

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, May 7, 2013 at 7:00 p.m. in City Council Chambers at City Hall.

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

PROCLAMATION – A YEAR OF WATER EDUCATION – 2013. Linda Vigil on behalf of the Trinidad Water Festival addressed Council. She thanked them for the proclamation and said Tom Perry would have loved to have been present but had another commitment. Ms. Vigil reminded Council that the Water Festival this year is slated to being at 8:30 a.m. on Thursday, May 16th. She said they are very excited and have been working hard. Several schools will attend this year's event rather than just the Trinidad School District as was the case last year. This year Trinidad schools will be joined by Hoehne and Primero schools as well as some of the on-line schools. She extended an invitation to Council to attend. Mayor Baca Gonzalez read the proclamation aloud and then presented it to Ms. Vigil.

The pledge of allegiance was recited.

APPROVAL OF THE MINUTES. Regular Meeting of April 16, 2013 and Special Meeting of April 23, 2013. A motion to approve the minutes as presented was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote, excepting an abstention by Councilmember Bonato on the vote for the Special Meeting minutes of April 23rd due to his absence from that meeting.

Mayor Baca Gonzalez asked Council's consideration in taking the agenda out of order to allow Tony Diego, who was listed under Petitions or Communications, Oral or Written, to address Council at this point in the meeting. Councilmember Mattie made a motion to move the item as requested and the motion was seconded by Councilmember Velasquez. Upon roll call vote, the motion carried unanimously.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Tony Diego, Third Judicial District Juvenile Diversion Program Update. Mr. Diego addressed Council. He told them that the Juvenile Diversion Program works with juveniles in the juvenile justice system who are first-time offenders having committed low-level offenses. He works under the auspices of the District Attorney's office as an alternative to a formal court process. All of the juveniles in the program have a minimum of 20 hours of community service to perform. He said his office feels it is a way to give back to the community. Recently they have completed a mural project for Kit Carson Park which was approved by the City's Arts and Culture Advisory Commission. Mr. Diego said he also spoke with City Manager Acre about the mural who has agreed that the Parks Department will install and maintain it. He reminded Council that they have done several similar projects and as agreed to in the past this will be the same in that if the work is damaged beyond repair they will remove it or replace it. A picture of the work was distributed to Council. Mr. Diego said they use art because it has a beginning, middle and an end and it teaches the kids that you can't get to the end without going through the middle. They have a cognitive skill group that these kids have to attend that extends for ten to fourteen weeks and they talk to them about decision making, self-esteem and skill building, which is then reinforced with their community service projects. He said they really feel this was a good project because it will be out in the community in a perfect area for this piece. Mr. Diego added that he appreciated the City assisting, partnering and supporting them in this effort. About thirteen kids worked on the pieces. Mayor Baca Gonzalez said the art was every bit as beautiful as Pendleton prints. Councilmember Bolton told Mr. Diego that having walked with him through this project she found the end result to be amazing. She thanked him for what he does for the children of this community and thanked the children for providing this art to the community. Councilmember Shew echoed the appreciation as did the balance of Council. Upon inquiry, Mr. Diego advised that an unveiling date for the mural has not yet been set.

Terry Sears regarding Southwest Chief addressed Council. Mr. Sears said this Saturday is National Train Day. He encouraged City Council, staff and citizens to show up and greet the Amtrak train at 9:50 a.m. He said he will be unable to be here but will take pictures from the showing and send them off to Southwest Chief advocates, people fighting to keep the train coming through Trinidad, to show Trinidad's support of National Train Day. The train is #3. If one calls 1-800-USA-RAIL the status of the train arrival time can be learned. Mr. Sears said he would appreciate it if a good crowd showed up. City Manager Acre told Council that he has Executive Assistant Anna Ridolfi checking with Amtrak about the possibility of getting information about Trinidad on the trains. Mr. Sears offered to get him contact information for the National Association of Railroad Passengers to assist with the same. Mayor Baca Gonzalez acknowledged and extended appreciation to Council members Bolton and Miles and the entire City for their advocacy of the Southwest Chief. Councilmember Bolton asked what La Junta has planned (for National Train Day). City Manager Acre said they are putting together tourism packages and will walk onto the train with them.

PUBLIC HEARING. New Beer and Wine liquor license request by Mount Carmel Health, Wellness & Community Center at 911 Robinson Avenue. Mayor Baca Gonzalez declared the hearing open and announced that she would be presiding over the hearing. She stated the purpose, an application for the issuance of a new Beer and Wine liquor license request by Mount Carmel Health, Wellness & Community Center at 911 Robinson Avenue. Mayor Baca Gonzalez advised that the procedure for receiving evidence concerning the applicant's request for issuance of a new Liquor License will be governed by state law and city ordinances. The Applicant has the burden of establishing that the City's granting of the Applicant's request is warranted under applicable law. Mayor Baca Gonzalez asked the applicant if they were present and ready to proceed, and if so to step forward and identify themselves for the record. Scott Candland addressed Council on behalf of Mt. Carmel. Upon inquiry, City Attorney Downs also advised that he was ready to proceed on behalf of the City. Mayor Baca Gonzalez instructed those present that the order in which evidence and testimony would be heard as follows:

