

OCTOBER 9, 2012

CITY OF TRINIDAD  
TRINIDAD, COLORADO

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, October 9, 2012 immediately following work session at 1:30 p.m. in City Council Chambers at City Hall pursuant to the following call:

CITY OF TRINIDAD  
TRINIDAD, COLORADO

SPECIAL MEETING

There will be a Special Meeting of the City Council of the City of Trinidad, Colorado, on Tuesday, October 9, 2012 immediately following work session at 1:30 p.m. in the Council Chambers at City Hall

**\*\*PROCLAMATION -- HARRY R. SAYRE WEEK, OCT. 7 THROUGH OCT. 13\*\***

The following items are on file for consideration of City Council:

- 1) EXECUTIVE SESSION – For discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; and/or for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)
  - a) For a conference with the City Attorney for attorney/client communications regarding City Manager applications
- 2) Selection of potential finalists/interviewees for the position of City Manager

The meeting was called to order at 2:55 p.m.

Roll call was taken.

There were present:	Mayor	Baca Gonzalez, presiding
	Councilmembers	Bolton, Bonato, Mattie, Miles, Shew, Velasquez
Also present:	Acting City Manager	Gagliardi
	Interim City Attorney	Downs
	City Clerk	Garrett

The pledge of allegiance was recited.

Mayor Baca Gonzalez read aloud a proclamation naming October 7, 2012 through October 13, 2012 as Harry R. Sayre Memorial Week, upon the recent passing of Mr. Sayre honoring him and recognizing his civic service.

Public comment regarding agenda items. Tom Murphy addressed Council regarding the re-hiring of Ed Gil de Rubio. He said he understood that as our prior City Attorney was leaving town that he was telling people that the reason he was leaving town was the Murphy's fault. He said if that were true, then just as Collin Powell told George Bush when he was wondering whether or not he should go to war, "if you break it you own it". He surmised that if that's true he and his wife should probably have a voice in the direction we need to go. Mr. Murphy said he believes we need to bring Mr. Gil de Rubio back. The reasons he has heard why that might be a problem include that there might be too much drama, there might be payback, and because we need to heal. He opined that since 2005 no one is more uniquely qualified than he is to talk about this because no one probably in the state has attended as many meetings as he has of the County Commissioners, School Board #1, Aguilar, Trinidad City Council, the Ambulance, Hospital and Health Service District. Mr. Murphy said he is well acquainted with what he thinks good leadership is. When Mr. Bonato was running for Mayor he said there was a time when Council got along, yet Mr. Murphy said he remembers a time that they had to have a retreat at which Mr. Bonato participated because they couldn't get along and that was one of the issues they had to deal with. We have actually reconstituted the board from worst to first. He explained that the Ambulance District came within two hours of being shut down because it had a bad board. Because they were able to have an election, get a new board, a new director who was strong-willed like Mr. Gil de Rubio and was able to tell the board what they needed to do, they passed a mill levy. We were rated worst in the state. It was so bad the state was going to close it down unless they adhered to what the state said they needed to do. They passed a mill levy and went from worst to first. That's where the City is. We have the capability now that we have a new board and a new direction to turn the City around. Regarding the allegation of paybacks, Mr. Murphy said he didn't believe that because Mr. Gil de Rubio is a professional. He added that as he and his wife are heavily invested in this town, no single City employee or group of City employees is more important than that of the whole. He said he is more concerned about his investment in this town and getting someone in place that is going to get the town up and running because right now it is crumbling at our feet. Regarding healing he said he thinks the thing that will heal Trinidad is success and we had somebody that was in place that could do that. He was Secretariat – you put him back in place and in short order he will make this town succeed. Mr. Murphy said he doesn't know who they have as candidates and doesn't care how good they look on paper because it is still an unknown. Mr. Gil de Rubio knows the people and he knows the budgets and as we saw today we have some issues that need to be addressed in short order. We don't have time; we don't have six months. He already knows how to make this town run. The problem was in Trinidad he was a success, and that's almost a dirty word and some of us know that. Mr. Murphy recalled being at a Council meeting whereby Bob Arko

