The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, September 6, 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 August 16, 2011. A motion to dispense with the reading and accept the minutes as submitted was made by Councilmember Toupal and seconded by Councilmember Aragon. The motion carried unanimously.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Mayor Garduno announced that about ten people signed up to make public comment and said it needs to be kept to three minutes per speaker. She called upon Tom Murphy who signed up to speak about the City Manager evaluation. Thomas Murphy, owner of Mullare-Murphy Funeral Home and Trinidad Times TV, and with his wife co-owner of Trinidad Times Independent and Raton Range, addressed Council. He said they seem to be the hub of rumors and there are several rumors that there are a couple of City Council members who have the votes to fire the City Manager tonight. We'll see if that's true, because sometimes rumors are true and sometimes they are not. He said in his business he'll get calls asking if "Mr. Smith died" and it just happened and he wonders how they knew. He questioned why the firing of the City Manager would happen considering this point in time with his career. Mr. Murphy recalled that back in the mid-1990s, Miss Colorado, the first Hispanic Miss Colorado, came to Trinidad. She had had her crown taken away from her but she was already scheduled to speak here. While she was in Trinidad the judge awarded her crown back. He said he saw her speech the next night and she said "You know when people go crab hunting why they don't put a lid on the bucket? Because when one tries to climb out, the others will just grab it and pull it back down." He said in his opinion we have a City Manager aspiring to do better for this community, and he is impressed. He said he's been observing people since 2005 with his camera, and people in town have been able to watch it (on his television broadcast). He said he wonders why people would do that, but it is like the crabs in the bucket. Mr. Murphy added that he wondered if Bob Arko wasn't right because they filmed him at a recent meeting concerning the Home Rule Charter proposed amendments whereby Mr. Arko said Trinidad's problem, pointing out that Mr. Arko is a life-long resident, is that people have jealousy and they don't want anyone to succeed. Mr. Murphy said he's starting to wonder if we don't want our own town to succeed. It frightens him that we've hired someone who's a good player. He likened City Manager Gil de Rubio's hiring to Councilmember Toupal's recruiting of a good ball player from outside the City. We recruited someone from outside the City who is highly qualified and has been addressing the problems with ARPA that the rest of the people here and former management said there's nothing we can do. Mr. Murphy continued that he's attended those meetings and watched him and found that there are two people leading the way at the monthly ARPA meetings, City Manager Gil de Rubio and the Interim General Manager. They all look to those two people for leadership. We have a $116 million dollar utility that could bankrupt all of us and we have one person who can handle it, he said, adding that he doesn't know of anyone else here in town that could. He asked if Council is going to push the nuclear button, because rumors sometimes prove themselves to be true. He said he hopes it is not. Mr. Murphy apologized to Councilmember Velasquez for addressing her but said that considering the legal consequences with the gambling, if that does happen tonight, he hopes she refrains because she'll have her day in court and he thought it would be a conflict of interest, pointing out that it is his personal opinion rather than a legal opinion. He urged the City's leaders to do the right thing and give City Manager Gil de Rubio an opportunity to continue. He concluded that he hopes these rumors are not true. People feel there's hope in the community with his leadership. Mayor Garduno told Mr. Murphy that she planned on making comments on the rumors.

Michelle Miles addressed Council and identified herself and said she lives on Ash Street and is the owner of Tire Shop Wine & Spirits, near Safeway. She said she first met City Manager Gil de Rubio when she first opened her shop and he walked in. He introduced himself and they talked some and he said he was new here and asked what problems she was facing and asked what he could do to make her life as a merchant easier. She suggested the curb be painted in front of her business and a two-hour parking sign be installed. She was impressed that he both asked and he delivered. She continued that unlike Mr. Murphy she doesn't follow the City business on a day-to-day basis. One subject she said she knows a lot about and has very strong opinions about is ARPA. Ms. Miles explained that she spent the better part of her life developing large-scale power generation. She said in her opinion ARPA still faces as serious of problems as ever and she doesn't see the light at the end of the tunnel. She said she is refreshed by seeing City Manager Gil de Rubio holding the management of ARPA's feet to the fire and making them accountable. For the first time she said she feels there's a chance that Trinidad might come forward and get what it pays for. You can't undo errors of the past but what you want to do is put a tourniquet on things. She opined that she thinks he is doing a great job of that and that he's very knowledgeable on the subject and she is very impressed. One of the wonderful things he did when people were really angry about ARPA, when things started heating up, was he organized a public forum, like a town hall meeting. It was so well presented and very well received. People walked in there angry and came out feeling good. He inspired the confidence of this community. She concluded that she hoped they let him continue to do the job he came here to do.

Rodney Wood addressed Council. He said he just moved to town about a month ago with his friend, Susan Palmer, and they are buying the building at 218 E. Main Street. He said he is a stranger but can't believe how many of the people in the audience he's already met. That was one of the ways they ended up here. He said he is a Colorado native but has lived here and in New Mexico off and on. His father was a business cowboy and became a big shot in the Western Horseman magazine for many years. Mr. Wood said he knows the state, grew up in Denver and Breckenridge. He said he was the Director of State Fair's Fine Arts Exhibition for five years, taught at UCCS, CSU Pueblo, was the Director for a non-profit arts organization in Manitou Springs called Business of Arts Center. He said he has dealt with a lot of cities and communities and fought the fight for a really long time. He and Susan were exploring and they wanted a small place after