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Opening statements or remarks from the applicant followed by the same by the City Attorney, then applicant's evidence and testimony of witnesses, allowing questions of the witnesses from the City, Council as the licensing authority, and interested parties qualified by residency and/or ownership of a business within City limits. Next she advised that she would call for the City's evidence and testimony of witnesses, allowing questions from the applicant or his/her attorney, the authority members, and then any party in interest. She then advised that she would thereafter call for a presentation of evidence and any testimony of witnesses by any party in interest who would answer questions posed first by the applicant, the City and then the authority members. Rebuttal evidence would then be called for and finally closing arguments. Mayor Baca Gonzalez said that the hearing would then be closed and she would call for a motion and discussion. The City Attorney has provided a very lengthy motion inclusive of findings of fact. She additionally advised that an executive session may follow the hearing, or the authority may choose to postpone its decision on the matter for a period of up to 30 days. She asked anyone who was going to testify to come forward and be administered the oath by the City Clerk. Scott Candland was sworn in. Mayor Baca Gonzalez further instructed that formal rules of evidence would not be followed and the testimony and exhibits will be admitted liberally. With that regard she said she reserved the right to limit testimony or questioning that was repetitive, cumulative, or argumentative and to set a limit on the duration of testimony if necessary. She told those present that if they had an objection they should raise their hand and she would call upon them. She advised that she would rule on the objection and it would stand unless a councilmember requests a vote on that ruling, in which case admissibility of the testimony would be decided by a majority vote of Council present. Mayor Baca Gonzalez announced that the neighborhood boundary set by the Liquor Licensing Authority is the corporate City limits and the application packet constitutes the exhibits for this hearing in addition to any other exhibits offered by the applicant. City Attorney Downs asked Mr. Candland to spell his last name for the record. He asked Mr. Candland's capacity at Mt. Carmel. Mr. Candland said he manages events, solicits events, removes trash, solicits legacy investments, and pursues liquor licensing. City Attorney Downs asked about Mt. Carmel's business form. Mr. Candland answered that it is a non-profit 501c3. City Attorney Downs asked if it is a corporation and Mr. Candland answered that it is not. Mr. Candland upon questioning from City Attorney Downs named the officers as follows: Jay Cimino, Gina Cimino, Angela Ann Cesario. City Attorney Downs asked Mr. Candland if he has a job title. Mr. Candland said he does not. City Attorney Downs, noting that he is representing Mt. Carmel at this hearing, asked if he was the circulator of the petition and responsible for the application. Mr. Candland said he was. City Attorney Downs pointed out that Mt. Carmel originally applied for a tavern license and asked the current license type being sought. Mr. Candland said they had been advised a tavern license was the appropriate license to apply for and have since changed their application to a beer and wine license. When asked why, Mr. Candland explained that the sale of alcohol is not their primary business. He said their primary business is a health, wellness and community center offering primary care, behavioral health care and hosting special events with a café. City Attorney Downs asked the number of signatures obtained on the petition. Mr. Candland estimated there to be about 35 individual signatures, and 10 to 15 business owners' signatures. City Attorney Downs asked the results of the petition circulation. Mr. Candland said that 100% were favorable to the license issuance. There was no opposition. City Attorney Downs asked Mr. Candland if he had submitted the diagram of the proposed premises and if it had changed since the original submission. Mr. Candland said that it hadn't changed, rather there was an area proposed for licensure that was hidden by floors 2, 3, and 4. Upon inquiry he said he submitted an additional floor plan of that area this afternoon. City Attorney Downs asked how many events they anticipate holding at the facility whereby they will sell alcohol. Mr. Candland estimated that within all levels they have targeted 15 to 20. City Attorney Downs noted that the individuals listed on the business submitted to background checks. Mr. Candland added that he also submitted to a background check. City Attorney Downs asked if he will be the day manager. Mr. Candland said he will be the day and night manager. City Attorney Downs asked if it is correct that the results are not back yet. Mr. Candland said he didn't believe they were and upon inquiry from City Attorney Downs said he anticipated them to come back as approved. City Attorney Downs asked if he or any of the members had any interest in another liquor license to which Mr. Candland answered he did not. Mr. Cimino at one time owned the World Arena but has since sold it. Gina Cimino and Angela Cesario have no interests. He clarified upon questioning that Gina Cimino was listed on the application as Gina Stefanec, but she had a recent status change. City Attorney Downs asked if Mr. Candland had anything he'd like to say in support of the granting of the license. Mr. Candland stated that Mt. Carmel has been hosting special events for about a year using temporary licenses. So far there have been no problems or violations. He said they feel like they are filling a void hosting events such as weddings, anniversaries, graduation parties, etc. Mt. Carmel is a five-star facility and one of their missions is to host five-star quality events and minimize activities that don't meet those standards. The reaction from the community is that they have met that goal and will strive to meet that in the future. City Attorney Downs noted supporting financial documentation provided for individuals who hold interest in the business. He also noted that part of the submission to City Council was letters of reference. Mr. Candland stated that there were three letters provided for each of them. City Attorney Downs also indicated that background checks have been submitted but the results were not yet back. He asked Mr. Candland if it is his understanding from petitioning that people want the license issued, and existing facilities are not meeting the needs of the adult inhabitants of the neighborhood. Mr. Candland answered that it is his understanding according to the signatures. City Attorney Downs asked how many people will serve liquor at Mt. Carmel. Mr. Candland answered that all servers will be TIPS trained. He added that he chooses the people who serve and is very careful who he selects. Upon inquiry he said he has not been TIPS certified but added that he doesn't serve at all. City Attorney Downs deferred to the liquor licensing authority for questions of the applicant. Councilmember Miles noted that Mr. Candland stated that Mr. Cimino had an interest in the World Arena and asked if that was the source of the liquor license violation on August 7, 2010. Mr. Candland said it was. Councilmember Miles commented that was out of his control and Mr. Candland added that it was others representing him in the Arena's operation. City Attorney Downs clarified that the violation information included in the packet represented one violation. Councilmember Mattie commented that the application was forthcoming, complete and thorough. Mayor Baca Gonzalez ascertained that there were no interested parties in the audience to testify, no rebuttal and no closing statements to be offered. City Attorney Downs asked that Mayor Baca Gonzalez receive the submission from Mt. Carmel and in that submission is the application. He further clarified for the record that Mt. Carmel is a non-profit corporation, pointing to the certificate of corporate good standing. He named the documents contained in the application packet individually for the record as the contents of Mt. Carmel's submission. Mayor Baca Gonzalez admitted the documents into the record, including the floor plan update. Mr. Candland told Council that he is proud to be associated with Mt. Carmel and hopes the community is proud of the facility because it is a community center for everyone. Mayor Baca Gonzalez took judicial notice of the entire packet provided to ensure all of the documents were included in the record. The hearing was closed. Councilmember Bolton moved for approval of the license with the findings as follows:

