

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, February 4, 2014, at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bolton, Bonato, Fletcher, Mattie, Miles, Torres
Also present:	City Manager	Acre
	City Attorney	Downs
	City Clerk	Garrett

The pledge of allegiance was recited.

**APPROVAL OF THE MINUTES.** Regular Meeting and Special Meeting of January 21, 2014 & Special Meeting of January 30, 2014. A motion to approve the minutes as presented was made by Councilmember Bolton and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

**PUBLIC HEARING.** Appeal from a decision of the Planning, Zoning, and Variance Commission filed by Lex and Alyce Vollmer, Application #2013-15, request for variance to place an accessory structure with a 4/12 roof-pitch and to exceed the allowable square footage of accessory structures, located at 203 E. North Avenue. Mayor Reorda declared the public hearing open. Lex Vollmer, 203 E. North Avenue, addressed Council and provided them with exhibits. He pointed to the first page which was a list of variances over the past four years, 29 approved and three denied. Mr. Vollmer said he is one of the three denied. One other that was denied was for a tool shed that was to be placed in a power easement and the other was a carport that would have taken up 100% of that person's property. He said he thinks the Planning, Zoning and Variance Commission erroneously did not apply the law and the same standards with all applicants, as they had two other applicants seeking the same variance under the same conditions. Mr. Vollmer told Council that initially he had applied for three variance requests, requesting placement of a manufactured shed with less than a 6/12 roof pitch in his five foot residential setback and to exceed the allowable square footage of auxiliary structure located at 203 E. North Avenue. He said he was denied based on his failure to meet the five criteria under Section 14-118 of the City's Code. However, he stated that Geraldine and Orlando Coca on September 10, 2013, came before the Planning & Zoning Commission with the same three variance requests for placement of a manufactured shed at 1101 Stonewall Avenue and were granted all three variances in less than nine minutes. They were also never asked about the five criteria, 14-118, or any hardship. He referred Council to the next page of his exhibit which were the minutes of the Orlando Coca hearing. He read from the minutes that "Commissioner Winter stated with the placement of the building and the slope, the water would run down and be no problem." "Commissioner Eberhart stated the improvements Orlando Coca did to his property were great and sometimes the Commission often gets too picky." Mr. Vollmer said this was all based on exactly the same things that he wanted. He reiterated that Mr. Coca's variances were granted in nine minutes. The following page he pointed to was the copy from the Planning Department okaying his variances. The next page is his building permit. Following that were pictures of his property with the structure itself. It is a metal building with a metal roof. It matches his house with the red roof. He said his variance request compared to Mr. Coca's request was like for like. It had the same zoning and existing properties. Mr. Coca's property is considered an oversized property whereby he has 0.949 acres, the existing land use is residential and the surrounding land use is also residential. The zoning is ELDR, (Established) Low Density Residential at 1101 Stonewall Avenue. Mr. Vollmer compared that he is at 203 E. North Avenue and has an oversized lot, at 1.3 acres or 60,113 square feet. The existing land use is residential and the surrounding land use is also residential. His property is likewise zoned ELDR, Low Density Residential. He said he was told if he gave up one of his variances, the two feet into the five-foot setback, the other variances would be miniscule. He said he is only over by 1,000 square feet. Mr. Coca is over by about 84 square feet, but it is about the same over the square footage. Mr. Vollmer continued that when he was denied at the first hearing he was asking to place the manufactured shed in the five foot residential setback with less than a 6/12 roof pitch and exceeding the allowable square footage. Mr. Vollmer said his hearing took 75 minutes whereas Mr. Coca's took nine minutes. During the hearing Diane Santistevan, the woman who owns the neighboring property, appeared in front of the Commission and said that on the side of his property there was a road and she had plans for a subdivision. Mr. Vollmer said he researched everything with the Planning Department and learned that all she had was an eight-year old proposal that was never completed and never had a platted road. There was never anything built in there. He reiterated that she showed the Planning Commission an eight-year old proposal which included City View Height 3. She put in a curb cut to put the road down the side of the property and it never was approved. Rosita Avenue stops almost sixty feet on the other side of his property. He showed Council two pictures at 203 E. North Avenue, one from 1980 and the other from 1948. In 1980 Rosita and Camillus were not even there yet. The map in 1948 showed a whole lot where all of the subdivisions were there. He pointed to where his property is and said it shows San Pedro and Camillus. Those roads were deeded rights-of-way in 1906. Rosita never was a deeded right-of-way. He added that the proposal was eight years old but Ms. Santistevan didn't even own the property until 2013. She claimed to have approved plans. It was an as-built that she did and she wanted to have the road go there. Eight years have gone by and the Planning Director assured him that road couldn't be located there now. It is not a platted road. She purchased bulk land. She wanted the variances denied stating that the road was there and there was going to be a sidewalk there and her concern was that his building would shed water and snow onto the sidewalk, being two feet closer, which would put people in danger and come back on her. He pointed out that once a development is done it becomes City sidewalk, no longer hers. There's a five-foot differential from his fence and her property. There's no way she could have a sidewalk there without filling the whole 2.5 acres five foot, or digging down and taking all of it out. Mr. Vollmer said everything she was saying during that hearing was false. Commissioners Leone and George both said it was a road because they have seen it on maps. Commissioner Winter asked him about the water shed during the Planning Commission hearing. Mr. Vollmer said he told him that the natural water shed comes from the back and runs to the front, exactly like Mr. Coca's property. At the Orlando Coca hearing Building Inspector Chris Kelley assured Commissioner Leone that a 4/12 roof pitch met all of the snow and wind loads. Commissioner Leone asked Planning Director Fineberg if in the future there's a road there if we can't have this building there because it will interfere with the sidewalk. He again