leaving Riodoso, New Mexico. They wanted a community and not one that was just buzz words on a grant application, but where it really meant something. They had been looking all over, and before he even knew he was going to move here, City Manager Gil de Rubio called him on the phone "heard you might be moving to town". He was encaged and just exploring resources because he had been involved in community building in a variety of ways. City Manager Gil de Rubio knew of him through other people, and Mr. Wood said here he is. They came back looking to buy a building and met with City Manager Gil de Rubio. He went back to Susan and said "it's a sign". He said he told her he wanted to live somewhere smart enough to hire a guy like that, someone who's got that much vision and passion. He told her he wanted to live here because of the attitude that he brought. Mr. Wood said he's butted heads with City Councils in Colorado Springs and Pueblo for decades about community development and City Manager Gil de Rubio was so inviting that they had to find a way to move to Trinidad after that meeting. Mr. Wood said he sees City Manager Gil de Rubio everywhere. He described him as a visionary and a doer, which is a rare combination. You can have a person with big ideas and never get anything done or one with absolutely no vision for the future. He added that he has never heard him say "I"; it is always "we". If you can pay someone the amount of money who can be proud so quickly and he is proud to be in Trinidad - that's awesome. He concluded that he had an impromptu encounter with Councilmember Pando and that conversation compelled him to be here today. Then he read something and heard something, some news that Council may get rid of him. He said he couldn't believe it and asked that they please not do it.

Sonia Donaldson addressed Council regarding the fast driving taking place on Animas Street. She said it's like an old story. She said she's called about dogs and nothing was rectified either. Ms. Donaldson said she saw Councilmember Pando on Animas Street and so he can recognize the traffic. She continued that she too heard the rumors and that she doesn't think it is fair to grade the City Manager and not themselves concerning the problems in Trinidad. He is only one person. She said this is the seventh meeting she's been at and the only person who gave input to water or electricity problems is Councilmember Rino. She said she came back to Trinidad in 2007 and in one week had three break-ins and had a guy show a gun to her. She added that she battles the drugs in this town because her daughter got hooked on cocaine. She also reported that she has gang graffiti on her garage that says they're going to kill her. She concluded that she doesn't think that anybody cares and she wants some action. Words will not do it alone. That's why they can't grade the City Manager and not grade themselves.

Bernadette Baca Gonzalez addressed Council regarding open government. She thanked Council for ensuring the posting for the evaluation of the City Manager occurs in open session and commended City Manager Gil de Rubio for waiving his right to compel it from being conducted in executive session. She said it is important that we have open government and those involved in the decision-making process that affect the City are candid with their evaluation and will stand up and be counted. She reiterated her appreciation that it is in open session.

Paula Little on behalf of the A. R. Mitchell Museum addressed Council in support of City Manager Gil de Rubio. She said he has been an inspiration to the museum in showing them what they can achieve. She said out of all of the last seven events they have held, he has been in attendance and has put them in touch with partners from Colorado Springs and Denver. This networking is going to result in the Mitchell receiving help for the preservation of their historical building. The building needs a lot of work, has water leaks and needs a new boiler, and they cannot let it fall apart. It has the largest art-draw in Trinidad. The City needs the Mitchell (Museum) and the Mitchell needs City Manager Gil de Rubio. He does what he says he is going to do. She explained that after speaking to him about using the upstairs portion of the building as studio space, he and the City Planner went to Colorado Springs and found seven artists to rent it if only it were habitable. His vision of Trinidad being a relocation center for artists is very viable. It will create jobs and will bring prosperity to Trinidad. He is the best City representative we have ever had. He is forward thinking, has a vested interest in the community, and has brilliant ideas. He is what Trinidad needs for a driving future. She pleaded with Council to keep him because we need him.

Dave Grove, Century Financial Group, addressed Council to provide an update on the Trinidad Wellness Program instituted five weeks ago. He said as a broker they always get asked how they can cut health care costs. It is difficult to find new ways. They have found that they can only influence their own clients. He said they have found that through wellness and diet they can reduce costs directly related to their clients. The program was instituted through Dr. Clark's First-Line Therapy. He provided some statistical information. It is now recognized that chronic disease/conditions account for over 75% of the $2.2 trillion dollars spent each year for health care. It is now tied to Alzheimer's, and most recently Muscular Sclerosis. Alzheimer's is now known as Diabetes Type 3. It is also recognized that diet is the biggest influence in any factor when it comes to chronic disease. It is directly related to processed foods and leads to obesity. An obese person will average cost-wise $8,315 per year and a health person will average in cost $5,855 per year. If the trend stays the same, it will cost the United States $344 billion a year more. According to the BMI (body mass index) 63% of Americans are overweight. Since the program started five weeks ago, 85% of the 40 employees who have participated have had some level of success. He described the best training as the label-reading shopping trip, according to the employees. Mr. Grove told Council that the leading male has lost 37.6 pounds and the leading female has lost 22.8 pounds and is only 5'2". Over 370 pounds have been lost in just five weeks, or 8.67 pounds per person on average. We started with an average body fat of 31.74 pounds and we are now just under 30 at 29.99. The phase angle, how healthy one's molecular structure is, has changed on a scale of one to ten from 6.25 to 6.97. Two participants have an elite athletic amount of body fat. One person gained 15 pounds of muscle and lost 15 pounds of fat in a three-week period. He explained that is how success is being gaged. There are reported decreased chronic problems and increased energy levels. Mr. Grove thanked the participants, the insurance committee, City Clerk Audra Garrett, Asst. City Clerk Dona Valencich and City Manager Gil de Rubio. He credited City Manager Gil de Rubio's decision to drive this program. Mr. Grove announced that the City's health insurance carrier, Rocky Mountain Health Plans, will award a Kindle to the most successful participant and Bank of the West will award $100 savings bonds to some other successful participants. He said he thinks the real winners are the City, its staff and their families. Rocky Mountain Health Plans, after evaluating the program, reduced the City's annual renewal by 2%. He emphasized that City Manager Gil de Rubio's decision to spend $4,500 resulted in a $24,000 savings to the City. Mayor Garduno asked when she could sign up. Mr. Grove said the program runs for eight weeks so the round thereafter.