This matter came on for hearing on the application of Mount Carmel Health, Wellness and Community Center at 911 Robinson Avenue in Trinidad, Colorado, for a Beer and Wine Liquor License, before the City Council of the City of

Trinidad, Colorado, acting in its capacity as the local licensing authority on May 7, 2013, in City Council Chambers in City Hall. The City Council having reviewed the application and supporting documents, letters of recommendation, reports of the City Clerk and other City staff, petitions admitted into evidence at the hearing and testimony taken during the hearing, makes the following **FINDINGS**:

1. The neighborhood consists of that area located within the City's corporate limits.
2. Scott Candland testified in favor of granting the license. No other persons testified in favor of or in opposition to the granting of the license.
3. The City Clerk's report showed that there are 37 liquor-licensed outlets within the neighborhood. Of these, there are four 3.2% beer off-premises licenses, one 3.2% beer on-premises license, one club license, 12 hotel and restaurant licenses, one of which has optional premises, eight liquor store licenses, and 11 tavern licenses.
4. The applicant submitted a petition regarding the liquor license application, which was admitted into evidence. A total of 44 signatures appeared on the petition, of which 42 were residents or business owners/managers from within the neighborhood, 21 years of age or older, all favoring issuance of a liquor license at this location. No petitions opposing the issuance of the license were submitted.
5. The applicant through testimony and other evidence, made a prima facie showing that the reasonable requirements of the neighborhood are not being met by existing liquor outlets, and that the adult inhabitants of the neighborhood favor issuance of the license.
6. Based on the evidence presented at the hearing and the investigative materials provided for the hearing, the City Council finds that the reasonable requirements of the neighborhood are not being met by the existing liquor outlets, that the adult inhabitants of the neighborhood favor issuance of the license to the applicant, and that the applicant officers are of satisfactory moral character.

THEREFORE, the City Council of the City of Trinidad, Colorado, as the local liquor licensing authority, hereby approves the application of Mount Carmel Health, Wellness and Community Center for a Beer and Wine Liquor License at 911 Robinson Avenue in Trinidad, Colorado. Approval is given contingent upon satisfactory fingerprint/background results being returned. Councilmember Shew seconded the motion. Upon roll call vote the motion carried with all Council members voting aye except Councilmember Mattie who abstained from the vote.

PUBLIC HEARING. New Arts liquor license request by Southern Colorado Repertory Theatre, Ltd., (SCRT) at 131 W. Main Street. Mayor Baca Gonzalez declared the hearing open and announced that she would be presiding over the hearing. She stated the purpose, an application for the issuance of a new Arts liquor license request by Southern Colorado Repertory Theatre, Ltd. at 131 W. Main Street. Mayor Baca Gonzalez advised that the procedure for receiving evidence concerning the applicant's request for issuance of a new Liquor License will be governed by state law and city ordinances. The Applicant has the burden of establishing that the City's granting of the Applicant's request is warranted under applicable law. Mayor Baca Gonzalez asked the applicant if they were present and if so to step forward and identify themselves for the record if they are ready to proceed. Harriet Vaugeois and Jim Davis addressed Council on behalf of Southern Colorado Repertory Theatre. Upon inquiry City Attorney Downs also advised that he was ready to proceed. Mayor Baca Gonzalez instructed those present on the order in which evidence and testimony would be heard: Opening statements or remarks, then applicant's evidence and testimony of witnesses, allowing questions thereafter. Next she advised that she would call for the City's evidence and testimony. She said it may be more efficient to allow City Attorney Downs to elicit answers through questioning. There would be an opportunity for rebuttal evidence, if any. Mayor Baca Gonzalez asked if there were any parties in interest present. There were none. Mayor Baca Gonzalez said that after she closes the hearing Council could enter into an executive session and the authority may choose to postpone its decision on the matter for a period of up to 30 days. The oath was administered to Harriet Vaugeois and Jim Davis. She reminded those present that formal rules of evidence would not be followed and testimony and exhibits will be liberally admitted. She told those present that if they had an objection they should raise their hand and she would call upon them. Mayor Baca Gonzalez announced that the neighborhood boundary set by the Liquor Licensing Authority is the corporate City limits. City Attorney Downs asked each to state their full names and spell their last names for the record. Ms. Vaugeois provided her name as Harriet Vaugeois. Mr. Davis provided his name as Vernon James Davis and upon City Attorney Downs' questions, they answered that they were present to represent Southern Colorado Repertory Theatre, Ms. Vaugeois as Executive Director and President of the Board of Directors and Mr. Davis as Board member and volunteer to oversee liquor license activities, if approved. Mr. Davis answered that SCRT is a 501c3 charitable corporation. City Attorney Downs asked the purpose of their corporation. Ms. Vaugeois answered that they present live theatre and educational training in the area of live theatre. City Attorney Downs asked how many performances they anticipate doing on an annual basis. Ms. Vaugeois said their professional season will start in mid-June and they will have 30 performances of three professional shows. They now operate year around with a goal of at least one performance per month. This month they have two scheduled. City Attorney Downs acknowledged that SCRT leases the building they occupy. He asked how many people are on the corporate structure. Mr. Davis answered that there are 12 board members and three officers. City Attorney Downs asked how many will be listed on the liquor license. Mr. Davis said the President is on the application and that he is on it as manager, so only two will be responsible. City Attorney Downs asked about existing liquor licenses for SCRT. Mr. Davis said that historically SCRT has sought special events permits going back about six years. They were only applied for during their professional season at the Massafi Theatre. With the economy and lack of funding opportunity, the Board made the decision to take advantage of the opportunity to increase revenues in the most feasible way possible, and this is one way. They found through past experience that the audience's experience at performances was enhanced by offering alcohol before the performance and during intermission. City Attorney Downs noted that SCRT originally submitted application for a tavern license and asked why they changed their minds. Mr. Davis answered that they were informed last Thursday afternoon that under the state guidelines the theatre didn't qualify for a tavern applicant, so they revised their application to an Arts application. City Attorney Downs pointed out that a petition was submitted for this application as well and asked if the results of circulating the same were favorable. Mr. Davis answered that 100% of those signing the petition, totaling 84 in number, were in favor. There were 39 business owners or managers and 45 individuals who signed. He added that two people he spoke to declined