commented that Trinidad's problem is that people are jealous. They don't want people to succeed. We watched Mr. Gil de Rubio do that. He was able to handle ARPA and he put our budgets in the black. The problem was that he was doing well and that's not something that people like for some reason. He said he's seen this town run a lot of good people out. As far as healing it is a little hard to do when he finds out that one of our Council members told a friend of theirs that he hired a private investigator to investigate Mr. Gil de Rubio. He said he didn't think that was fair. He added that he thinks it needs to be addressed because he assured Council it is not going to go away. She will file an ethics complaint if it is necessary. He urged Council to address that when they go into executive session because it is a very serious allegation. He suggested it would all fall by the waste side if they talked to Mr. Gil de Rubio and offered to bring him back and he throw aside the lawsuit and move forward. He thought Mr. Gil de Rubio would do that and asked that they just give him the opportunity. Mr. Murphy said they have had prior City Managers here that he's had dealings with and no one has believed in transparency the way Mr. Gil de Rubio did. That's one of the keys to success and democracy - transparency. He concluded that he hoped Council considers that and that the budgets were in the black when they were projected to be in the red as he recalls. Financial stability is necessary to move this town forward. Businesses are ready to close - we need to do something as soon as possible, not six months to one year from now when someone new figures things out.

Terry Sears addressed Council. He said when he was in the Army they used to say if you haven't heard a new rumor in the last 15 minutes, start one. When he got back into town he heard one that he said he would address. He reminded that before he left town two or three weeks ago he addressed Council pointing out that as they got down to the five Council members (it is assumed he meant City Manager applicants) they would be allowed to ask them direct questions and he pointed out that under State and Federal law there are only certain questions they are legally allowed to ask. They have to be very specific such as asking if they belong to the American Bar Association rather than if they belong to any organizations. Then each candidate has to be asked the same question. Mr. Sears said he dropped off a copy of some of his notes to the Acting City Attorney. He said what got him involved in the City is what he saw as unnecessarily putting the taxpayers of the City in the position of having to defend against potentially very expensive liability from lawsuits. When he talked about the questions that could be asked there are also many procedures that need to be followed in the proper termination of an employee, and also Federal and State laws regarding the hiring of an employee. If they make a mistake they can place the town in great financial jeopardy. The rumor he was greeted with when he returned to town was that a Council person was involved in hiring a private investigator to check out one candidate. He reminded that when one is a Council person and they do something that involves the City's personnel or the City's hiring practices or the like, they then can place the City of Trinidad in a position of being sued. Even if you are doing something separate from your Council members you are representing the City. He said he hoped there's no truth to this matter. What they can be sued for is called discriminatory hiring practices. There are lawyers all over who love this kind of thing. He suggested that in executive session the Mayor poll each Council person and ask them if there is any fact that they have involvement in hiring an investigator to looking into the background of any of our perspective City Manager employees. If anyone of them says they have, they should get legal advice before they proceed. If one person has done that, he said he thought the only way they could protect the City should that person who was investigated not be hired would be to either use that same private investigator or get another one and do the exact same investigation on the other finalists. Mr. Sears concluded that he was hoping that between the Interim City Attorney's background, expertise and contacts that he will coach Council so that the right legal questions are asked. He also asked each Council member to not get excited about something and go off on an action on their own because they put the entire City at the potential of losing hundreds of thousands of dollars if they do.

EXECUTIVE SESSION - For discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees - For a conference with the City Attorney for attorney/client communications regarding City Manager applications. Councilmember Mattie moved to enter into executive session for the stated purpose. The motion was seconded by Councilmember Bolton and carried by a unanimous roll call vote. The executive session ensued at 3:15 p.m. Acting City Manager Gagliardi and City Clerk Garrett exited Council Chambers. That portion of the executive session constituting legal advice was not electronically recorded, however the remainder of executive session was electronically recorded pursuant to the Colorado Open Meetings/Open Records laws and City Clerk Garrett was present for the recorded portion.

*I, Les Downs, Interim City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 9<sup>th</sup> day of October, 2012, was permissible under CRS Section 24-6-402 (4)(b).*

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

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*Les Downs*  
*Interim City Attorney*

Upon conclusion of executive session Councilmember Shew moved to resume the special meeting at 4:30 p.m. The motion was seconded by Councilmember Velasquez and carried unanimously. The meeting resumed.

Selection of potential finalists/interviewees for the position of City Manager. Councilmember Bolton made a motion to select Louis Fineberg of Trinidad, Colorado, Edward Gil de Rubio of Bristol, Rhode Island, Edward Sadler of Webster City, Iowa, Susan Stanton, Pompano Beach, Florida, Eric Strahl, Menominee, Michigan, and Don Van Wormer, Monte Vista, Colorado, as the finalists for the position of City Manager and to set interviews for October 30, November 1 & November 2, 2012. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote.

There being no further business, Councilmember Shew moved to adjourn the special meeting and Councilmember Miles seconded the motion. The motion carried unanimously upon roll call vote.

ATTEST:  
  
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AUDRA GARRETT, City Clerk

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BERNADETTE BACA GONZALEZ,  
Mayor