Vibeke Adkisson addressed Council. She told Council that in 2005 she and her husband decided to move to Trinidad. They purchased two buildings, one on East Main Street and one on West Main Street, and rehabbed them. She said she and her husband came here with great expectations and their experiences far exceeded their greatest dreams. It is a community filled with support, caring and love. When the City Council hired the new City Manager, she said those in the down town sat back and said 'we'll see.' You knew what we didn't know. You were hiring a gentleman who had foresight, insight and the desire to make this community what we all want. She said they want to keep it moving and it has been in the right direction. She commented on the City's new slogan "The City That Loves Company" and said they are seeing more tourists and the saying invites people to come. People have asked her why they moved here and her answer is that they had a dream

and it turned out much better than what they dared to hope for. The City that loves company is like a family inviting an outsider to dinner. The outsider comes and sits at the table and family decides to have a lot of back-fighting, innuendo even witch-hunting – you are not going to want to go back there and have dinner. That's what she is sensing right now. She said she doesn't know where rumors start. She thanked Council for having allowed her to fill out her evaluation form and for allowing citizen input. She asked Council to take those citizen forms into consideration in making their decision. Ms. Adkisson said that when Council hired City Manager Gil de Rubio she believes they made the right decision. She reiterated her hope that they give consideration to citizens' input and added that what we reap is what we sow and she hopes we can sow a truly beautiful garden. Mayor Garduno assured Ms. Adkisson that Council looks at those evaluations and takes them very seriously.

Pat Fletcher addressed Council asking to follow up on her evaluation. She said that since 1977 when she moved here she has seen the leadership of City Managers and City Council members come and go and has never felt hope for our future more so than she does now under his leadership thus far. He sees things clearly and acts based on reason and fairness. She credited City Manager Gil de Rubio for pulling the Library Board out of the dark ages and concluded that for that alone he earned her respect.

Kim Schultz, Executive Director of the Chamber of Commerce, told Council that at the Chamber they have had a fantastic opportunity to work with the City Manager. She said City Manager Gil de Rubio has shown tremendous leadership, is pro-business, he's been forthcoming and truly a leader. She echoed the comments of the community and said she thinks their community is speaking about him and his capabilities. This community can't continue to stay in neutral. We have to continue to move forward. She thanked City Manager Gil de Rubio for everything he has done and said she is looking forward to working with him some more.

Mike Garrett made a special presentation to City Manager Gil de Rubio, not as a Chronicle News reporter that covered the City Manager's first year or as a private citizen, but as a friend. He echoed everything that had been said about him tonight and commented that he has been in the business for 42 years and has never seen such leadership. He urged Council to keep him on as long as they can. He pointed out that City Manager Gil de Rubio is a New York Yankees fan and an overall baseball fan and presented him with baseball collectable figures of Mickey Mantle and Roger Maris. He said City Manager Gil de Rubio always hits home runs and asked them to name one thing he has done that hasn't been for the benefit of the City.

Sandra Nichols, Bella Luna Pizzeria, addressed Council about the City Manager. She said she was not going to tell them warm and fuzzy stories because they all have personal stories. As an outsider choosing to move here and invest a lot of money into their building, this community and employ citizens of this town, contribute to sales tax and just try to be a good neighbor and a viable part of the community, she said City Manager Gil de Rubio is the only man that has ever come to her in her restaurant or on the street and asked her anything, the only one. "What can we do?" She said not only her business, but every other business in town that she knows of. Not one of the Council had ever asked her that question. She added that she thought there was some kind of disconnect in the idea that the community elected Council to speak for them and said she's a little annoyed and suggested they better listen because this is what they are telling them.