to sign the petition because of their personal feelings about alcohol consumption. There was no opposition otherwise. People were very supportive and the two that didn't want to sign have been in attendance at performances. City Attorney Downs asked if they know who will sell the alcohol and the number of servers. Mr. Davis said they have eight people with TIPS training. There are three more volunteers who will go through the next training, for a total of 11. He added that he intends to be at every event possible. City Attorney Downs asked if all employees are TIPS trained. Mr. Davis said not all will be. He explained that at productions people approach the bar area and interact with the bartenders. As needed they'll have someone serving at table arrangements with TIPS training. Ms. Vaugeios reiterated that everyone serving will be TIPS trained and will go through SCRT's training. City Attorney Downs asked the applicant if there was anything they would like to tell Council in support of their liquor license application. Mr. Davis said SCRT appreciates the assistance of City staff. Ms. Vaugeios added that SCRT is trying to do for the community. She also stated that she doesn't know of any professional theatre that doesn't have alcohol and being on Main Street in their own theatre, having this amenity as part of a patron's evening is very rewarding to the many volunteers. She expressed SCRT's appreciation for Council taking the time in reading their application packet. City Attorney Downs noted that they also submitted to background checks and asked if they are aware if the results are back yet. Mr. Davis said they received them by certified mail last week. City Attorney Downs pointed to the diagram of the premises. Upon questioning Mr. Davis said the timing for serving liquor will only be at theatrical productions and special events. Mr. Davis told Council that under SCRT's conditional use permit approved by the Planning Commission is the only time they are allowed to serve alcohol. It will not be a situation where they have a five to seven day per week, eight to ten hour operation. City Attorney Downs asked if he knows whether there is another Arts License in the community. Mr. Davis answered that there isn't, according to the list provided to SCRT. Ms. Vaugeios responded no. City Attorney Downs opened the floor to questioning by the licensing authority. Councilmember Mattie opined that SCRT makes a cultural contribution to the community and this amenity will enhance it. Councilmember Miles wished them luck. Councilmember Velasquez asked if she's correct that with a beer and wine license they will only serve during performances and not during the day. Mr. Davis answered that the Planning Commission's conditional use permit limits them to only serving during performances or special events. Councilmember Velasquez commented there are several liquor licenses in the immediate area. Mr. Davis noted that the other entities are for-profit companies and SCRT is non-profit and would be selling alcohol as a fund raising opportunity. Councilmember Velasquez asked if they spoke to any of the neighboring licensees. Mr. Davis said he spoke to Pat Mantelli (Mantelli's), the owners of Bella Luna, people from the Tap House and they were all in favor, as well as Mission at the Bell across the street who signed their petition in favor. Ms. Vaugeios added that people are very excited because at the end of a play SCRT will not be selling and their audience can go somewhere else for dessert and perhaps another libation. Councilmember Bonato said he has concerns and has talked to Mr. Davis on the phone and received answers to some of the concerns in the Council packet. He explained the reason he voted in favor of Mt. Carmel's license was because there are no other liquor licenses in that area. He said he thinks Council will open a can of worms granting this license because if they offer SCRT a regular liquor license, what will they do with other non-profits? Mr. Davis responded that if he remembers their earlier conversation he made a statement that if SCRT could be assured of 45 special event permits per year they wouldn't apply for a regular license. However, the Arts license is a limited-use license. He reiterated the Planning Commission's stipulations that SCRT can only serve liquor during productions and special events. In addition, if they were to leave the current premises and discontinue operating, the conditional use permit would expire at that location. The tavern license had those same restrictions because of the conditional use permit. The stipulations were placed before they came to Council with a tavern liquor application. Ms. Vaugeios said the only change to the circumstances came when they found out last Thursday that they could not apply for the tavern license. Mr. Davis further clarified the City Clerk informed them that a theatre would no longer qualify for a tavern license according to the state authority. This was not something special to SCRT. There are a lot of licensees in the state that will have to reapply for a different license type since the State Commission made this new rule. Ms. Vaugeios reminded Council that this is why Scott Candland did the same thing with Mt. Carmel. Councilmember Bonato opined that the neighborhood is satisfied with enough liquor outlets. He added that he's not against the special event permits. Mr. Davis said the current law only allows SCRT 15 permits per year. SCRT has over 40 performances on their schedule. Ms. Vaugeios said that in reference to this being a conflict of interest or opening a can of worms, they are the only theatre company in Trinidad. Councilmember Bonato said he thinks SCRT is a great asset to the community and it helps kids, but asked where Council draws the line. Ms. Vaugeios said she appreciated what he was saying but that is a decision of Council. Her job is to find a way to keep the theatre alive in this community. Moving into a new facility without the funds to turn it into a theatre has put SCRT in critical jeopardy. She added that she doesn't know how they will survive without the support of Council in allowing SCRT this opportunity to make a little more money than what they make on their ticket sales. She said their only option would be to raise the cost of coming to the theatre, which goes against the very mission of their organization. They want to make it accessible to the community and, in particular, to kids. She continued on saying that she knows Council has other issues to deal with, but she was just hoping they would see the value of granting this license at this critical time. Councilmember Bonato asked what happens if SCRT has to move. City Attorney Downs said the license is tied to the premises. Mr. Davis said they have a lease until December 31, 2014. City Attorney Downs asked how long SCRT was at their previous location. Ms. Vaugeios answered that they rented the Massari Theatre for performances and begged and borrowed space to rehearse. SCRT had special event permits at the Massari for the past five or six years. Councilmember Bonato said he is worried about other non-profits doing this. Will they have to give a license to all non-profits? He reiterated by name the other existing neighboring licensees. Mr. Davis said that Bella Luna and Mission at the Bell have been generous donors of food for some of their performances. They are all good neighbors and SCRT wants to see them survive and SCRT wants to survive. They are not negative to SCRT's existence. He said that regarding the number of liquor licenses in the City - that is within Council's purview. They are asking for an opportunity to open another source of revenue which SCRT is limited in exercising only at productions and events. Councilmember Bonato asked the maximum capacity and if there's a doorway to the mezzanine. Mr. Davis said there are two exits from the mezzanine. There are two Main Street exits and one to the parking lot behind the building. In reference to the change in license type being sought, Mayor Baca Gonzalez read from the state liquor authority website the Arts license description, "permit qualifying non-profit corporations and municipalities to sell malt, vinous and spirituous liquors to patrons of artistic and cultural performances for consumption on the premises in connection with such performances." She concluded that it sounds like it is tailored specifically for a venue such as SCRT. City Attorney Downs asked that the documents constituting the contents of their Council packet that were submitted be accepted into the record, identifying each. He recalled testimony that when circulating the petition, neighboring liquor-licensed businesses being supportive and signed the petition. He asked if other restaurant business owners signed the petition. Mr. Davis said people from Fabilis Wings, Corner Café, Rino's, La Quinta and Brix, who also were donors of equipment to SCRT, had signed the petition. City Attorney Downs asked if juveniles are allowed on the premises. Mr. Davis responded affirmatively. City Attorney Downs asked if people are carded.

