

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, October 16, 2012 at 7:00 p.m. in City Council Chambers at City Hall.

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

The pledge of allegiance was recited.

Mayor Baca Gonzalez advised she had previously been informed by Councilmember Bonato of his inability to be at this evening's meeting due to personal business out of town and his absence is therefore excused.

READING OF THE MINUTES. Regular Meeting of October 2, 2012 and Special Meeting of October 9, 2012. A motion to accept the minutes as presented was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried by a unanimous roll call vote.

PUBLIC HEARING. 2013 Capital Improvement Projects Budget. Mayor Baca Gonzalez declared the public hearing open and recognized Planning Director Louis Fineberg to provide information about the Capital Improvement Projects budget. He offered to answer questions, or go through it line by line. Councilmember Shew asked him if there was anything he'd like to see get done in particular. Planning Director Fineberg said that there is no shortage of projects that need to get done. In addition to carrying over unspent apportionments from last year, they have in general made a concerted effort to leverage the City's funds with grant funds. He pointed to the Way-Finding Signage Project and noted that all three priorities are included in the 2013 budget. There is funding for Monument Lake as well. When it was budgeted it was done with specific projects in mind however said the City could possibly pursue a grant in a similar manner as the Welcome Center grant to turn that money into much more. There is carry over money in the demolition of dangerous building line item and funds have been earmarked for the downtown CDOT project, Regional Interpretative Signage Project. All grants the City has received to date have been accounted for as well as a number the City will apply for and anticipate getting. Some of the projects may change, such as the brick street renovation. This was a project he said he was thinking about applying to DOLA for, however DOLA has indicated that it would be a better strategy to apply for one project instead of competing against ourselves. The projects have to be thought through and there are a number the City can apply for that would result in changes to the funding. Councilmember Shew asked if the City will pursue the larger or smaller DOLA grant. Planning Director Fineberg reminded that DOLA has three grant tiers. Tier 2 is up to \$1 million and tier 3 is bigger. He said his understanding is that DOLA won't be accepting anything larger than tier 2 requests, so \$1 million is the most the City can go for. He opined if we ask for \$1 million we probably won't get it. He suggested that one-half million is the sweet spot. The brick street project is an extensive project, estimated at about \$2 million. If the City were to apply for a grant for it we would only do the portion originally conceived of. Councilmember Shew suggested the City could look alternatively at Colorado Avenue to do the curb & gutter and utility work, which would be much less costly. Planning Director Fineberg suggested that this needs to be an item for discussion at work session and perhaps Council could prioritize the projects among themselves. Councilmember Miles said they need some sense of priorities. Planning Director Fineberg pointed to line item #7501 and said he looks to it as a place holder. They need to fine tune and figure out which grants to pursue. For instance they need to move forward on the City Garage rehabilitation. They need to either rebuild in the same location, fix what we have, build something new, move or stay there. There is money in the budget for community center improvements under renovation of municipal buildings, including the water works building. Mayor Baca Gonzalez noted that in the 2010 budget there was about \$186,000 budgeted for community center and parking lot improvements. In 2011 \$13,400 was spent, leaving \$172,859. Of that \$122,859 was transferred out, presumably for land acquisition in a prior year. It left \$50,000, however \$45,250 is in the account. She said she is not sure what happened with the \$4,750 difference but guessed it to have gone to expenses, and added that they really haven't done anything to address the community center building and lot improvements as well as the community center irrigation that has been carried over the years. Planning Director Fineberg said that can be another project like the Welcome Center whereby the City applied for a National Scenic Byways grant and turned a relatively small amount of money into a large amount to make all of the necessary improvements. Also, DOLA has said they can consider a grant for the community center upgrades. He suggested the City could also seek National Scenic Byways grant funds for Monument Lake because it is on the Highway of Legends if they have another round of grant funding this year. It would qualify for the same funding that the Welcome Center received. That might be a way to leverage that money and perhaps the community center work would better fit a DOLA grant. Also, DOLA threw out the City covering the pool - it is within the realm of DOLA to fund. Mayor Baca Gonzalez pointed out that trail drainage and access for Commercial Street has been funded for three years. Planning Director Fineberg suggested that the budget needs to be amended. Access to Commercial Street is part of the CDOT grant from line item #7903. His understanding is there are some areas on the river walk that need drainage infrastructure. That money has been earmarked for that use. He said they'll have to see how much they will need and perhaps that line item could come down. Mayor Baca Gonzalez suggested that there are a number of capital improvement projects that could be affected by DOLA. She agreed that they should schedule an entire work session devoted to Capital Improvement Projects. In the last three years there have been projects that have fallen off the radar that she didn't want to forget about. She said there had been the Elm Street Development Phase 1 and also, the Santa Fe Trail Drive south and the Colorado island project are projects to consider. Although to fix the Colorado islands it would be expensive to not only fix the islands but also to rotomill Colorado Avenue. She asked what the Dumpster Enclosure Fund was for as it dropped out in 2010. Councilmember Shew said it was for additional bear-proof containers for the parks. Planning Director Fineberg said there are so many projects that it is difficult to prioritize them because they are all important. They need a discussion on what projects City Council feels are the most