Mayor Garduno addressed Tom Murphy about him having mentioned that if there's a vote taken to dismiss City Manager Gil de Rubio that Councilmember Velasquez should refrain and asked him to explain himself. Mr. Murphy said that's part of the problem that people are saying in town, that she's upset about the bust. He said he's not a lawyer but it might be a conflict of interest for the City to have someone vote when they are in some legal turmoil right now. Mayor Garduno asked if what he's saying is because of the connection with Liz's part in this. Councilmember Aragon asked what part she has in this and pointed out that Mr. Murphy did not mention her name. Mayor Garduno argued that he did. Mr. Murphy denied having mentioned her name. Mr. Murphy said he looked straight at Linda Velasquez and apologized for addressing her personally. He said this is a big issue in town right now and he felt it would behoove her to protect the integrity of the City Council to abstain, in his personal opinion based on past experiences in filming meetings. Mayor Garduno said she took notes as she was thinking about this. In the evaluation of the City Manager tonight it's not about if they like or dislike him. It is not a personality contest. As elected officials it is their responsibility to ensure the professional performance of the City Manager is serving the best interest of the whole community, not just the downtown community but rather as a whole. This evaluation being done tonight is a routine, annual evaluation done each year as required by the Charter. It wasn't especially set up because there's problems or issues or whatever. She reiterated that it is a routine evaluation. The evaluation is not intended to be a punitive process and it's not the intent of Council tonight. The Manager's position carries serious responsibility and plays a vital part in serving the needs of the citizens and its progress. The process is an opportunity to determine if there is a good fit between the Manager, the Council and the community, and Council has heard their thoughts on that. It is also an opportunity to identify strengths and weaknesses, because we all have both. It can be used for promotions, demotions and dismissals when warranted, and to identify problems caused by the system itself. It is not a contest between the Manager and Council. In an open dialogue goals and objectives can be set up to help move the City forward. With the current economic downturn the City has to focus on fiscal management as a priority. They need to manage the budget in the most prudent manner and set priorities on how the monies that are there are spent. The intent tonight was not to terminate the Manager from employment, but just to do the annual evaluation required to be done. She continued that she felt tonight that City Council had been attacked and been asked not to make a decision in terminating him when it wasn't in the plan. She said she's very disappointed in the rumors created by what she believed to be a few self-serving individuals, that some of the Council members are out to fire the City Manager. It has created mistrust among all of them and served no positive or progressive purpose. She suggested if they looked around and think back they could identify that there have been some deliberate intentions to cause this mistrust. She added that she sees polarization of the community and Council members. It is a direct result of these vicious rumors that were set up with some intent to dishonor the Council members and to set that polarization felt tonight. Mayor Garduno said she appreciates the comments and takes them seriously and reiterated that there's no such decision to be made. Council is doing what they are responsible to do, evaluate the performance of the City Manager and look for ways that they can improve so this community can move in a progressive way. Mayor Garduno thanked those present.

REPORT BY CITY MANAGER. City Manager Gil de Rubio thanked the community for coming forward and saying those kind words. He said he hadn't planned on saying anything but told those present that when he was considering the position he and his wife spent time in the down town sitting and looking. He said he remembers mentioning to City Council during the second interview that Trinidad has a viable downtown. A local merchant after reading that in the paper criticized him and questioned how he can say it is viable because she said it is dying, look at the buildings. His response was, yes, but the most important part of Trinidad is the people. People make the community. He said you get the government you deserve. The show of the individuals tonight over a simple item like the evaluation of the City Manager

showed him the community is vested and very interested in its future and in government. He concluded that he hopes he can continue to provide that vision and dream for the City and its residents and said he knows he will do his best to do so. He concluded that he also knows that Trinidad is a success story, always will be and has been in the past.

Introduction of Andrew Dunn, Commissioner of the Pecos League of Professional Baseball Clubs (an independent professional baseball league). City Manager Gil de Rubio introduced Andrew Dunn, Commissioner of the Pecos League of Professional Baseball Clubs to Council. He said he is from Houston and had stopped in Pueblo/Pueblo West today before coming to Trinidad. He added that he had a long meeting with Mr. Dunn, Councilmembers Toupal and Shew, representatives of Trinidad State Junior College and Kim Schultz from the Chamber of Commerce. He said Mr. Dunn will provide a background of what will take place here next spring. Mr. Dunn addressed Council. He said they are an independent professional league in west Texas and New Mexico and will be in Southern Colorado to play the game in 2012. From a community perspective, they will bring 30 people, coaches and players, from all over North America, Australia and Canada, to Trinidad and those people will represent Trinidad for the summer, playing against teams from Pueblo, Roswell, Las Cruses, White Sands, Artesia and Alpine. These are professional games of players attempting to move up to higher leagues of affiliated baseball who will live with host families. There are natural rivalries with Santa Fe and Trinidad, as well as Pueblo and Trinidad. The games will occur through May, June and July. Mr. Dunn said there will be 35 home games. They are excited to be in southern Colorado and bring baseball into Colorado. Mr. Dunn added that City Manager Gil de Rubio has been very helpful. Having worked with other City Manager's throughout the states, he found City Manager Gil de Rubio to be very welcoming. He offered to answer any questions. Councilmember Rino asked if there will be three teams. Mr. Dunn said there'll be two. Trinidad will be one and either Pueblo or Pueblo West the other. It is not yet settled because there's no park in Pueblo West. They are currently completing a feasibility study to decide whether to build them a park. Otherwise they will look at Runyon Field in Pueblo right off of the freeway. He noted that was where they played their exhibition game this year. Also they are going to play at Fort Marcy Park in Santa Fe. That will be the closest rival. There'll be Pueblo, Trinidad, Santa Fe and all of the southern teams. Alpine is by itself in West Texas so it balances out. Councilmember Rino asked how their travel and food, uniforms and equipment are financed. Mr. Dunn said they travel in two 15-passenger vans that only require someone over the age of 25 to drive. The uniforms, baseballs and helmets are paid for by local business sponsors. He offered to show samples to them after the meeting. He reminded that it is independent baseball comparable to the old Longhorn League, the west Texas and New Mexico league. He said they are glad to be in Colorado and added that it is a lot easier politically to be in Colorado than in Texas and New Mexico. Councilmember Rino asked when schedules will come out. Mr. Dunn answered that they'll be out once the teams are finalized probably October 28th, which is the deadline, but they always seem to get pushed back a week or two. They have to finalize to the cities by November 15th. The players will report for spring training on May 1st and their first opening game against Pueblo will be on May 9th. The Pueblo games will alternate between here and Pueblo. Everywhere else is a four-game series. It is a lot of excitement. He added that Kim Schultz from the Chamber will help with naming the team. Ms. Schultz urged the community for input. She said the current proposed name is Trinidad Gold. Mr. Dunn encouraged Council to check them out on the web at pecosleague.com or trinidad.pecosleague.com and to call him if they have any questions at 575-680-2212.