Mr. Davis said they are and children are supervised. Their sales are not really consistent with what you would have in a restaurant. People come to the bar individually and purchase the drink for themselves. Ms. Vaugeois added that there are two security guards who monitor who buys and where they sit. Then there's a totally separate snack bar. Mr. Davis stated that no beverages leave the room and they make an announcement to their patrons. Ms. Vaugeois further added that there is a person at each exit door. City Attorney Downs asked the number of adults on average at a production that consumes alcohol. Mr. Davis estimated it to be no more than 20 to 25% of adults. City Attorney Downs asked what percentage of their revenues alcohol sales constitute. Mr. Davis answered that it is 10% at the most at this point. City Attorney Downs moved for acceptance of their submission of the application packet. Mayor Baca Gonzalez accepted the same. She noted that on page 3b it reads that to-date the fingerprint results have not been received, which the City Clerk confirmed. She suggested the same qualifier, that the approval be subject to receipt of acceptable fingerprints from law enforcement. The hearing was closed. Councilmember Bolton moved for approval of the license, reciting the following findings for the record:

This matter came on for hearing on the application of Southern Colorado Repertory Theatre, Ltd. d/b/a Southern Colorado Repertory Theatre at 131 W. Main Street in Trinidad, Colorado, for an Arts Liquor License, before the City Council of the City of Trinidad, Colorado, acting in its capacity as the local licensing authority on May 7, 2013, in City Council Chambers in City Hall. The City Council having reviewed the application and supporting documents, letters of recommendation, reports of the City Clerk and other City staff, petitions admitted into evidence at the hearing and testimony taken during the hearing, makes the following **FINDINGS**:

1. The neighborhood consists of that area located within the City's corporate limits.
2. Harriet Vaugeois and Jim Davis testified in favor of granting the license. No other persons testified in favor of or in opposition to the granting of the license.
3. The City Clerk's report showed that there are 37 liquor-licensed outlets within the neighborhood. Of these, there are four 3.2% beer off-premise licenses, one 3.2% beer on-premise license, one club license, 12 hotel and restaurant licenses, one of which has optional premises, eight liquor store licenses, and 11 tavern licenses.
4. The applicant submitted a petition regarding the liquor license application, which was admitted into evidence. A total of 84 signatures appeared on the petition, of which 84 were residents or business owners/managers from within the neighborhood, 21 years of age or older, all favoring issuance of a liquor license at this location. No petitions opposing the issuance of the license were submitted.
5. The applicant through testimony and other evidence, made a prima facie showing that the reasonable requirements of the neighborhood are not being met by existing liquor outlets, and that the adult inhabitants of the neighborhood favor issuance of the license.
6. Based on the evidence presented at the hearing and the investigative materials provided for the hearing, the City Council finds that the reasonable requirements of the neighborhood are not being met by the existing liquor outlets, that the adult inhabitants of the neighborhood favor issuance of the license to the applicant, and that the applicant officers are of satisfactory moral character.

THEREFORE, the City Council of the City of Trinidad, Colorado, as the local liquor licensing authority, hereby approves the application of Southern Colorado Repertory Theatre, Ltd. d/b/a Southern Colorado Repertory Theatre for an Arts Liquor License at 131 W. Main Street in Trinidad, Colorado. Approval is given on the condition of favorable fingerprint/background results being returned. Councilmember Shew seconded the motion. Roll call was taken and the following vote cast:

Aye – Bolton, Mattie, Shew, Velasquez, Baca Gonzalez
Nay – Bonato
Abstain – Miles

The motion carried and the license was approved.

COUNCIL REPORTS. Councilmember Bolton reported on her attendance at a Southern Colorado Economic Development / I-25 Meeting the previous day and the Downtown Colorado, Inc., meetings on Thursday, April 25th and Friday, April 26th, here in Trinidad. She said that at the Thursday session of the Downtown Colorado, Inc. meeting the emphasis was on urban renewal/practitioner strategy. The discussions covered urban renewal authorities, business improvement districts, downtown development authorities and tax increment financing. The meeting was also attended by specialists in these areas from around the state and also by personnel from the State Historical Society. Friday's emphasis was on laying the foundation for downtown design. The speakers focused on engaging young stakeholders, creative industries and small businesses in downtown design. Both sessions were well attended and provided much good information on retransformation. Councilmember Bolton said she, along with other Council members, attended the first session of the Southern Colorado I-25 Eco Development Meeting yesterday at Mount Carmel. This is a regional business alliance being formed between the cities of Trinidad, Pueblo and Colorado Springs to focus on how to capture and capitalize on tourism off of I-25 to enjoy our rich history and further promote cross merchandising between all three cities.

