,000 square foot. He asked how parking will be addressed. Mr. Marquez explained that the first level is 7,500 square foot and the second level is 4,100 square foot. He said the 22,000 square foot area includes a full basement and sub-basement. Therefore the useable space is the 7,500 and 4,100 square feet. City Attorney Beatty recalled the testimony provided about the applicants having spoken to Tom Murphy about leasing his parking lot and asked what other efforts have been made. Mr. Marquez said that he also spoke to Mr. Welch who said he would allow them use of his parking lot after 5:00 p.m. Also, the bank has a lot of parking and will probably allow them use as he has noticed that they have allowed others use of it, although he hasn't yet approached them. He summarized that they need 80 spaces and currently have between 30 and 40 with Tom Murphy's and another 15 with Mr. Welch's. He reiterated his hope that the bank allows use of their parking and pointed out that there'll be a lot of on-street parking after 5:00 p.m. Heading west on Maple there's almost enough parking. Mr. Marquez concluded that they will be applying for a variance. Mr. Beatty asked the name of the restaurant. Mr. Salazar answered that it is Brix, named after the bricks of Trinidad and the bricks they solder-blasted. Councilmember Pando asked their projected opening date if everything goes well. Mr. Salazar said they potentially have a wedding this September to accommodate 250 people. Mr. Marquez added that the remaining work sounds like a lot, but estimated the electrical work to take about two weeks, the plumbing to take about two weeks, the store front one month and then they have the kitchen to set up. He suggested it would be September, if not sooner. They definitely want to be open for the holiday season. Mr. Salazar also made Council aware that they used numerous local contractors and building suppliers on the building. Mayor Garduno called for questions from parties of interest. There were none. She called for the City's presentation of evidence and testimony of witnesses. City Attorney Beatty called on Police Chief Glorioso. Charles Glorioso, 1520 Stonewall, identified himself and he was sworn in. City Attorney Beatty said that law enforcement must determine if the grant of this hotel and restaurant liquor license to Mr. Marquez and Mr. Salazar would result in an undue concentration of liquor-serving restaurants in the neighborhood that would possibly result in an increased need of law enforcement in the area. He asked if he anticipates any problems. Chief Glorioso answered that he does not. There were no more questions of him and he was excused. Mayor Garduno asked the applicants if they had any questions of the City Attorney or if the Authority did. Neither did. There was no presentation by parties of interest nor any rebuttal offered. Mr. Marquez made a closing argument. He said his and Mr. Salazar's hearts and souls are in Trinidad. Both have experienced the large city, but Trinidad is their home town. He wants his daughter to come back and experience Trinidad like he did growing up. This is a way he can do that and serve the community as well as help to revitalize downtown. He said he thinks the downtown is in desperate need of that and that a project of this size could spur other projects and make them more viable as they attract tourists and other people. Mr. Salazar said there is a need for this in the community. After he and his friends play golf they always ask each other where they should go. He said he understands that the Trinidad golf course is opening a restaurant but doesn't know how long it will be before they do. Other than that, he said he really doesn't know where else to go with them. He reiterated his opinion that there is a definite need for this facility in Trinidad. City Attorney Beatty offered no closing argument. Mayor Garduno closed the hearing and called for a motion or discussion. Councilmember Aragon moved to approve the new hotel and restaurant liquor license for Brix, Inc. with it being contingent that they finish the building requirements. Councilmember Pando seconded the motion which carried by a unanimous roll call vote.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Robert Ling, VFW, addressed Council to advise them that he retired last Wednesday as the Commander of the local VFW. He explained that his health doesn't permit him to carry on as Commander. He extended his appreciation to City Manager Gil de Rubio for his helpfulness and City Council for their support. He added that there's currently one more project for one more memorial and that he'll be around if the City needs anything. Mayor Garduno thanked Mr. Ling for his kindness and wished him good luck in his retirement.

REPORT BY CITY MANAGER. Grant. City Manager Gil de Rubio advised Council that City Planner Louis Fineberg submitted a grant application to the Colorado Department of Transportation yesterday seeking money to complete the City's handicap access throughout the City (street crossings). It will tie into the multi-modal building and other projects on the Riverwalk.

State of the State Luncheon. City Manager Gil de Rubio announced that the Governor will be in Pueblo this Friday at the Union Depot at 11:30 a.m. for a State of the State Luncheon. He asked that if any of the Council members were interested in attending that they contact Anna.

REPORT BY CITY ATTORNEY. Recycling. City Attorney Beatty reminded Council that ReGroup's April recycling event is slated for Friday, April 22nd from 8:00 a.m. to 6:00 p.m. and Saturday, April 23rd from 8:00 a.m. until noon at the Waste Connection facility at 2600 Freedom Road. He also reminded that the City subsidizes these events.