important. He reminded that the \$600,000 identified in line item #7505 for City-wide paving and seal coating could be used for Colorado Avenue or other streets. He has asked Public Works for a list of the most important road projects. Mayor Baca Gonzalez said she'd like a discussion and numbers about the feasibility of a multi-purpose recreation center for the City. They also need to look at an addition to the Carnegie Public Library. There is a little land that an addition could be placed on and the City could explore acquiring that land. Councilmember Shew said the land is owned by the church and Father said they would sell the City that piece of land where the carport currently is. Mayor Baca Gonzalez said the City needs to look at it to ensure we have the land we need and plan for an addition to the library. It is a wonderful asset to the community and we need to give some attention to that facility because it is used extensively. She reiterated the need for discussion and prioritizing. Planning Director Fineberg said that given the nature of grant opportunities, sometimes we don't get one and sometimes an opportunity arises quickly. He suggested that there needs to be a line item in the budget for CIP grant matches with discretion to move money to different projects as opportunities arise. Mayor Baca Gonzalez suggested they hold a work session on Capital Improvement Projects on November 13th. Planning Director Fineberg said that should be sufficient time to pool resources. He also offered to prepare a packet with foreseeable grant opportunities. There are some projects without grant funding but the list will help in planning. Mayor Baca Gonzalez asked that the list show those things that are eligible for grants and those that are not to help Council sift through them. Mayor Baca Gonzalez asked for comment from the audience. Mike Garrett suggested Council think big. Mayor Baca Gonzalez told those present that Council wants to hear from citizens and encouraged them to call Council members or to write questions and provide them to the City Clerk so they will be shared with City Council. Dave Grugel asked if he was correct that the CIP funds come from the one-cent sales tax. Mayor Baca Gonzalez confirmed that it is derived from the 1% sales tax that has been previously extended through 2014. It yields approximately \$1.2 million per year. Mr. Grugel thought the City Garage should not be included in the CIP budget because he didn't see how it benefits all citizens. There being no further comment, Mayor Baca Gonzalez closed the hearing.

2013 Annual Budget. Mayor Baca Gonzalez opened the hearing and called for public comment. She explained that the City's budget is put together by the department heads who identify funds needed. It is coordinated by the City Manager and Finance Director. Mike Garrett commented that in terms of grants the federal government is \$16 trillion in debt so he doubted we could get grant funding from the feds. Mayor Baca Gonzalez asked Acting City Manager Gagliardi if he'd like to share anything. He declined. Councilmember Mattie asked where they are in terms of time line with the retirement of Finance Director Rose Blatnik. Are they falling behind? Dave Grugel suggested they were ahead of schedule. The budget has to be finalized by the end of December per the Charter. Mayor Baca Gonzalez recalled last year that it was at the very last business meeting in December where action was taken. Up until then there were changes affected to the budget. She asked if it is possible that the draft budget be placed on-line to give citizens access to it. She said she'd like the community to give Council feedback and ask questions. Councilmember Bolton asked if there will be a work session where the department heads explain their needs. Acting City Manager Gagliardi said it is scheduled for October 23rd. Councilmember Miles commented that she has been through many corporate budgets and it seems to be more like hide and seek rather than show and tell with the City's budget. She said she'd like to see line item detail. If something has changed more than inflation the department heads need to explain why. That's what exists in the corporate world. In going through the budget some things were stable and some were up 30% in two years. It is about controlling costs. She clarified that she'd like to know why when something increased by 30%. Acting City Manager Gagliardi reiterated that the department heads will explain on October 23rd. Councilmember Miles reiterated that she wants the department heads to tell Council about their budgets and Council will not focus on small items. Acting City Manager Gagliardi explained that past practice is that the department heads formulate their budget and they are provided to the City Manager. Those numbers are then correlated with what money is available and what will be available. That is why the budget process is started as early as it is. The former Finance Director and department heads will be present on October 23rd. He encouraged questions be brought forward at that time. Councilmember Miles said she'd like it to be more demonstrative to Council where ever there is a \$30,000 or 5% increase. Councilmember Bolton asked that the department heads be made aware of that. Acting City Manager Gagliardi said most of the department heads follow the previous year's budget and ask for a percentage increase with what they expect their needs to be. The finance director then sees what is available and what we foresee happening and what tax income is anticipated. Councilmember Miles reiterated that she'd like an explanation for any increases greater than inflation. Acting City Manager Gagliardi said he didn't think there are any. Additionally he commented that regarding agenda item 8i, retaining a full-time CPA for support, he had two applicants for the position that are CPA, but he was told to hold off on hiring to defer to the new City Manager. That was why he talked to Rose Blatnik about working. She is working from home some now with help from the City's IT Director and will be here to present the budget as she has for the past 35 years. Mayor Baca Gonzalez explained that she asked for the item pertaining to hiring a CPA be on the agenda because she wanted to give him all of the support he needs. Acting City Manager Gagliardi said that wasn't what she had portrayed to him previously. Rather, she had said she was disappointed in his action that night. He explained that he didn't realize that Ms. Blatnik would not be available the day the budget was presented. He said he took it upon himself to talk to the City's CPA who performs our audit. Trinidad doesn't have a wealth of CPAs. Dixon & Waller is the only one here except the one working for COG. Dixon & Waller cannot provide that support because they do our audit and it would be a conflict. He estimated that they would have a City Manager hired soon and Ms. Blatnik will be here and give a full understanding of the budget to Council. Mayor Baca Gonzalez said that the issue could be discussed further under that item. Acting City Manager Gagliardi handed out the monthly sales tax comparison and said it is a bleak picture. August, 2012, yielded a 10% decrease from that reported in August, 2011. Year to date the City has realized only a 1% increase over the same period last year. Mayor Baca Gonzalez commented that the information will impact the discussions about the budget. She called upon anyone in the audience to provide comment. There was none. She encouraged everyone to have questions for the October 23rd work session and closed the hearing.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Maude Romano regarding non-conforming use. Ms. Romano addressed Council and identified her husband, Randy, in her accompaniment. She said she was before Council because they want to re-open their business on Main Street, the Downtown Motel. Ms. Romano said that she and her husband have been the owners since 2004. They had to close their motel a little over a year ago to care for her father-in-law who couldn't care for himself. They couldn't move him to Trinidad due to lack of treatment facilities and he didn't want to go into a nursing home. Ms. Romano reiterated that they want to re-open their business and was sure Trinidad needs the business revenue. However, the problem is that they cannot re-open the business because they have non-conforming use status and were closed for one year. She said had they known they would have re-opened this summer before that one year period, but no one ever told them about their zoning status. She asked Council to waive the requirement