Fire reimbursements. City Manager Gil de Rubio called upon Fire Chief Leroy Perea to provide an update regarding revenue received from the recent Track fire. Chief Perea reminded that the Mayor had previously inquired about his overtime budget and he had responded that he hoped to be reimbursed for costs attributable to the area fires by the Forest Service. He announced that the City received reimbursement in the amount of $8,540 for manpower and use of the new brush truck. He also reminded Council that when he was requesting approval of the truck's acquisition he mentioned the potential for reimbursement for its use. He said the reimbursement represents one fire for three days. He clarified that the fire has to be a federal fire to be reimbursable. The mutual aid calls are not reimbursable. He concluded that he was glad to let them know of the reimbursement, adding that they are starting to make the truck pay.

Earthquake update. City Manager Gil de Rubio advised Council that the City's insurer, CIRSA, will be causing inspections to be conducted of the municipal buildings subsequent to the recent earthquakes. He said the City has had the flood protection dams located in various areas throughout the City inspected for faults. He continued that he has been in touch with Chief of Staff Roxanne White from the Governor Hickenlooper's office about structural damage who has passed the information on to the Executive Director of Department of Local Affairs and they have had an extensive conversation about possible grants for the future. DOLA currently doesn't have any money but it is hoped they will receive money in the next fiscal year. City Manager Gil de Rubio said he placed an ad in the paper to call the City Manager's office if anyone incurred damages from the earthquake and he'll be coordinating efforts with the County and State. He added that they will have a downtown walk through on September 16th with Steve Turner from the State Historical Society, a representative from HV USA, Lee Merkel from DOLA, and John Share, who is a historical preservation consultant. They will be going throughout various buildings looking at structural issues the City faces and formulating a game plan regarding those structures. The City Planner will then put out an RFP for a structural engineer to help prioritize downtown buildings and he hopes to get financial assistance for that effort. He invited City Council to join them at 11:00 a.m. at City Hall and go throughout the City.

Blues Fest. City Manager Gil de Rubio said the recent Blues Fest was successful. They had a great line up of performers. It was a great fundraiser for the City and the city non-profits and he expressed his appreciation to the Board of Directors.

Severance Tax. Council was informed by City Manager Gil de Rubio of the $350,000 check received by the City for severance tax. He said the City will also receive $169,000 from the Federal Mineral Leasing program. He noted that they had only budgeted $100,000 for both line items in this year's budget, so this represents a substantial increase.

North Lake funding. City Manager Gil de Rubio told Council that he and Utilities Supt. Jim Fernandez will be meeting with Scott Street from Representative Tipton's office regarding the North Lake dam project this Friday at 10:00 a.m. at City Hall. The dam had an inspection done from the Conservation Water Control Board this week. They are recommending the City apply for a grant/low interest loan, which is at about 3.5%. He reminded Council that the City has submitted a grant request for roughly $800,000. He said the fly in the ointment is that the loan presentation for this joint grant/loan format will not be until March. It usually takes six to eight weeks for a contract following that, so mid-March early April. They are recommending the City not go out on our own to finance it because we'll jeopardize that grant

because they'll think if we have enough to finance it ourselves or borrow against it we don't need the grant money. Councilmember Pando asked when the City will know about the grant. City Manager Gil de Rubio said we should know about it in March and clarified that it is a combination grant/loan. It went up for review last week and they recommended the City pursue the combination grant/low-interest loan. He said it is Council's option, or they can go out for bond. He further informed Council that the USDA turned the City's grant application down because the water fund has a substantial fund balance. Councilmember Rino asked what the estimated cost of the work is. City Manager Gil de Rubio answered that it is estimated between $1.8 and $2 million. Councilmember Rino asked what the loan and grant total. City Manager Gil de Rubio said the grant is roughly $800,000 and the balance would be through a low-interest loan at about 3.5%. Councilmember Rino asked why we would want to pay 3.5% when we have the money available. City Manager Gil de Rubio said it would be a very low-interest rate and said that the fund balance could be used but it is used a lot throughout the City. If the fund balance is lowered by more than half, what happens if there's an emergency? Where are we going to get quick cash? He conceded that the City is only earning about one-half a point interest on its $1 million investment in CDs. He reiterated that the fund balance is used quite a bit to help other departments and it is nice to have the cash if something drastic happens to the City, especially at 3.5%. He added that the dam leak has improved since we lowered the head pressure. The State seems to be happy with the results from lowering it. He pointed out that they'd be spending over 50-55% of the fund balance and urged Council to give it some thought. Councilmember Rino said he is concerned about waiting more time, because it's been more than four years. It is time to make a decision and do something. City Manager Gil de Rubio asked to be allowed to shop for bonds and he can come back with available bond rates. Then City Council can decide on using the fund balance, bonds or wait for a grant and also they can see what Representative Tipton's office says this Friday. Mayor Garduno asked how much time before the lake has to be lowered some more. Supt. Fernandez said it has been lowered three feet and the City has to have it down by five feet, two more feet in as many months. Councilmember Rino asked if the lake has to be lowered another two feet and there is a decent run off next spring can it be put into Monument Lake. City Manager Gil de Rubio said it cannot be credited to Monument Lake, it would be free-flowing. Councilmember Aragon added that once it leaves North Lake it is no longer the City's water. Councilmember Rino pointed out that the City transfers water from North Lake to Monument Lake out of one ditch. He re-asked if the water can be put back into Monument Lake, adding that he understands that the City doesn't own return flow water. City Manager Gil de Rubio said his understanding is that it is free-flowing water and it cannot be credited to Monument Lake. Councilmember Rino said it is worth looking into.