stated that it has been eight years since anything was done there and said it is not fair to hold his life up for something she may never do. He concluded that he feels the Planning Commission really didn't treat him fairly. Mayor Reorda asked the purpose of the proposed building. Mr. Vollmer answered that it is an auxiliary building to keep equipment out of the weather. He said it is another like for like with respect to Mr. Coca's property in that he put up a privacy fence around his house, just as Mr. Vollmer has. They both have garages, gated entry ways, and they both the auxiliary buildings. He said the situations are so like for like that you could write out the names and not be able to know the difference in the applications. He showed pictures of the neighborhood and said that Diane Santistevan stated that the reason all of her modular homes in the development have less than a 6/12 roof pitch is because she had a blanket variance. He asked if she can have that, why can't he? He reiterated that the Building Inspector says it meets the wind and snow loads. Planning Director Fineberg asked Ms. Santistevan to present the blanket variance, the plans, and the permits but she couldn't. The pictures he showed he said were all taken in the neighborhood and their addresses are on them. All of them have less than a 5/12 roof pitch. One of her big objections was that the building was going to have a metal roof. In a two-block area there are 21 metal roofs in his neighborhood. One of Ms. Santistevan's other objections was that she said the building didn't conform with the neighborhood. He pointed to her subdivision, the second street up in that neighborhood is M & M Towing which is a metal building. That's what you can see from the middle of her subdivision. It is a metal building, so it does conform; there are metal buildings in the neighborhood with metal roofs. There's also one in Mr. Coca's neighborhood. Mr. Vollmer said he's spent months waiting and didn't feel that the Planning Commission did him a square deal. He added that he's incurred costs. He requested Council to consider allowing his original request to encroach on the setback as well. It will cost him \$3,000.00 to move the driveway, fence and garden walls. He said he did it to be a good neighbor but Ms. Santistevan only gave lies and deceit through this whole thing. He pointed to Orlando Coca in his accompaniment and reiterated that Mr. Coca has the same building that he wants. He said he doesn't know why Mr. Coca got preferential treatment over him. Councilmember Mattie asked Mr. Vollmer to place one of the pictures within the map he provided in his exhibit for a clearer visual. Mr. Vollmer told Council that Commissioner Glenn Davis asked Planning Director Louis Fineberg if there's anything in the City's code that deals with a property over 12,000 square feet. There is nothing in the code that deals with a property over 12,000 square feet. He said since his property is 60,113 square feet, being 1,000 feet over for his building is miniscule. Councilmember Miles stated that as she understands it there are three issues – the setback, the roof pitch and the overage. She asked if he is willing to go the five foot back. Mr. Vollmer said he's asking for the original three foot setback; it would save him \$3,000.00. If that can't happen he said he would take the two. Councilmember Miles asked regarding the overage, if he's saying it is very minor. Mr. Vollmer said it is approximately 1,000 square feet. Councilmember Miles said the Planning Commission minutes talk about with this 1,500 square foot structure, the overage would come to 4,500 square foot. Mr. Vollmer corrected that to be the total, but he gets 75% overage. He would be 1,000 square foot over the allowable square footage for the auxiliary building with the house factored. Councilmember Miles asked how much outside of the guidelines he was requesting. Mr. Vollmer answered that he's requesting 1,000 square foot on his 60,113 square foot property. Mr. Coca was 84 square foot on his 0.49 acre property. Councilmember Miles asked if he's saying that his 1,000 square foot request is proportionally equal to Mr. Coca's overage. Mr. Vollmer answered affirmatively. Councilmember Miles asked if anyone oppose Mr. Coca's variance request. Mr. Vollmer said no one did. Councilmember Miles pointed out that the Coca request wasn't controversial. Mr. Vollmer said he proved without a doubt that the road Ms. Santistevan referred to doesn't exist, never did exist and never will exist. He said