OCTOBER 16, 2012

and allow them to re-open their business. Mayor Baca Gonzalez asked Ms. Romano who informed them about the non-conforming use status. Ms. Romano said the Building Inspector did and that she spoke with Planning Director Fineberg as well. Mayor Baca Gonzalez said there is always a solution to every problem and suggested that they talk to Acting City Manager Ralph Gagliardi and Planning Director Louis Fineberg and should they determine that some action is necessary by City Council, they should prepare the appropriate paperwork and recommendation. However, they may not require City Council action. Planning Director Fineberg told Council that when he first arrived in Trinidad the ordinance read that if an existing non-conforming use closed for more than six months it lost its non-conforming status. Subsequent to that the ordinance was changed to one year – a business could close for up to one year and not lose its non-conforming status. This property is zoned residential, not commercial. The larger issue is that the City really needs to look at the zoning map because it is outdated. This area is obviously commercial. Mayor Baca Gonzalez added that for as long as she remembers it has been treated as commercial. Planning Director Fineberg said that the City needs to examine the policy for non-conforming uses because more often than not it has worked against the City's interest. He suggested considering waiving fees in areas the City intends to rezone for those property owners who wish to re-zone ahead of schedule. Mayor Baca Gonzalez said the City needs to be as pro-active and pro-business as possible and they develop pro-business recommendations and bring them to Council. Councilmember Miles said the zoning issues have been brought to her attention by a number of real estate agents who have said that it creates friction in attracting people to town, for instance when they are selling a commercial property and they learn it is zoned residential. The broader goal of reform would be welcomed by people who work in real estate and try to bring business to Trinidad. Ms. Romano said they've had the business since 2004 and have paid the property taxes, sales taxes and fees, etc., and it has always been operated as a commercial entity. The rezoning is not really their fault – not their fault that it isn't zoned right and now be expected to pay a \$500 fee. She added that she has done the paperwork to rezone and has gotten the list of adjacent properties, as well as a copy of their deed and survey, etc. Ms. Romano said she is very happy to move forward with the rezoning but their concern is getting the green light to open the business. Mayor Baca Gonzalez directed her to Acting City Manager Gagliardi and Planning Director Fineberg who she said she trusted would do right by them. Ms. Romano concluded that they pay a lot of tax money to Trinidad, eat and shop here. When they moved here they were taken by how exciting town was with the Blues Fest and other things where they had to turn people away because they didn't have enough motels rooms. It would be great if we could get back to that. She asked that the City please work with them on this matter because she'd hate to have the building sit vacant and it be an eyesore on Main Street. She said she hoped the City can work with them. Brief additional discussion was had. Ms. Romano was instructed to contact staff. Ms. Romano reiterated her readiness to re-open and interest in re-opening.

REPORT BY CITY MANAGER. Public Works Director. Acting City Manager Gagliardi introduced Jeffery Hill as the City's new Public Works Director. Mr. Hill told Council that he got in yesterday and dove right in. He said he came from Wichita Falls where his wife still is for about the next 30 days. He added that he is looking forward to being here and part of the community and looking forward to all of the opportunities. Mayor Baca Gonzalez asked if he was born and raised in Colorado. Mr. Hill said he was born in Utah, raised in Aspen, worked oil field and heavy construction, before he went to college and got his degree in civil engineering, went to Colorado State University and worked for the City of Fort Collins for ten years. He tried to go south where it is warm but really didn't like the south. Mayor Baca Gonzalez told Mr. Hill that they are pleased to have him on board. Mr. Hill, upon further inquiry said he has a brother-in-law used to live here but still has property here.

Update on North Lake Dam Rehabilitation Project. Mayor Baca Gonzalez said to inform the citizens and members of Council she asked that an update on North Lake be on the agenda. Individuals have gone to her with concerns stating no activity has been taking place at North Lake, to stories about problems with permits, etc. Rather than letting things develop and fester and rumors and wrong perceptions they should address it head on with respect to where we are and any pitfalls. Utilities Superintendent Jim Fernandez addressed Council. He pointed to the e-mail contained within Council packets with Mike Graber's answers to questions asked by the Mayor, Mr. Graber being the project engineer. Each of the six questions was addressed by him. He also put together a summary status report. Mayor Baca Gonzalez confirmed with Interim City Attorney Downs that the information is not privileged and can be provided to the media. Utilities Supt. Fernandez said the questions were good and were appropriately answered. He pointed to his chronological report and said it identifies the construction phase back to where he was trying to get funding in place. To date the contractor has removed the old concrete from the spillway and is filling in the cavity. They have constructed the work zone, built an access road to the borrow area where the dirt will be put up against the dam, and have excavated below the outlet for the new drain pipe. This week or next week the diving team should be going in the lake and inspecting the piping that has to be repaired and grouted. Mayor Baca Gonzalez noted that in the summary status report the Las Animas County Zoning Inspector issued a demand for Sun Construction to file for a building permit with a fee of \$7,545. She asked if that has been resolved, adding that she doesn't want the job red tagged. Supt. Fernandez said he and Acting City Manager Gagliardi have had a number of conversations with Las Animas County Zoning Inspector Joe Richards and County Administrator Leslie Fresquez when she was still with the county, involving the City's engineer and the contractor. The contractor finally paid that amount, although he didn't believe it was necessary and was done under protest. His argument was that the permit was for a structure. He felt it was inappropriate to have to pay a county permit fee, but did. Mayor Baca Gonzalez recalled that under the contract that he signed with the City he is responsible for permits. If he believes it was inappropriate he can sort that out with the county, but the City needs to make sure the permit expectations are made to the county. Supt. Fernandez said that was the position the City took, having even told the contractor that if he didn't pay the permit fee it would be paid by the City and deducted from his payment. Acting City Manager Gagliardi added that the City gave the contractor a deadline which he met. He also noted that LeeAnn Fabec, the County Finance Officer, had been involved in those discussions. Mayor Baca Gonzalez pointed to a reference in the summary report which states on October 1, 2012 the Las Animas County Zoning and Building Enforcement Inspector issues a demand letter of eleven specific items with the threat of punitive charges if there is non-compliance. She asked the status. Supt. Fernandez answered that it was passed on to the City's engineer who has taken the position that this is a state-funded project and that Las Animas County has no jurisdiction with the dam. Any request for work or information must go through the City's engineer who represents the City and is there to make sure this job gets done. He is concerned that with the additional bureaucracy and additional layer of inspections that it could jeopardize the construction schedule. Therefore the engineer contacted Mark Perry with the Division of Water Resources and Mr. Perry called Mr. Richards and explained that very same thing to Mr. Richards. Supt. Fernandez clarified that the County will not be denied any information. However, for the County Inspector to be in a role of inspecting the project or having the ability to shut the project down if they don't get the information they are asking for, the State strongly disagrees with. Mayor Baca