Councilmember Bonato reported that Council members met last Tuesday at the Harry Sayre Senior Center for "Conversations with Council." He expressed appreciation on behalf of Council to Ann Risley and Bertha Sandoval for their hard work and warm reception. He described the meeting as informative and estimated 30 to 35 seniors or more to have been in attendance. Councilmember Bonato said they threw out some hard questions for Council, but felt Council gave them some pretty good answers. He concluded that he looked forward to getting another meeting together adding that senior citizens come first.

Councilmember Miles said she also attended the Southern Colorado I-25 Eco Development / I-25 Meeting and one thing she was excited about was the attendance from Pueblo and Colorado Springs officials and the discussion from the Colorado Springs Council representatives about the possibility of renaming the Colorado Springs Municipal Airport the Southern Colorado Regional Airport. That is all about the branding of Southern Colorado. Councilmember Bolton noted

that they formed a committee on the spot to move that concept forward. Councilmember Bonato added that visiting Council members were very positive. Mayor Baca Gonzalez said they were all underscoring outreach and collaboration.

Mayor Baca Gonzalez reminded those present about the Trinidad State Junior College graduation this Friday at 10:00 a.m. She said she forwarded a copy of the e-mail she received to Council and added that she plans to attend. She also encouraged attendance, since it is the anniversary year of the Ludlow Massacre, at the special production by SCRT of "American Story" that same evening. Also, this Saturday, May 11th, she reminded Council of the Chenoweth awards banquet recognizing outstanding business leaders, as well as the Hispanic Chamber of Commerce's banquet this same evening. She encouraged Council to participate if they are able.

REPORT BY CITY MANAGER. Ludlow Proclamation. City Manager Acre told Council that he attended the Governor's signing of the Ludlow Executive Order in Denver recently. He said while he was there he spoke to Sam Mamet, Executive Director of the Colorado Municipal League, who will be visiting Trinidad sometime in June or July.

Partnership Workshop. City Manager Acre advised Council that on Monday following the signing of the Ludlow Executive Order, he attended the Special District Association meeting of the public school districts from across the state. The meeting was held in Loveland and they discussed ways to work together.

Energy Savings. City Manager Acre said he also met with representatives from the energy service companies Train and Seimens regarding energy savings means at all City facilities, working in conjunction with the Governor's Energy Office, in the future.

Trident Energy Workshop. Council was advised that the Trident Energy Workshop the City scheduled was not well attended, but hopefully it planted a seed in some people's minds.

Fort Carson. City Manager Acre informed Council that he sat in on a listening session at Fort Carson on April 25th. They had invited people from their immediate area of Colorado Springs, Fountain and El Paso County, to hear what they have heard as part of their environmental impact assessment about the potential of losing a brigade or adding another group of men at Fort Carson. The entities in the northern part of the state are trying to increase their contributions. They can gain 3,000 people or lose 8,000.

Other meetings. City Manager Acre said he also attended a meeting with the Main Street Program coordinator through Department of Local Affairs. He said the assessment should be out soon, in June or July, and we should get more information on whether we want to join the Main Street Program.

School Administration Building. City Manager Acre told Council he was contacted by the School District today and will be meeting with the Superintendent to see if the City is interested in the Administration Building. Thus far the Police Chief has expressed some interest.

Southwest Chief. City Manager Acre said he has been working with Rick Klein from the City of La Junta regarding trying to set up a meeting with CDOT about the Southwest Chief and getting them to start paying more attention to funding potentials.

Finance Director. City Manager Acre told Council that he has an interview for the Finance Director position scheduled for Saturday and two others on May 13th. He said they hope to make a decision by the end of the month. He said he has spoken to staff about getting the budget process started. He added that financial reports will be provided next week.

CML Outreach Meetings. Council was reminded by City Manager Acre that CML Outreach Meetings are coming up. He said he will be attending the one in Rocky Ford on May 23rd and invited anyone on Council interested in joining him.

Action 22. City Manager Acre told Council that the Governor will be presenting the State of the State at the next Action 22 meeting in Pueblo. The cost is \$40 and is well worth having that involvement.

Library. City Manager Acre stated that he was invited to read "Duck on a Bike" at the Library. Councilmember Bolton commented that she too was invited but had a schedule conflict.

Buildings. City Manager Acre informed Council that he called Bill Barnes of the White Group today regarding the Opera House. The insurance adjuster came out last week and he has promised to share the results.

Downtown Motel. City Manager Acre told Council that part of next week's packet will include an update from him, City Attorney Downs, and Building Inspector Chris Kelley's discussion about possible options.

REPORT BY CITY ATTORNEY. Legislative session. City Attorney Downs told Council, with respect to following the recreational marijuana regulations, the legislative session ends tomorrow. He said he will let Council know when it concludes and what happens. The article in the Pueblo Chieftain today suggests they are having a difficult time in passing marijuana legislation, especially the 15% excise tax and 15% sales tax on marijuana. It is not palatable for a lot of people.

Nuisance Abatement. City Attorney Downs informed Council that as they have been dealing with the codes and statutes on nuisance abatements and dilapidated buildings, there was a problem with the building next to the First National Bank building on Main Street. In that situation the City found them to be a very active property owner.

Memorandum. City Attorney Downs called to Council's attention a memorandum he prepared for them on some issues including the letter he is preparing for the City's auditor about pending litigation and matters that could become litigation. He said the good news is that there is a lot less actual or potential litigation matters this year than last year with the exception of the ARPA continuing litigation.

UNFINISHED BUSINESS. Hotel and restaurant liquor license renewal request by Fisher's Peak Lodging, LLC d/b/a Trinidad Holiday Inn/Peaks Restaurant & Lounge at 3130 Santa Fe Trail Drive. Victoria Avila and Nelida Anguiano addressed Council on behalf of the licensee. A motion to approve the license renewal was made by Councilmember Shew and seconded by Councilmember Bonato. Councilmember Miles asked if the corrective action taken by the State has been finally settled. Ms. Avila responded affirmatively. Roll call was taken and the motion carried unanimously.