when he tried to nicely explain that he was told that wasn't why he was there, but it was why he was there. This was her whole premise. She was going to have a sidewalk up on a five-foot cliff and a 60 foot road. She came to him and said she would have started her subdivision but they shut down the government and it stopped her. City Attorney Downs asked if he's correct in that Mr. Vollmer originally submitted a variance applicant and it was turned down and then he re-submitted this application. Mr. Vollmer said that is correct. He was going to come to a hearing after he was first denied, but was advised by the Planner and other people to take out the setback request and they could 99% guarantee him that he would get the other two variances. City Attorney Downs confirmed that he did in fact withdraw the setback variance request. Mr. Vollmer said that was Ms. Santistevan's big deal. City Attorney Downs clarified for Council that there are two variances they are considering, the oversized structure and the roof pitch. He said he is not here to support or oppose the appeal. There are five criteria in the code that the Planning, Zoning and Variance Commission need to consider for granting of variances. He asked Mr. Vollmer if it is fair to say that he feels he met those five criteria for the two variances. Mr. Vollmer responded affirmatively, adding that Mr. Coca has the same thing he does. If Mr. Coca met the criteria, so should he. City Attorney Downs confirmed with Mr. Coca that his address is 1101 Stonewall. He asked if it is fair to say that the photo shows the property the way it looks now, more developed. Mr. Vollmer said yes, he has fixed a lot up. City Attorney Downs asked if there are many other residents in the area. Mr. Vollmer said it is developed. There is City View Heights 1, 2, 3, 4 and 5. She's looking at doing 6. This neighborhood is just like Mr. Coca's neighborhood. Mayor Reorda asked Mr. Vollmer if his property is in Ms. Santistevan's development. Mr. Vollmer said Ms. Santistevan worked for the developer of City View Heights. City View Heights 1, 2, 3 and 5 are built; 4 and 6 are not. He said he is next to 6. She has no development. She bought the property on a tax sale – ten lots and interest in two additional lots for \$1,000.00. She just took possession in 2013. Councilmember Bolton asked Mr. Vollmer to clarify that his lot is not part of City View Heights; it is adjacent to it. Mr. Vollmer said that is correct. His lot is next to the development. Mayor Reorda asked Planning Director Fineberg why one hearing took nine minutes and the other 90 days. He asked him to explain what transpired when Mr. Vollmer re-applied removing one of the variance requests. Planning Director Fineberg said after Mr. Vollmer's first request for three variances it seemed clear that the setback variance request was the major issue. He said he recommended to Mr. Vollmer that he withdraw the setback variance request and move the structure out of the setback. He said he then felt Mr. Vollmer had a good chance to be approved for the other two variances based on the Planning Commission's prior actions. City Attorney Downs asked if Ms. Santistevan's development was ever approved. Planning Director Fineberg said that the subdivision received preliminary approval. In order to become a reality it needed to have final approval within one year, which it did not and was not therefore recorded. He confirmed the original proposal was received about eight years ago. City View Heights has different phases. Several phases were built and several were not. This was one that seemed to have been started but never finished. He added that he told the Commission the subdivision adjacent to Mr. Vollmer's property shouldn't be a consideration in their decision on Mr. Vollmer's variance requests. It's not a road; there's nothing that says the right-of-way was ever platted. Councilmember Miles asked if she's correct that without a platted road the setback issue doesn't exist. Planning Director Fineberg answered that it does exist. Every structure in a residential zone has to be a certain distance from the property line. Councilmember Miles asked the significance of the road being platted. Planning Director Fineberg said one of Ms. Santistevan's arguments was that ice could fall off the building to the sidewalk that would be located next to the road if the building is allowed to be placed in the setback which would present a danger. But, one can't assume there will be a sidewalk there. A person can't be held to a