Gonzalez thought if there are any remaining issues regarding jurisdiction authority the Interim City Attorney should be immediately involved so he could interact with the County Attorney and the Attorney General's office if necessary so issues can be resolved as to who has supremacy or authority. She said she wants the City to be collaborative partners with the County, who has supported us on a number of occasions. She wants to build bridges with them rather than building fences and trusts that working together and with the County Attorney any remaining problems can be resolved regarding this matter. Interim City Attorney Downs stated that clearly there are overlapping jurisdictional areas. It has been the position of the contractor, the City and the State overseeing the project that the County doesn't need to be involved to the extent they are. The contractor especially is saying that the state is supervising and has preeminence over everyone else. That was why the \$7,500 permit fee was paid begrudgingly, not because the contractor didn't want to pay it but because they felt the County shouldn't be involved, albeit an area in Las Animas County, with due respect to the County. The City wants to comply with everything necessary with everyone who should be involved, but not necessarily with those who don't need to be involved. Mayor Baca Gonzalez told Interim City Attorney Downs that she trusts he and City staff will address it. She noted Mr. Richards's presence in the audience. Councilmember Mattie told Council that Mr. Richards is present at his suggestion, seeing him at his workplace and through discussions, he is aware that Mr. Richards' issues remain. He asked him to address Council and be able to do so not in a defensive posture, but rather do so in an informative way. Supt. Fernandez told Council that the City had extended an invitation to Mr. Graber, the project engineer, however he had other commitments tonight. He offered Mr. Graber's appearance whenever Council would like it to explain as much as they'd like. Councilmember Mattie reiterated Mayor Baca Gonzalez's sentiment that the City's spirit is to cooperate with everyone. Mayor Baca Gonzalez suggested anyone who has studied the history of the process to where we are today, from May when we began reviewing bid documents, would find there has been some confusion and because she has citizens approach her with questions, she suggested it would behoove the City to plan on having at least a monthly update regarding the project because of its monetary scale and its importance, being our water supply. We need to provide the community a continuous line of communication. Supt. Fernandez agreed and said he could do that. He voiced the availability of his office and documents in his office. Councilmember Mattie suggested being even more proactive with issuance of a press release to local media. Supt. Fernandez thought that to be a great idea. Councilmember Miles pointed to the responses to questions prepared by Mr. Graber and noted that his first item asks how the work is processing and is answered that it is slower than projected for Phase 1; some of the delay is due to required construction materials not being readily available and some of it is due to poor planning and coordination on the contractor's part. She asked if that is a bad start that can be reversed easily and where Supt. Fernandez's confidence is in the contractor at this point, pointing out that as we get into the cold months and have larger pieces as opposed to tail-end pieces of the budget happening in November and December, the cost can skyrocket. Supt. Fernandez said when the project began it was being overseen by the project engineer out of Colorado Springs. It is almost impossible to manage a project from a distance. He said he thought the contractor was dragging his feet a little bit. He opined that we had an irregular number of requests for information and submittals on behalf of the contractor. However, Mike Graber assumed the project engineer position for this project and put a stop to that. He told the contractor that from then on the work would get done on time, according to specifications, there would be not running around behind anyone's back, and if he had any questions they had to go straight to the engineer. Mr. Graber took charge of the project and Supt. Fernandez said he really feels he has the City's best interests at heart. Mayor Baca Gonzalez said the contract between the engineer and the City really holds the engineer's feet to the fire, which will assist us in holding the contractor's feet to the fire. The City is very fair and will pay its bills and will do whatever is fair and equitable, but we will hold individuals accountable. She said she is not above having the City's Attorney, if appropriate, explore going after someone's performance bond, which is basically the death penalty for a construction company. She clarified that not to be an idle threat, but stress that it is a tool when dealing with taxpayers' money. Supt. Fernandez said beyond items of cost and control, we are dealing with an extreme safety issue with our water supply so it is extremely important that we get this done on time and correctly. Mayor Baca Gonzalez said the engineer on a project is the overseer who drives the process and ensures that those deadlines and prices are adhered to. He should be the first to notice the potential for a cost overrun. If there's a good engineer in place there should be no heartburn with a construction project. After reviewing their contractor she said she's confident they have skin in the game and are going to look out for the City's best interests. Interim City Attorney Downs said it sounded as though Councilmember Miles is contemplating a halt in the construction during bad weather months and confirmed with Supt. Fernandez that it is correct and provided for in the contractor with the Sun Construction. Mayor Baca Gonzalez explained that the reason for that halt is because the compacting of aggregate if it would freeze would court disaster getting equipment in there. It is better to wait until we have a certain overnight temperature that is conducive to that work getting done. Las Animas County Zoning Inspector Joe Richards addressed Council. He said his perspective is slightly different. Mr. Abeyta's allegation that the County didn't have the proper permit forms for him is true in the respect that the County doesn't do a lot of civil work and don't have separate permits for the same. They used the standard permit. The County's function in this project is more of an administrative one in overseeing what is done. He said he took this to the County Commissioners with the safety of our community in mind. There are people down river and this isn't a parking lot. This is a dam. Mr. Richards said he had a conversation with Mr. Perry and they agreed that the State has jurisdiction over the project. He said he just asked for recordkeeping that the County be copied on each weekly meeting. So far he has only received one. Of those eleven items he said he detailed, Mr. Perry mostly agreed that they were good things that the state did not look into. For instance, the County needs drawings. He said he was promised them and haven't yet received them. Also he asked that the equipment is either OSHA or the equivalent approved as are the operators of the equipment, so there is a safe workforce and it is done in a safe manner, reminding that they are building a dam. He asked for Material Data Safety Sheets on all items used, soil data, rebar certification, rebar fabrication certifications, concrete break tests at 7, 14 and 28 days, and the final engineer report from the state. He reiterated that Mr. Perry agreed that these are items being done. Mr. Richards said he contacted the contractor back in August stating that he just wanted to be copied and would not require duplicate inspections. He said he has not gotten any response on any of the eleven items and would like to so he can square away his file. He added that he's got time and energy invested in this too and can't be spending all of this time and energy chasing things. If he has to do that he said he will charge the appropriate fees on an hourly basis and will forward them to the City for their processing if appropriate. Mayor Baca Gonzalez asked that the letter he sent be copied to Interim City Attorney Downs and to Mike Graber so they can take a look at what the request is and shepherd getting that information to him expeditiously. Mr. Richards said he would do so and added that in the correspondence he received it said the City would provide it all. In the City's defense he said he hasn't had a chance to chase it down. He said the County enjoys its relationship with the City and he has a great relationship with the City's Building Inspector and they share information constantly. The Board of County Commissioners also wants to express that they want this to work out. He reiterated the need for the information to complete his file for the safety of the citizens and everything is documented and followed in due course. Interim City Attorney Downs advised that