MISCELLANEOUS BUSINESS. 3.2% Beer Retail (Off-Premises) renewal request by Safeway Stores, Inc. d/b/a Safeway Store #722 at 457 W. Main Street. Mayor Baca Gonzalez called upon a representative. None was present. City Clerk Garrett advised that she spoke to the manager about appearing. A motion to table the renewal request was made by Councilmember Bolton and seconded by Councilmember Miles. Upon roll call vote the motion carried unanimously excepting Councilmember Velasquez who abstained.

Special event permit request (malt, vinous and spirituous) by Trinidad Area Arts Council at 130 E. Main Street for May 18, 2013. Michelle Goodall, President of the Trinidad Area Arts Council, addressed Council. She reminded Council that they are a non-profit organization and said this is for a fundraising event on May 18th. They function on memberships, fundraisers and grants. They will be holding a "May Martini Madness Night" with a silent auction and will be unveiling a substantial art piece from a very well-known artist. They will be serving martinis in painted martini glasses that will be sold with that martini. A motion to approve the special event permit was made by Councilmember Miles. Councilmember Bonato seconded the motion. Roll call was taken and the motion carried with all Council members voting in favor of the request and Councilmember Bolton abstaining from the vote.

New Hotel & Restaurant liquor license request by RGS Sawaya, LLC d/b/a Café What a Grind at 341 N. Commercial Street. Richard Sawaya addressed Council. City Attorney Downs advised Council that they need to set this matter for public hearing outside of 30 days and identify the tentative neighborhood boundary. Upon the request of Mayor Baca Gonzalez, Mr. Sawaya described the changes at the restaurant. They include remodeling, new furniture, moving the coffee area to the front, and building a bar. They will be offering a dinner serving are therefore seeking a liquor license. He said in the past people would walk out if they asked for a drink and they couldn't accommodate them. A motion to set the tentative neighborhood boundary as the corporate city limits and conduct a public hearing on the application at 7:00 p.m. on June 18, 2013, was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried by a unanimous roll call vote.

Consideration of Water Rights Lease and Re-Vegetation Agreement with Albert Anthony and Phyllis E. Blasi. Utilities Superintendent Jim Fernandez addressed City Council. He advised that the basic agreement is to continue use of the water to grow crops that are non-root seeking. Once the crops are established Mr. Blasi will dry up the land and transfer the water rights to Trinidad Lake. City Attorney Downs offered an answer to Councilmember Miles question raised during the work session where this was discussed regarding the date of the agreement commencing November, 2012. He advised that he spoke with the City's water attorney, Jeff Kahn, who informed him that this issue is a very low priority for Trinidad and that it is reflective of the water year. Councilmember Bolton moved for the approval of the agreement as presented and Councilmember Bonato seconded the motion. Upon roll call vote the motion carried unanimously.

Consideration of Facility Use and Concessionaire's License Agreement for the grandstands at Central Park with Creative Sale, Inc. City Manager Acre told Council that this agreement is similar to that agreed to last year with the Chamber of Commerce regarding grandstand concessions at the Trigger's games. However, this year it is proposed to be with Creative Sale, Inc. The City sought, through advertisements, other interested parties and only one person talked to him but declined to submit a proposal because of cost. Creative Sale, Inc. plans on using local vendors for the food sales and to bring in some non-profits also for fund raising. Last year the agreement with the Chamber had a lease payment of \$10.00 and he said he left that term in this agreement for this year, however he will take a look at it at the end of the season for possible adjustment. He said that with them using local vendors and non-profits he felt that it would be a means of giving back to the community. Councilmember Bonato suggested Council should be looking at the transfer of the liquor license for the grandstands before the facility use agreement. Councilmember Miles clarified that a license can't be transferred without possession of the premises. City Attorney Downs advised that is correct. A motion to approve the agreement was made by Councilmember Velasquez and seconded by Councilmember Bolton. Councilmember Miles urged diligence in enforcing the insurance provision. City Manager Acre assured Council that it will be enforced. He noted the presence of Andrew Dunn and Warren McDonald from the Chamber in the audience to answer questions. Councilmember Bonato questioned how the Trinidad-Las Animas County Chamber of Commerce can transfer a license to Creative Sale, Inc. He said he knows City Attorney Downs can't answer the question because he is on the Chamber's Board. Mayor Baca Gonzalez said she asked City Manager Acre to make an inquiry to Tami Tanoue of CIRSA because there is a possible perceived conflict of interest with City Attorney Downs being on the Chamber's Board of Directors. City Attorney Downs said he spoke to Tami Tanoue late this afternoon. Ms. Tanoue told him that he should abstain from participation in these matters; City Manager Acre should present. He said from a legal stand point, a transfer of the liquor license is appropriate to do. They are considering a liquor license for a premises going from one organization to another. He said regarding Creative Sale having a different address, it is common. Councilmember Bonato asked who would be responsible if someone would happen to get hurt. City Attorney Downs answered that pursuant to the agreement, and if they have the same requirements the Chamber had to meet last year, Creative Sale would be required to have their insurance policy. Councilmember Miles said that was the basis for her urging diligence in enforcing that the insurance requirement is met, so you don't find out after someone is hurt that there was no insurance. Councilmember Bonato asked if it is legal for an out of state person to apply for a liquor license. City Attorney Downs answered that it is as long as they pass a background check and is quite common. Councilmember Bonato asked how 700 Smith Street is the address for the license and how Creative Sale, Inc. can have that address since it is the City's ball park. Councilmember Miles answered that they would have a lease. Mayor Baca Gonzalez added that the liquor license would have to be displayed at the premises. Roll call was taken on the motion to approve the agreement and carried unanimously.