standard for something that may be in the future. He said he didn't feel that was fair to the applicant. Mayor Reorda asked his recommendation. Councilmember Mattie asked if he understood correctly that Mr. Vollmer withdrew his original request to be more compliant with the requirements. Planning Director Fineberg said that was correct. Mayor Reorda reiterated that he was told there was a 90% chance it would pass. Planning Director Fineberg said he felt that was the major issue. He added that the criteria that need to be addressed set an extremely high standard if they are followed to the letter. He said he believes virtually no variances would be approved. One question is whether the hardship is created by the applicant. That sets a high standard, but there is a subjective element to them. Based on previous decisions, he didn't like there was anything extraordinary with Mr. Vollmer's request. If you follow the letter of the questions/criteria, he said he believes the Planning Commission made the right decision. Mayor Reorda suggested the fact that Mr. Coca was approved has something to do with it. Planning Director Fineberg answered that he could only speculate. Councilmember Miles opined that it seems it is easier to follow the letter of the law when no one is opposing it – there's no hardship. She asked what the hardship is. In reading the minutes all she saw was something about impeding views. Planning Director Fineberg said that may have been one of Ms. Santistevan's complaints. Hardship in the sense of a variance refers to an unusual circumstance on one's property that sets it apart from other properties, like an irregularly shaped lot. Councilmember Miles confirmed the hardship is to the applicant. Planning Director Fineberg said one of the other criteria states that it needs to be the minimal variance to achieve what's desired. In the case of Mr. Vollmer's setback, he has a very large property. He could put the structure five feet away from the property line. He can move it, so he should. Councilmember Miles asked if the overage is an issue in Planning Director Fineberg's mind. He answered that there's a requirement in the Code that says you can't have a total square footage of accessory structures that exceeds 75% of the square footage of the main structure. He explained the reason that exists is to avoid too much impervious surface on a lot that would create runoff problems. He added that he thinks it is intended for 6,000 square foot lots. In the case of a 1.38 acre lot it is less relevant. Through discussion, it was determined that the overage of the proposed structure will be roughly two times what the Code allows. Councilmember Miles said that Mr. Vollmer claimed his overage is comparable to that of Mr. Coca's. Planning Director Fineberg said it is in terms of percentage. However, that's not how the code reads. Councilmember Miles commented that two times the amount allowed seems like a lot. Planning Director Fineberg said when you consider the size of the property he didn't think it was excessive, but he needs a variance. Councilmember Mattie asked if anyone from the Planning Commission was present to speak. Planning Commission Chairman Glenn Davis was present in the audience. He said he was happy to answer questions but was not there to give testimony and not prepared to do so. Mayor Reorda opined that the fact that Planning Director Fineberg told Mr. Vollmer that his chances of getting the second variance was 90% suggests his opinion that Mr. Vollmer has a good case. City Attorney Downs made Council aware of the fact that they have up to 30 days to render their decision. Councilmember Bolton, after confirming that the balance of Council was ready to render a decision, stated that after reviewing the materials provided, it appears that the Planning, Zoning and Variance Commission set a precedent in allowing a similar variance on Stonewall Avenue, and moved to approve Mr. Vollmer's application, reversing the decision of the Planning Commission of December 10, 2013. The motion was seconded by Councilmember Miles and carried unanimously excepting Councilmember Bonato who abstained from the vote.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Cathleen Roth addressed Council regarding the zoning code and law enforcement. Ms. Roth said she moved to the Trinidad area roughly 13 years ago. Small-town living seemed attractive to her to raise her daughter on her own. She continued that she has worked hard to build a life here and has had to deal with some unfavorable situations over the years. However she said nothing compared to the one in depth and severity to the one she faced from last fall to the new year. She explained that someone set up residence behind her house in a camper belonging to an out-of-state property owner who grew up on her street. There are no utility services on the property which legally prevents anyone from living there. Numerous attempts to involve the various entities such as City planning, building, management, law enforcement and code enforcement didn't yield any results. City officials were well of the zoning and code violations on the property itself, as well as criminal violations including trespassing and theft. Ms. Roth said she become increasingly more concerned about what seemed like a thin level of protection for citizen's property as well as for their safety and welfare. After exhausting multiple efforts to achieve some resolution, she said she contacted the Mayor who didn't hesitate to take action. The matter was resolved within a few days. This was not solely her problem; it was a community problem. She asked how many more citizens were victimized and damaged by a lack of response. Ask yourself if you would like this type of activity to occur outside the bedroom window of your daughter, granddaughter, sister or niece, mother or grandmother. How can we make Trinidad a town of choice where those who are willing to invest hundreds of thousands of dollars may not have their assets and wellbeing protected? People are obligated to do their job. This was criminal activity at the felony level that continued because people failed to do their job. The agencies involved need to take a more determined approach. Interagency cooperation must supersede interagency pass-the-buck mentality. Thorough and professional intervention would have prevented a long standing history of on-going predatorily and criminal types of practices. Complacency and apathy, circumventing responsibility and not following proper protocol on the part of City officials are not acceptable traits to hard-working, taxpaying citizens. Ms. Roth said she is eternally grateful to Mayor Reorda – until he was approached, no one else seemed to care. If not for him this might still be going on. Councilmember Miles said she was approached on this subject about three weeks ago. She said she talked to City Manager Acre and asked him to look into it, expressing how threatened Ms. Roth felt. She asked what happened. City Manager Acre said Planning Director Fineberg may have to fill in the gaps. The City doesn't have records that date back as far as she says she initially complained. He said he thinks staff acted pretty quickly. Mayor Reorda said it was five months later and Ms. Roth followed protocol. She contacted all of those people, prior to contacting him. The police didn't make a record of it. The Code Enforcement Officer told Planning Director Fineberg he had to write a letter to the police department so they could take it to the property owner. In less than five days everything was resolved. Councilmember Miles said she reported the matter one day after she spoke to Ms. Roth to City Manager Acre. Ms. Roth was supposed to make an appointment to see City Manager Acre. She asked if she had. She noted that she asked City Manager Acre to make this a priority to listen to her given the severity of the injustice. Ms. Roth said she did talk to City Manager Acre. Initially when she called he was out of town and she approached the Councilmember Miles thereafter and then the Mayor after that. Councilmember Miles asked if she approached the City Manager. City Manager Acre said the first time he heard from Ms. Roth was the same night he heard from the Mayor. Councilmember Torres asked what approach the police took on this five months ago. Ms. Roth said she called the police and had two officers come to the property who confirmed and substantiated that there was trespassing and theft. There was no police report generated and no citation issued. She said she went back to talk to the Chief of Police to follow up and find out why this was continuing. She said she first called the City in the fall to ask about someone setting up residence in a camper to confirm it wasn't legal. She said she had no results with the first two to three people she pursued in