OCTOBER 16, 2012

he has a copy of the letter. Mayor Baca Gonzalez suggested Mr. Richards contact Mr. Downs, Mr. Graber and Supt. Fernandez if there are any further sticky points. Mr. Richards clarified that this is all documentation that has already been processed. He said he just wants to follow along with what is going on with the process and initially got irritated when he asked for the drawings and didn't get them and his irritation progressed as the project progressed.

REPORT BY CITY ATTORNEY. None.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. None.

MISCELLANEOUS BUSINESS. Tavern liquor license renewal request by Mantelli Partnership d/b/a Mantelli's at 137 W. Main Street. Mayor Baca Gonzalez noted that the license expires on December 25, 2012 and asked if a representative was present. Pat Mantelli addressed Council. Councilmember Bolton commented that there were several members of the public who voiced concerns to her about renewing the license because of people reported to have been involved in drug raids at her establishment. Ms. Mantelli said her bar wasn't involved, people were. She added that no one has been found guilty yet. Mayor Baca Gonzalez pointed out at Council's seating places a two page letter from the Trinidad Police Department regarding a covert narcotics operation from July 16 to August 16, 2012 at 137 W. Main Street, known as Mantelli's bar. She said it appears there have been a number of purchases of narcotics conducted inside of the bar. There is a reference to a cocaine purchase during one transaction – cocaine from an individual in the restroom at the bar; another purchase on August 8th of cocaine in the restroom of the bar; a purchase of five Endocet pills at the bar; a purchase of Vicoden pills inside the bar; on August 9th another purchase of Endocet at the bar; cocaine purchased in the restroom at the bar. She said the report states that it should be noted that the individual who went to the restroom at the bar was an employee, however wasn't on duty during the transaction on August 10th. The same individual was later involved in a transaction for the purchase of cocaine while on duty, for a purchase of Hydrocodone pills, an opiate. She continued reading from the report that there were a number of entries for schedule 2 and 3 controlled substance transactions which occurred inside the establishment. Mayor Baca Gonzalez said she can understand the inquiries Councilmember Bolton received. Ms. Mantelli said she didn't know what to say. She said she closes at 8:00 p.m. and is there every day. She has just one person working a couple of hours in the morning for her. She said this is her livelihood and that she wasn't aware that any of this was going on. Councilmember Mattie asked if she is the sole owner. Ms. Mantelli said she is and has been involved in the business for 35 years. Councilmember Shew asked Police Chief Glorioso if there are any regulations or requirements that dictate. He said he knows if there is a liquor violation the bar could be shut down. Is there anything for the violation of drugs? Interim City Attorney Les Downs answered that if there are violations knowingly undertaken by the owner of the establishment that would be a violation. This happened before a number of years ago. There was a sting like this and a number of transactions happened inside of Mantelli's. He said he recalls that to be true because he was the public defender at the time. He said he can't speak to what happened with Mantelli's then or what happened with the liquor license then or if an employee was involved then. In the renewal if a person is an employee and is convicted of drug sales it can be used as evidence of a liquor license violation. Chief Glorioso added that this falls on City Council for their renewal. He said he was asked to provide this list. One individual whom drug were purchased from was actually working at the bar. He confirmed Interim City Attorney Downs' assertion that this isn't the first time that there was a drug sting that they were successful there. He noted that this is not the only bar where they were successful either and when they come up for renewal the information will be provided. He verified Ms. Mantelli's statement that no one has been convicted. The reports are available and are an open record. They were very successful in buying illegal drugs at Mantelli's. Councilmember Miles asked if trial dates have been set. Chief Glorioso said they have not yet. They have gone through several preliminary hearings and are at the point of plea bargains. Mayor Baca Gonzalez read from the City's Code, Section 3.7, License Renewal Procedures, #8, "At the time the renewal application is presented to the City Council, the Council may approve the renewal or postpone action on the application to a later date. In the event of a postponement, the Council shall not be required to hold a hearing on the application, except that no renewal application may be denied unless a renewal hearing has been held." She read #11 under that same section "The City Council may refuse to renew a license for any of the following reasons: Failure to comply with City, State or Federal Building Codes, Fire Codes or Electrical Codes; and other reasons set forth under State law; and any other good cause reasons." Mayor Baca Gonzalez submitted that there is an argument to be made that this number of incidents could constitute good cause reasons. She reiterated that the license expires December 25th. Given the gravity of the concerns expressed regarding the conduct that occurred on the premises she said she was reluctant to renew the license and would like to table this matter to allow Interim City Attorney Downs an opportunity to evaluate the information to determine if there is a basis for good cause and advise Council on what steps are available to either put this item back on the agenda to renew the license or for a due process hearing to contemplate not renewing the license. Interim City Attorney Downs said he thought that to be appropriate and that he would inform Council on what their options are going forward. He said there would need to be a due process hearing on whether to renew the license. He suggested to Ms. Mantelli that she will probably want to obtain counsel should a hearing be set. Councilmember Bolton suggested under the circumstances they need to wait on this action and see what transpires and look further into it, understanding that this is her livelihood but yet she is responsible for what takes place in her establishment. Councilmember Mattie added that it is not Council's intent to deprive Ms. Mantelli of her livelihood, but this establishment is on Main Street and it is Council's intent to revive Trinidad to become what it should be. This is not conducive or consistent with that effort. It is also important to support the Police Department for their efforts which they have quite an accumulation of. Councilmember Miles asked if the State Liquor Enforcement Authority has imposed or pursued sanctions. Chief Glorioso said they have not. Interim City Attorney Downs questioned if the State Authority would defer to the local authority. Mayor Baca Gonzalez suggested that nine out of ten times they will defer to the local authority. City Council, as the local authority, has considerable authority in terms of exercising their powers granted under the law. She said this is the first time she's been aware of a situation like this and really would like Council to move forward slowly. The license expires on December 25th, but based on the concerns expressed, it would behoove Council to have Interim City Attorney provide legal advice to them. She asked that by the October 23rd work session he provide an update and have an executive session for attorney/client communication if needed. A motion to table the renewal was made by Councilmember Mattie and seconded by Councilmember Shew. The motion carried unanimously pursuant to a roll call vote. Mike Garrett asked about the effectiveness of the camera across from Mantelli's. Chief Glorioso explained that the people involved know where the camera covers and are careful to be out of that area. He told Council that the department has audio recordings of the transactions, the individual buys. Ms. Mantelli asked if she is supposed to come back before Council. Mayor Baca