Councilmember Toupal asked who is responsible for calculating the severance tax and federal mineral lease funds that hadn't been anticipated since it was quite a bit of money. City Manager Gil de Rubio said it is derived from drilling operations through a formula set up by the State of Colorado.

REPORT BY CITY ATTORNEY. Abstention. City Attorney Beatty addressed a question that arose during Petitions and Communications. He said participation or abstention of any Council member on any vote before the Council is governed by Home Rule Charter Section 5.3 which reads "No member of the Council shall vote on any question on which he/she has a substantial personal or financial interest, as determined by a majority of the Council, other than the common public interest."

Cougar Canyon. City Attorney Beatty called to Council's attention the information item in their packet regarding Cougar Canyon. He explained that the U. S. Bankruptcy Court has approved the settlement agreement between Trinidad Golf, LLC and Colarelli Construction on August 26th and has issued an order to grant dismissal of the adversary proceeding. He said representatives from Colarelli Construction have indicated that the close of escrow is currently scheduled to occur by September 9th, so it is very likely that it will occur this week.

Severance tax. City Attorney Beatty commented that City Manager Gil de Rubio had a very favorable announcement regarding severance tax and mineral lease funds. The City is in dialogue with the Colorado Municipal League to discern how the City can adequately budget and prepare for what our disbursement will be in 2012. He said as Council may recall Senate Bill 11-164 and 11-226 passed in the State House this most recent session. Those bills stripped away the local government disbursement of severance tax and federal mineral lease funds. Since the State is on a different fiscal year than the City, the City is trying to determine what we can reasonably expect for next year by the time we prepare the budget for consideration.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. Consideration of request for an extraterritorial water tap by New Elk Coal Company, LLC. Councilmember Rino moved to approve a four-inch extraterritorial water tap for the New Elk Coal Company, LLC. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote.

MISCELLANEOUS BUSINESS. Retail liquor store license renewal request by Trinidad Plaza Liquors, Inc. d/b/a Main Street Liquors at 803 E. Main Street. A motion to approve the renewal was made by Councilmember Rino and seconded by Councilmember Velasquez. Upon roll call vote, the motion carried unanimously.

Tavern liquor license renewal request by Great Wall, LLC d/b/a Great Wall at 321 State Street. Councilmember Velasquez moved to renew the license. Councilmember Shew seconded the motion. Roll call was taken, and the motion carried unanimously.

Tavern liquor license renewal request by Donna J. and Robert Leonetti d/b/a The Park at 608 Arizona Avenue. A motion to approve the license renewal was made by Councilmember Pando and seconded by Councilmember Toupal. The motion carried unanimously upon roll call vote.

Tavern liquor license renewal request by Mantelli Partnership d/b/a Mantelli's at 137 W. Main Street. Councilmember Velasquez made a motion to approve the renewal application. Councilmember Shew seconded the motion. Roll call was taken and the motion carried unanimously. Patricia Mantelli said she read in the paper that all of the bars received information on gambling and said she had not. She asked if football pools are allowed. Ms. Mantelli said she hasn't been running any football pools because she is concerned about getting into trouble. Councilmember Velasquez

questioned her not having received a copy of the rules/information. City Attorney Beatty told Ms. Mantelli that the City's happy to provide the information. He explained that gambling is legally permissible when among people in a bonafide social relationship. If all of the people in the football pool are genuinely friends it is legally permissible. If the pool is among strangers and the bar is benefitting in some manner it is not legal. Ms. Mantelli asked if that means if the bar is taking a cut. City Attorney Beatty said that was correct and even if the bar is serving alcoholic beverages to the people in the pool it could be considered benefitting. Ms. Mantelli reiterated that she doesn't want to get in trouble. Her pools are $2.00 a square. She's been told it is a form of gambling. She said she doesn't quite understand the concept of serving those people. She asked if he meant if the bar were buying them a drink. City Attorney Beatty advised Ms. Mantelli that Police Chief Glorioso will provide her with a list of the rules and discuss them with her. Ms. Mantelli reiterated that she had not previously received them.

Consideration of bid results for 2011 Asphaltic Paving Project. Public Works Director Valentine addressed Council and advised that competitive bids were received for the 2011 paving project. He apologized for not presenting the bids at a prior work session, however said he was interested in moving forward as the weather is starting to push the limits. He continued that two bids were received and the information was provided in Council packets. PWD Valentine said he was pleasantly surprised by the bids. He anticipated much higher bids and specified 4,500 tons of asphalt. The per-tonnage price received from Walsenburg Sand & Gravel was $84.67 and from A&S Construction Company it was $78.70. Therefore, A&S Construction was the low bidder in the total amount of $367,850. PWD Valentine reminded Council that $500,000 was allowed in the CIP fund for paving and as a result of the lower per ton cost, he will be able to add more streets that are in need of paving, up to the $500,000. He passed out a list of streets and a map depicting which streets will be paved this year. Councilmember Pando asked where A&S Construction is from. PWD Valentine answered that they are originally from Fremont County, the Canon City and Florence area, but that they recently opened a plant in Industrial Park about a year and one-half ago. Therefore they are a local company now at Industrial Park. PWD Valentine directed Council's attention to the map and explained that the streets shown in green were done in 2006 through 2010. The streets shown in yellow require an overlay in the next year or two. The streets shown in red and on the spreadsheet are those to be done this year. He further explained that the bid amount of $367,850 was based upon a 4,500 ton quantity. He said he was able to add streets and the spreadsheet now reflects $471,131 based on the per-ton price plus mobilization. Councilmember Rino asked if he can get the same price for the added tonnage. PWD Valentine said he was able to add almost 500 more tons because the unit price, the cost per ton, was lower than expected. Councilmember Toupal asked PWD Valentine if he is satisfied with the low bidder's quality of work. PWD Valentine said he is, pointing out that A&S Construction is the paving company doing the work for the highway project. Councilmember Rino asked if A&S Construction has been doing the City's paving the past four years. PWD Valentine said it has been Walsenburg Sand & Gravel. He recommended Council accept the low bid submitted by A&S Construction. Upon inquiry, PWD Valentine estimated that their lower price has something to do with A&S Construction not having to haul the material in from out of town. Councilmember Toupal moved to approve the low bid from A&S Construction Company. The motion was seconded by Councilmember Aragon and carried by a unanimous roll call vote.