order to get this resolved. Councilmember Torres asked how many times she contacted the police. Ms. Roth said she called when she knew they could follow the tracks in the snow that led to her daughter's bedroom where they were taking water. Councilmember Bolton said she learned of this last week and was sorry Ms. Roth had to suffer unnecessarily for so long. Ms. Roth said she had to work hard to be comfortable on her own and taking care of her daughter. The course of events changed this. Mayor Reorda stated he called Planning Director Fineberg to ask where the letter was and was told he couldn't talk to him; he had to ask permission from the City Manager to talk to him. Planning Director Fineberg said the Mayor called him yelling at him. Mayor Reorda asked what happened to the letter. Asst. Planner Karen Wolf answered that it was sent. Planning Director Fineberg added that the Planning Department was notified two days before of the Mayor's call to him. They didn't know five months before and they acted very quickly. Councilmember Bonato asked if the problem has been resolved. Ms. Roth said it was resolved as far as the removal of the problem, but is not quite over.

Tom Murphy signed in to speak but said he wished to pass to the next regular meeting.

Dan Ruscetti, who also signed in, asked to be heard after the first reading of the tipping fee ordinance.

Tom Poss addressed Council. He said he has a lot of things to complain about and he wants people to know who he is. He reminded that he ran for City Council and lost. Mr. Poss stated that there is corruption in the City and a lot of things going on. He said he feels like he lost the election because people don't know him. He continued that he went to school here, the 7<sup>th</sup> and 8<sup>th</sup> grade and then graduated high school here. He played sports. Mr. Poss said he considers this his home town. He left after high school for 48 years and he named a number of jobs he held in that time. He said he wanted to come back to Trinidad to retire and die here. The population was 11,000 when he left, but it was way down when he came back. He tried to move last year because he got sick of Trinidad because of how it was being run, and he's still planning on moving unless things get better here. Mr. Poss said he has a daughter on the National Honor Society in Hoehne and a son in the ninth grade who will be in the National Honor Society in the tenth grade. There were two houses for sale in Allendale when he moved here. Now there are a lot of them for sale. He said he works at Walmart twelve hours per week and talks to people. Over one year ago people were asked about Council. Sixty-nine percent said to get rid of the bums. He said he doesn't understand the people of Trinidad. There's one person on Council who had an agenda because her building was pink. The incumbents were re-elected. Anthony Mattie is smart. Bernadette Baca Gonzalez didn't listen to him much. He said there's many things he wants to do for the City before he moves and he will bring one up at a time from here on out, so they will see him at the Council meetings. Councilmember Torres said her pink building is not why she ran. She said she has a 25-year vested interest in Trinidad and has three businesses in the community. She concluded that she employs a number of people and pays taxes in the community.