Gonzalez advised her that Interim City Attorney Downs will communicate with her. She reiterated that her license is in force and effect and does not expire until December 25th.

OCTOBER 16, 2012

Tavern liquor license renewal request by Trinidad Lanes, LLC at 823 Van Buren. Mayor Baca Gonzalez asked if a representative was present. Matt Salbato addressed Council. He said he and his wife, Kim, own Trinidad Lanes. Councilmember Shew asked if the (emergency) backup lights have been fixed. Mr. Salbato advised that they have been. Councilmember Miles noted that there were no incidents that occurred at the establishment over the past year. Mr. Salbato told Council that when he first bought the business he squashed the problems immediately. A motion to approve the license renewal was made by Councilmember Bolton. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote of Council members present.

Special Event Permit request (malt, vinous and spirituous) by Trinidad & Las Animas County Chamber of Commerce at 206 N. Animas Street for the Southern Colorado Livestock Association's Banquet on November 3, 2012. Board of Directors member Tara Marshall presented herself before Council for questions. Councilmember Shew moved for approval of the Special Event Permit as presented. The motion was seconded by Councilmember Bolton and carried by a unanimous roll call vote.

Appointment to the South Central Council of Governments Board of Directors. Mayor Baca Gonzalez advised Council that Councilmember Anthony Mattie has expressed interest in serving on the board. She asked if anyone else was interested. Councilmember Shew thanked Councilmember Mattie for his interest. He added that he thought it was a really good idea for each Council member to be on a board and get involved, noting that Councilmember Bolton is the liaison for the Arts and Culture Commission and Mayor Baca Gonzalez is the Library Board liaison. He told Councilmember Miles they'd find something for her. Mayor Baca Gonzalez said Councilmember Miles will be going to the next ARPA meeting and she's anticipating deferring to Ms. Miles becoming a member of the ARPA Board. A motion to appoint Councilmember Anthony Mattie to the South Central Council of Governments Board of Directors was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried unanimously, excepting Councilmember Mattie who abstained from the vote. He said he looks forward to serving and representing the City well.

First reading of an ordinance regarding the provision of natural gas service by the Trinidad Municipal Natural Gas Department, and decreasing the gas supply charge applicable to all customer service classifications, and setting a hearing date for consideration of said ordinance. Utilities Superintendent Jim Fernandez addressed Council. He reminded Council that at the preceding work session Council had asked him to contact Mike McFadden for his opinion on the ordinance. Mr. McFadden reviewed it and found the math to be correct. However he didn't have the time to look at it in depth. Mr. McFadden said he'd be able to after January. Supt. Fernandez suggested that City Council adopt this ordinance as a provisional gas rate and have it reviewed in January. Councilmember Shew said with the problems the City had in the past that was a good suggestion. Mayor Baca Gonzalez pointed out at Council's seating places a corrected version of the ordinance because the one in their packets had a couple of typographical errors in it. She said one of the errors was the current rate indicated whereby it was shown as \$0.5081 and it should have been \$0.5091 and she pointed out that in the third 'whereas' clause it states that the tariff mandates the calculation to be done on a periodic basis and should state that it be done on an annual basis, in accordance with the tariff. If those corrections are affected she suggested they should adopt the provisional ordinance because it is prudent because it will reduce the gas charges for the consumers. She added that she believes that upon further evaluation they will see further savings for our citizens. The ordinance was introduced by Councilmember Bolton and then read aloud in its entirety. A motion to approve the provisional ordinance on first reading as amended and consider it further at a public hearing at 7:00 p.m. on Wednesday, November 7, 2012 was made by Councilmember Mattie. The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, REGARDING THE PROVISION OF NATURAL GAS SERVICE BY THE TRINIDAD MUNICIPAL NATURAL GAS DEPARTMENT, AND DECREASING THE GAS SUPPLY CHARGE APPLICABLE TO ALL CUSTOMER SERVICE CLASSIFICATIONS