Transfer of ownership of 3.2% Beer (On-Premises) License request by Creative Sale, Inc. at 700 Smith Street (Formerly Trinidad & Las Animas County Chamber of Commerce). City Manager Acre said this item is for the actual transfer of ownership of the liquor license from the Chamber of Commerce to Creative Sale, Inc. Mayor Baca Gonzalez

asked if they applied on time. City Clerk Garrett answered that they applied before the expiration of the Chamber's license on April 23rd and the only thing pending was the lease document. Councilmember Miles asked about the contents of their application packet lacking this evening. City Clerk Garrett advised that they need to set the matter for hearing only this evening and the entire packet will be provided for the hearing. City Manager Acre suggested that the hearing be set May 21st, and approval, if given, can be contingent on fingerprint results being favorable. A motion to set a public hearing at 7:00 p.m. on May 21, 2013 for consideration of the transfer of ownership of a 3.2% Beer (On-Premises) License request by Creative Sale, Inc. at 700 Smith Street (Formerly Trinidad & Las Animas County Chamber of Commerce) was made by Councilmember Bolton and seconded by Councilmember Velasquez. The motion carried by a unanimous roll call vote.

Temporary permit request by Creative Sale, Inc. at 700 Smith Street. City Manager Acre said this is a temporary permit to allow them to operate while the transfer is going through the process. Councilmember Mattie made a motion to approve the temporary permit. The motion was seconded by Councilmember Velasquez and carried unanimously upon roll call vote.

Consideration of Professional Services Agreement with A-E Design for Monument Lake Fish Hatchery and Zoo National Register Nomination and Construction Documents. Assistant City Planner Karen Wolf called to Council's attention a change made since the work session on page 2, section 3b, in accordance with Council's request to add "County" three times to require contractors and subcontractors to obtain required City and/or County licensees and permits and pay the associated fees. It will be instituted on an as-needed basis per contract as a standard. She also called to Council's attention section 5 adding a force majeure clause, which will be included in all City contracts. Councilmember Bolton moved for the approval of the agreement and Councilmember Shew seconded the motion. Roll call was taken and the motion carried unanimously.

First reading of an ordinance amending Chapter 14, Planning and Zoning, Division 11, Zone District Regulations for the PUD - Planned Unit Development District, Section 14-74, Conditional Uses, Section 14-76(4)(b) and (6), Standards and Design Requirements, Section 14-78(4), Review and Approval, Section 14-79, Failure to Meet Development Schedule, and Section 14-80, Zoning Review, of the Code of Ordinances of the City of Trinidad, Colorado, to provide greater flexibility within the Planned Unit Development Zoning District, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Velasquez and then read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing on May 21, 2013, was made by Councilmember Bolton. Councilmember Shew seconded the motion which carried by a unanimous roll call vote.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 14, PLANNING AND ZONING, DIVISION 11, ZONE DISTRICT REGULATIONS FOR THE PUD - PLANNED UNIT DEVELOPMENT DISTRICT, SECTION 14-74, CONDITIONAL USES, SECTION 14-76(4)(B) AND (6), STANDARDS AND DESIGN REQUIREMENTS, SECTION 14-78(4), REVIEW AND APPROVAL, SECTION 14-79, FAILURE TO MEET DEVELOPMENT SCHEDULE, AND SECTION 14-80, ZONING REVIEW, OF THE CODE OF ORDINANCES OF THE CITY OF TRINIDAD, COLORADO, TO PROVIDE GREATER FLEXIBILITY WITHIN THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT

Consideration of Agreement with Colorado Department of Local Affairs for participation in the Best and Brightest Program. City Manager Acre said the City has been awarded the grant and the contract has been reviewed on the state level. He said before Council is the actual award and contract to allow the City an intern, Tara Marshall. Ms. Marshall qualifies because she is going through a graduate program through University of Colorado at Denver's Masters in Public Administration Program and since she is not technically an employee of the City; she's an employee of the state. She has had discussions with the state on the Visitor Center duties. With Department of Local Affairs, they agreed that Ms. Marshall is a good match. Ms. Marshall will continue to work with the Visitor's Center. Assistant Director Carol Patrick will take on additional duties with the volunteers at the Visitor's Center. The program allows a 24-month internship under his mentorship. It will give her a real life experience on what he does on a day to day basis and will provide the City with additional assistance in the City Manager's office and other departments. Since the City already contributes funding to the Visitor Welcome Center we will actually get a good bang for the buck. A motion to approve the agreement was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

Transfer of ownership of a Retail Liquor Store License request by Trinidad Beer, Liquor & Wine Depot, LLC d/b/a Trinidad Beer, Liquor & Wine Depot at 111 E. Kansas Avenue. City Attorney Downs advised that the recommended action is to set this matter for public hearing. In response to Councilmember Miles inquiry, Mr. Geggelman advised that the transfer is from him as an individual to a limited liability corporation. Councilmember Miles asked if the temporary permit is related to the transfer time. Mr. Geggelman said that is correct. A motion to set the transfer of ownership for public hearing at 7:00 p.m. on May 21, 2013, was made by Councilmember Miles and seconded by Councilmember Velasquez. Roll call was taken and the motion carried unanimously.

Temporary permit request by Trinidad Beer, Liquor & Wine Depot, LLC d/b/a Trinidad Beer, Liquor & Wine Depot at 111 E. Kansas Avenue. A motion to approve the permit was made by Councilmember Velasquez and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

BILLS. A motion to approve payment of the bills as presented was made by Councilmember Bonato. The motion was seconded by Councilmember Velasquez. Roll call was taken on the motion to approve the bills and it carried unanimously.

PAYROLL, April 27, 2013 through May 10, 2013. A motion to approve the payroll was made by Councilmember Bolton 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 Velasquez and seconded by Councilmember Bolton. The meeting was adjourned by unanimous voice vote of Council at 9:45 p.m.

MAY 7, 2013

ATTEST:

BERNADETTE BACA GONZALEZ,
Mayor

AUDRA GARRETT, City Clerk