Orientation. City Attorney Beatty also reminded Council of the upcoming International Building Code orientation session to be held in the Leone Room at Trinidad State Junior College next Tuesday, April 26th from 8:00 a.m. to 5:00 p.m. with the assistant of Gill Rossmiller.

ARPA. City Attorney Beatty advised that the Arkansas River Power Authority's annual meeting will be held on Thursday, April 28th in La Junta at Otero Junior College.

Comcast Cares Day. Council was reminded of the Comcast Cares Day River walk clean up on Saturday, April 30th and the City's Spring clean up/free landfill days on Saturday, April 30th and Sunday, May 1st from 8:00 a.m. to 5:00 p.m.

Way-finding signage. City Attorney Beatty told Council that Plan Tools, LLC has been working with the Tourism Board and City Planner on a way-finding signage plan for the City. Plan Tools made a presentation last week and presented a draft plan of the signage to the Planning Commission and public. He said the plan is great and wanted Council to be aware of it. He passed around his copy of the plan to Council. He concluded that it is an exciting project and the Tourism Board is trying to allocate funds to accomplish it. He said he anticipates proposals for allocation of Capital Improvement Funds as well.

APRIL 19, 2011

COMMITTEE REPORTS. None.**UNFINISHED BUSINESS.** None.

MISCELLANEOUS BUSINESS. 3.2% Beer Retail License (Off Premises) renewal request by Safeway, Inc. d/b/a Safeway Store #722 at 457 W. Main Street. Councilmember Aragon moved for the acceptance of the license renewal. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote of Council members, except Councilmember Velasquez who abstained.

Acceptance of Affidavit of Surrender of State and Local Liquor License – Veltri Liquor, LLC. A motion to accept the surrender affidavit was made by Councilmember Aragon and seconded by Councilmember Toupal. The motion carried by a unanimous roll call vote.

Designation of new Mayor Pro-Tem. Councilmember Aragon nominated Councilmember Franklin Shew and Councilmember Toupal seconded the nomination. Councilmember Velasquez nominated Councilmember Pando and there was no second, resulting in only the nomination of Councilmember Shew. Roll call was taken on the nomination of Councilmember Shew as Mayor Pro-Tem and it carried unanimously however with Councilmember Shew abstaining.

Consideration of bid results for aluminum sulfate for the Water Department. Utilities Supt. Fernandez advised Council that there was no change since he presented it at work session. He recommended the bid be awarded to the low bidder in the amount of \$31,752. A motion to award the bid to DPC Industries in the amount of \$31,752 was made by Councilmember Aragon and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote.

New Optional Premises License request by Trinidad-Las Animas County Golf Association, Inc. at 1417 Nolan Drive. Mayor Garduno announced that Council needs to set this matter for hearing and identify the tentative neighborhood boundary. Mayor Garduno asked if there was a rush to have a hearing. City Clerk Garrett said there's no rush and reviewed with Council procedural time-line for the hearing. She explained that the hearing cannot be held any earlier than 30 days from this date. She said her typical recommendation for any new license is always the earliest regular meeting date because the procedural requirements can be accomplished within the 30 day period during which they cannot hold the hearing. Generally it doesn't take beyond that time. She said that was the basis for her recommendation, however it is up to Council. If they want to wait until the next regular meeting that is their prerogative, however it is a seven week wait. Mayor Garduno said an earlier date would be the fifth Tuesday in May. City Attorney Beatty said he believes the first regular meeting date available is June 7th. City Clerk Garrett said the fourth Tuesday is May 24th and the fifth Tuesday is May 31st. Councilmember Aragon made a motion to set the tentative neighborhood boundary as the corporate City limits of Trinidad and to set the hearing for a special meeting on May 24th at 1:30 p.m. The motion was seconded by Councilmember Shew. Councilmember Rino asked when the license would be issued. City Clerk Garrett reviewed the typical timeline when an applicant pays for concurrent review by the State. Roll call was taken and the motion carried unanimously.

BILLS. A motion to approve the bills was made by Councilmember Toupal. The motion was seconded by Councilmember Pando. Roll call was taken on the motion. The motion carried unanimously.

PAYROLL, April 2, 2011 through April 15, 2011. A motion to approve the payroll was made by Councilmember Pando and seconded by Councilmember Aragon. 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 Aragon and seconded by Councilmember Shew. The meeting was adjourned by unanimous vote of Council.

ATTEST:

JENNIE GARDUNO, Mayor

AUDRA GARRETT, City Clerk