City Manager Evaluation. Councilmember Rino asked for clarification. He said he thought the written evaluation of the City Manager is supposed to be kept from being made public. City Attorney Beatty confirmed that to be a fact. Councilmember Rino asked how they do that if it is held in open session. City Attorney Beatty answered that the Home Rule Charter provides that the procedure for the City Manager's evaluation shall be at the City Councils' discretion, but it is still subject to the State Statute, and specifically the Open Meetings Act. He thought it had been discussed that executive session can be held for the stated purpose of personnel matters to discuss this evaluation. He said that is the format the City had previously followed for the City Manager evaluation for a number of years. However, State Statute provides that when the stated purpose for an executive session is to discuss personnel matters the specific employee that is to be discussed has the right to request it in open session. City Attorney Beatty said he thinks the dialogue going back and forth has regarded that circumstance of the Open Meetings Act. If Council were to entertain a motion for executive session, City Manager Gil de Rubio would have an opportunity to request that the session remain open to the public. Councilmember Rino said his question wasn't answered. He re-asked how they do an evaluation according to the Charter, not making the evaluation public. City Attorney Beatty said the written evaluations received from community members remain confidential and cannot be disclosed or discussed in an open forum or by mentioning any names. If they contain comments Council wants to discuss with City Manager Gil de Rubio they can be approached in that vein. The name of the evaluator would remain confidential. Councilmember Pando said he finds that confusing. He added that he is opposed to an open evaluation. It is insane because if you have an individual who has employees and you take that individual and evaluate them in public…he has not seen that happen. You evaluate and that's between those two individuals and not the whole City. He said he refused to evaluate because it would be too difficult to separate what is in the written evaluation form and what he is going to evaluate orally. It doesn't make sense. Councilmember Pando said he's doesn't mean this because he has ulterior motives, because he wants to fire the City Manager…that's not what he means at all. He said he just thinks the process is just not valid to have in open session. He added that he had hoped to have a very productive evaluation between all of them collectively. Councilmember Rino asked regarding 'Personnel Management', if they discuss personnel and names come up there is no opportunity to address the person talked about. He clarified that it is not necessarily names, but personnel. The same thing is true for 'Department Performance'. When they talk about department performance they are talking about a particular individual who runs that department. Again, they are bringing someone into it that we'll know who it is when the department is named. City Manager Gil de Rubio said anything they want to discuss in executive session in a categorical basis can be discussed in open session, noting that he has been evaluated in open session before. He reminded that they cannot name names in executive session without that individual knowing. They can still have a frank discussion, just in open session. Councilmember Pando responded that he stands firmly on that and moved for an executive session for the evaluation of City Manager Ed Gil de Rubio. Councilmember Aragon said he can't do that because it's not on the agenda. City Attorney Beatty clarified that an executive session doesn't have to be on the agenda. Councilmember Aragon pointed to agenda item 'f', City Manager Evaluation. Councilmember Velasquez seconded the motion. Councilmember Toupal questioned going into executive session. City Attorney Beatty said the Open Meetings Act doesn't require an executive session be listed separate on an agenda, however, any motion to go into executive session for the reason stated by Councilmember Pando would also need to reference the specific State Statutory subsection under which the motion has been made. A discussion of a personnel matter in executive session would be established pursuant to CRS 24-6-402(2)(f), and City Manager Gil de Rubio, as he is the subject of the motion to go into that executive session, would have an opportunity pursuant to state law to request it be done in open session and not executive session. City Manager Gil de Rubio announced that he makes that