Consideration of engagement letter with Newnam Land, LLP, regarding City of Trinidad, Colorado v Arkansas River Power Authority, Case No. 2011cv30, pending in the Las Animas County District Court, Colorado. Mayor Baca Gonzalez reminded Council that the City's outside counsel representing the City in this matter needs local counsel to assist with certain matters because we are getting close to a trial date. The request is that the City authorize Newnam Land, LLP, to provide that support to the law firm litigating on behalf of the City, to ensure coordination and that there is no unnecessary legal expenses incurred. She clarified that Juan Flores of Stelzner, Winter, Warburton, Flores, Sanchez & Dawes of Albuquerque, New Mexico, will lead the litigation and will coordinate with Newnam Land and monitor the billing submitted by Newnam Land and will forward them to City Council for consideration and review. Councilmember Miles voiced her concerns about the engagement letter being addressed to both the City and Stelzner, Winter, Warburton, Flores, Sanchez & Dawes because it appears they would be both serving the City and Stelzner, Winter, Warburton, Flores, Sanchez & Dawes. It may muddy the line of what client privilege is. She said it should just name the City to avoid any interpretation problems. Interim City Attorney Downs agreed with her point. Councilmember Miles said it could get sticky. Councilmember Miles stated that the language should also read 'payment of reasonable expenses' rather than 'payment of expenses.' Additionally there is an interest rate identified for late payment of 12% and recommended that it be modified to a more reasonably reduced interest rate. Interim City Attorney Downs stated also that he isn't sure whether an inquiry has been made of Newnam Land to ensure that there is no conflict with Mary Dixie Newnam being the County Attorney for Las Animas County and may apply for the City Attorney position. He said the City should seek assurances that there is no conflict of interest. Mayor Baca Gonzalez suggested the item be tabled to give time to visit with Ms. Newnam and Mr. Flores to make tweaks to bring it more in line. Interim City Attorney Downs said he'd have it by the October 23rd work session. Mayor Baca Gonzalez reminded that the earliest this would be in court is the summer of 2013 so we have time to work out the wrinkles. A motion to table this item was made by Councilmember Mattie and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

OCTOBER 16, 2012

Request to rename a portion of 'South Commercial Street' to 'Hough Lane'. Planning Director Fineberg advised Council that in addition to what was discussed previously he has another point. He pointed to a letter provided to him earlier this date from a neighbor requesting that should Council approve the name change, they not replace the existing street sign on the corner of Commercial and 7th Street. He pointed Council's direction to the photo provided. Planning Director Fineberg continued that in consultation with the Public Works Director, they suggest that should Council approve this request, there be new signs in two locations – the end of Hough Lane above the one-way sign and the other one at the other side, a single-sided sign on the retaining wall. The only unresolved question is who pays for the signs. Maintenance will remain with the City as it is public right-of-way. Councilmember Mattie commented that after the story in the newspaper where he works he had three people pass through the door stating that their families have been here a really long time, seeking the same. He questioned if they are opening Pandora's box and suggested that the City needs a policy in place and written guidelines. In this instance they are really asking to rename an alley. Planning Director Fineberg said that is a valid point and that the Planning Commission is considering a naming and re-naming policy for the City. He added that in previous places where he worked it was handled different ways to include refraining from naming things after people entirely. In Furnley it was disallowed. It could get out of hand easily. He explained that when Mr. Hough approached him there was no policy in place and it was put on the agenda so that it would be reviewed on its own merit. Councilmember Mattie asked about having to change addresses. Planning Director Fineberg said there are no other houses on the proposed Hough Lane. Councilmember Mattie explained his concerns of 911 responders being able to locate the address. Planning Director Fineberg reiterated that there are no addresses and that the police and fire departments have no problem with this request. It is nothing minor to consider, but changes to existing maps are another issue. The issue of signs is open to interpretation. Councilmember Bolton asked the cost of the signs. Planning Director Fineberg estimated the double-sided sign at \$50, and the single-sided sign at \$25, without the post. With the post he estimated the cost as high at \$200. Councilmember Mattie called upon the Houghs for their thoughts. He learned from the Houghs that it is a paved surface. Cynthia Hough said there should be a provision for naming of streets, with a committee to decide. One of the deciding factors discussed was that there be some sort of an historical or important significance in the request to name something. Mr. Hough reminded the history of his great-great uncle in Trinidad and Colorado, and that he was asking the town to honor him in this way. Mayor Baca Gonzalez called to Council's attention the letter at their seating places from Andy and Danielle Armijo expressing concerns. Planning Director Fineberg said regarding the Armijo's concerns, the existing sign at 7th and Commercial Streets would not be replaced. The signage could be placed for \$75 to \$300. He reiterated that the only open issue is who pays for the signage. Councilmember Bolton asked the Houghs if they are willing to pay the cost. John Hough answered that he would but felt that it is public domain. He exemplified that the Baca and Bloom families never had to pay for their signs. Councilmember Shew suggested that if we have to install a pole the City could pay for that and the Houghs could pay for the signs. Councilmember Shew moved to change that section of South Commercial Street to Hough Lane and that the City will pay for the pole and install and the Houghs will pay for the signs. The motion was seconded by Councilmember Bolton. Planning Director Fineberg clarified that there will be a two-sided sign on Washington and a one-sided sign on 7th Street for a total of three faces. Roll call was taken on the motion and carried unanimously.