request. Councilmember Aragon opined that she felt they should honor that request, and she didn't feel there's anything they can't say. Councilmember Pando pointed out that he made a motion and it was seconded. Councilmember Velasquez commented that Council is not here to take City Manager Gil de Rubio's job and she doesn't know how the rumor got started. We all have weaknesses and we all have strengths – that's what he is going to be evaluated on. Mr. Murphy said this was done with Julie Ford at the School District. Councilmember Velasquez responded that there are a lot of other things on the evaluation when you talk about departments. Bernadette Baca-Gonzales said they could speak in generalities without naming specific names. She pointed out that it is posted as an open matter. Roberta Cordova told Council that a friend who just moved to Trinidad three weeks ago went into City Hall on business and was handed an evaluation form. He asked what it was and the person handing it to him said 'they want to get rid of the City Manager'. Mayor Garduno said that's not true. Ms. Cordova said it may not be true, but that's what was said. She repeated the circumstances and said she didn't know who the person was that handed the form to him. She concluded that she questions that. Councilmember Rino commented that he heard the same thing. The individual circulated evaluation forms to people and asked them to evaluate the City Manager, and that Councilmember Pando and Councilmember Rino wanted to fire City Manager Gil de Rubio. He said he never discussed the termination of Mr. Gil de Rubio with anyone at any time. He never said a word about it. The evaluation is on the agenda just as it has been for the past five years, however it was in executive session with previous City Managers. Council offered suggestions or ideas of what we thought and they hoped he would listen to some of the things they had to say to improve the situation in Trinidad as far as Council was concerned. The intent of the evaluation as he sees it is as Mayor Garduno said. He reminded that he has gone through many evaluations of teachers and administrators in the past and they had all been on a one-on-one basis with that person. In the end he/she could sign the evaluation or make objections to it if they felt it was inappropriate. He said he has experience with evaluating personnel, although it doesn't make him an expert. It doesn't make anyone an expert. All it does is tell you that you have the right as a Council member to evaluate that person. He said his concern is for the individuals who have written down comments. He added that his comments are all written down according to what he saw in the City Manager. He didn't fabricate anything nor did he say anything that was really derogatory. Councilmember Rino said he'd be willing to turn over his evaluation to the Mayor and have her make a summative evaluation of all copies and let her turn it over to City Manager Gil de Rubio, let him sign it or reject anything on it or make comments on it and turn it back to Council rather than going to this. He said he thinks what it does is opens the door again to the same kind of dialogue we had before. He said he's sure that everybody here who commented was sincere and honest on what they said. He said he is likewise sure that any Council members who made comments, positive and negative if there were any, was sincere and honest and that should be the point they bring up. It should not be to display anyone in public, City Manager Gil de Rubio or Council, as being unfair to anybody. Councilmember Aragon reiterated that he wants it public. Councilmember Rino rebutted that was his opinion. Councilmember Aragon commented that the previous City Manager got one, maybe two, evaluations the whole time she was on Council, so the Council is not consistent to evaluate. City Manager Gil de Rubio was hired September 15th, so it is not even a year. He wants it in open session and they should have it in open session. If you don't want to evaluate, don't. Mayor Garduno said there's a motion and a second on the table. Councilmember Shew asked if City Manager Gil de Rubio requested it in open session then what. City Attorney Beatty said his advice is that an executive session should not be held for the stated purpose under Councilmember Pando's motion as City Manager Gil de Rubio has indicated that he wants the session held in public. Councilmember Pando refused to withdraw his motion. City Attorney Beatty reiterated his advice to hold it in public. Mayor Garduno asked if they should act on the motion since it wasn't withdrawn. City Attorney Beatty recommended pursuant to the Open Meetings Act that the motion not be approved. Mayor Garduno said they need to vote on it. She commented that her concern about it being in open session is that as they go through the objectives on the evaluation there's a potential that some of the discussion can lead to personnel matters which according to the Charter can't be discussed in open session. She called for a roll call vote. The following votes were cast:

Aye – Pando

Nay – Aragon, Rino, Shew, Toupal, Velasquez, Garduno

Councilmember Velasquez asked what if they decide to not have it in open session. Councilmember Pando exited Chambers. City Manager Gil de Rubio said this is probably going to be a more tedious format, but suggested that each Council member write to him a list of their feelings of pros and cons and he would address them in writing. Mayor Garduno said that was going to be her suggestion. City Manager Gil de Rubio said again that there's nothing that they can talk about in open session and can be talked about in executive session because they are items of personnel and they can't bring in names. They can talk about the departments and the pros and cons the way they see them and it will be a healthy discussion. Councilmember Velasquez asked if it can be done individually. City Manager Gil de Rubio answered that he has an open-door policy and it can be done any time. Mayor Garduno suggested Council members who choose to turn in a written evaluation of the City Manager do so and those who want to comment in open session do so as well. Councilmember Aragon pointed out that hers is in the packet, no one else's. Councilmember Toupal said hers was the only one from Council in the packet and said he left his at his seating place after the last meeting. Mayor Garduno reiterated her suggestion that written evaluations be turned in to the City Manager and if there's a need to come up with objectives and goals he can review them. City Manager Gil de Rubio said he has a long list of objective and goals and reminded Council that he asked them when he was hired for their list of objectives and goals. He has been working with staff on those. He suggested if they are going to put a written evaluation together that they come in and see him with it and they can go over it one on one. If they want he offered to respond to their evaluation in writing. City Attorney Beatty said the procedure for the evaluation conduct is at City Council's discretion. He suggested they may want to formalize it. He further suggested that if they want each Council member to submit a written evaluation they be submitted to the City Clerk. Councilmember Shew made a motion that each Councilmember turn in their written evaluation to the City Clerk and have a discussion with the City Manager individually. The motion was seconded by Councilmember Toupal. Roll call was taken and the motion carried unanimously excepting Councilmember Aragon who reiterated that her evaluation was already submitted, and Councilmember Pando who previously left the meeting.

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

City Manager Evaluation. Councilmember Rino asked what to do with the evaluations from the community. City Manager Gil de Rubio suggested they be turned back in or kept.

PAYROLL, August 20, 2011 through September 2, 2011. A motion to approve the payroll was made by Councilmember Toupal and seconded by Councilmember Shew. The motion carried unanimously.

HART INTERCIVIC - AUSTIN E00614283DW

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:

JENNIE GARDUNO, Mayor

AUDRA GARRETT, City Clerk