Letter of support for Trinidad to host the 2013 Colorado Creative Industries Summit. Mayor Baca Gonzalez pointed out that the deadline is immediately upon us and therefore there was no time to bring this item to work session. Planning Director Fineberg advised Council that he just received notice two days ago of the opportunity. He reminded that the Colorado Creative Industries has given the City the emerging creative district designation. They felt Trinidad would be a good candidate to submit a proposal to host the 2013 Colorado Creative Summit. The City will be competing against three other cities, Colorado Springs, Pueblo and Salida, who all have resources Trinidad does not have. Trinidad however has a dedicated community that he said thought could come together to put together an extremely strong proposal to host this summit. He said they have already started the process and meet with the stakeholders tomorrow to get some commitments and letters of support. He added that their initial thinking is that they'd like to host as much as possible in the downtown with the main event taking place perhaps at the A.R. Mitchell Museum. Breakout sessions could be held at businesses and in restaurants. At night we could provide a tremendous array of entertainment, such as street musicians. He said there needs to be planning but that we are in a position to put together a great event. He said he hoped that it could be used as a model to host other events in the future. If it is successful it will mean a lot towards Trinidad's economic development and let Colorado know we are a viable convention destination. Room accommodations may be difficult to provide in the downtown. South Central Council of Governments could be used for transportation however from outlying hotels. He opined that it will fall together nicely. Mayor Baca Gonzalez said there is a chili express event in Santa Fe where they pick people up and take them to the downtown. It runs on a schedule. She said she doesn't see why it can't be tried with outlying hotels and approach the downtown hotels to participate. Planning Director Fineberg said that every effort will be made to include whoever wants to be included. He noted that this is the second annual event. The first was held this year in a Breckenridge hotel and everything was done within that one environment. We have an opportunity to do a downtown event and spread it around and allow everyone to benefit from money to be spent here. The CCI will really be looking for collaboration, between government, community groups and local businesses and civic organizations. Thus far everyone is expressing the desire to work together. Councilmember Bolton said it would be a wonderful opportunity to showcase our downtown. Councilmember Mattie asked if the event is to be in the summer of 2013. Planning Director Fineberg said it is slated for April 11 and 12, 2013. He added that the City's next chance to be designated as a creative district is in May and this would really help that effort. He concluded that he will draft a letter for the Mayor's signature on behalf of the entire Council. A motion to approve authorizing the Mayor to sign the letter of support for the City to host the 2013 Colorado Creative Industries Summit was made by Councilmember Shew and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

Consideration of hiring of a full-time Certified Public Accountant on a temporary basis to assist with the 2013 budget process and to provide ongoing support to city staff until a new Finance Director is hired. Mayor Baca Gonzalez said this was an item she asked for on the agenda. She clarified that the only positions Council has the authority to hire is the City Manager and City Attorney. The City is in a transition phase now. She knows Acting City Manager Gagliardi was asked to wait to staff positions until they have a new City Manager on board. She said there was confusion at the last work session and she was expecting someone to walk Council through the budget. She said she wanted to give Acting City Manager Gagliardi further assistance and not be a road block to him. Acting City Manager Gagliardi told Council that Rose Blatnik is able to work from home now. He said that he thought she was going to be at the previous work session but was not. The budget was presented along with several points he wanted to make but thought she would be in attendance and was not. He apologized if he made a mistake and said Ms. Blatnik will be here on October 23rd. There is still enough time to look at the

budget. Mayor Baca Gonzalez acknowledged that Dixon, Waller & Company does the City's audit and it would be a conflict. She left it open to Acting City Manager Gagliardi to consider any support that might be necessary in the Finance Department to get us through the budget process. Acting City Manager Gagliardi said Ms. Blatnik along with the department heads will walk us through the budget. Councilmember Shew said he thinks Council should give Rose Blatnik and Acting City Manager Gagliardi an opportunity. Ms. Blatnik and the department heads will be here next work session and although everyone on Council is new he said he thought they would find that it is not as complicated as they think. He suggested they give Ms. Blatnik an opportunity to come in and if they are not comfortable they can make a decision thereafter. He reiterated that he thought the work session would clear it up. Councilmember Mattie said he talked to Ms. Blatnik who had worked for the City 44 years. Given the lack of CPAs and other people to fill the position and Ms. Blatnik's familiarity and interest in seeing the budget through, he suggested they ask her to extend her hours. Acting City Manager Gagliardi said he has asked her to work more hours but she declined. Councilmember Mattie said he really didn't understand the budget and she said she'd make herself available. Acting City Manager Gagliardi said he felt we could get it done on what time Ms. Blatnik is putting in. Councilmember Mattie commented that working from home she won't have any distractions. Additional brief discussion was held. A motion to table the item to the next regular meeting to see how the ensuing work session goes was made by Councilmember Mattie and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote.

BILLS. Councilmember Miles asked if it would be possible to get more information on the last page of the bills to show not only the balances in the funds but also the allocations from the prior period and prior year. Secondly, she said the largest single item in the \$929,000 total bills is the payment to ARPA at \$449,000. She asked if she could have the invoice that accompanies that payment because she'd like to look at it. She also inquired about payments to Curves for Women and Star Nails. Mayor Baca Gonzalez said she thought the payment to Curves was part of the City's wellness program. Councilmember Bolton estimated that the payment to Star Nails was for a utility refund because ownership changed. A motion to approve payment of the bills as presented was made by Councilmember Bolton. The motion was seconded by Councilmember Mattie. Roll call was taken on the motion to approve the bills and it carried unanimously.

PAYROLL, September 29, 2012 through October 12, 2012. A motion to approve the payroll was made by Councilmember Mattie and seconded by Councilmember Shew. 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 Bolton and seconded by Councilmember Shew. The meeting was adjourned by unanimous voice vote of Council.

ATTEST:

BERNADETTE BACA GONZALEZ,
Mayor

AUDRA GARRETT, City Clerk