City Manager Acre pointed out that the public hearing for the landfill fees will be at the next reading and Council shouldn't take comments after first reading this evening. Dan Ruscetti addressed Council and identified himself as the owner of Rightway Disposal, and said he was addressing them concerning the raising of all of the fees as a citizen and long-time resident and business owner. Mr. Ruscetti told Council it is the wrong time to raise rates. He said he knows the City is broke and needs to do it, but business owners can't pay the fees right now. Residents are dumping their trash in business owners' containers. At a previous work session City Manager Acre said he was proposing a 25% increase to the landfill fees. He said his understanding is that it is up to 50% now. As a business owner he said he doesn't know what's going on. He reiterated that he thinks now is probably not a good time. Trash removal is not a necessity. People will throw it in someone else's dumpster or in a ditch. Regarding giving citations, he said we all know how that works in Trinidad. The trash will end up at the landfill one way or another, either the City or County will be taking it there. He pointed out that there was one other solid waste disposal company in attendance and reiterated that it is just a bad time right now. He concluded that he will be at the next meeting.

**COUNCIL REPORTS.** Councilmember Mattie reported that he attended the Council of Governments Board meeting on January 23<sup>rd</sup> and was elected Chairman. He commented on the ArtoCade bowling fundraiser coming up.

Councilmember Fletcher said the Library Advisory Board hasn't yet been formed. She advised that she went to her first ARPA meeting in La Junta with Councilmember Miles and City Manager Acre and she's beginning to learn.

Councilmember Bolton reported that she and Mayor Reorda went to Pueblo a week and one half ago and joined in a rally to support the Southwest Chief. She said there will be hearing before the legislature with regard to that Bill later this month which she plans to attend and speak at. She said the hearing is on February 12<sup>th</sup>.

Councilmember Miles reported that at the ARPA meeting they worked on making long-range plans for power purchases.

Council members Torres and Bonato and Mayor Reorda had nothing to report.

**REPORTS BY CITY MANAGER.** North Lake Dam Project. City Manager Acre reminded Council that questions were raised last meeting about the North Lake Dam Project. He said the original bid was in the amount of \$972,417.67. An additional \$272,000 was requested by the contractor and in August, 2012, approved by City Council related to the delay in the start of the project. There was one change order in the amount of \$9,352.94 because the City requested to have installed some gate tower stairs and additional outlet pipe given what they found on the site. Another change order was requested for alternate pipe that resulted in no cost impact, just a time impact. Completion is anticipated by June of this year. He last updated Council on the status of the project on December 17, 2013. At that time the contractor was working on some of the punch list that had been identified, which included grouting and rip rap that they cannot work on at this time. A temporary staff gage was put in place. The permanent gage has been ordered and should be installed in March or April. This spring they will do the grouted rip rap work and final site clean up as well as the re-vegetation and seeding and final survey. They are working on the gravel on the dam road. He said his understanding is that there needs to be some additional gravel brought in and the road sloped properly and a bollard installed to prevent unauthorized access to the site. He said he's having discussions with the City's engineering consultant and will be meeting with the contractor and consultant to close up the project. The City is still considering liquidated damages.

Travel schedule. City Manager Acre told Council that he will be in Denver with the Mayor and Councilmember Bolton on February 12<sup>th</sup> to testify (at the State Capital regarding the Southwest Chief) and then they will all be at the CML Legislative Workshop on February 13<sup>th</sup>. He noted that there's a newly-elected official's workshop on February 24<sup>th</sup>.

North Lake Dam. Councilmember Fletcher asked if the dam is working now. City Manager Acre said it is. If we can get the staff gage installed we are having discussions with the State Engineering about lifting the restriction. He's indicated that they'd be willing to look at partially lifting the restriction. We need to get the grouted rip rap in place. What is there now is some erosion control to protect the work. The City can't collect water now anyway because there is no runoff. We have to work with the State Engineering on that. Despite the weather and the contractor being slow he said he thinks we are moving down the right path. Councilmember Fletcher asked if it is not finished because it looks like it is. City Manager Acre said the contractor has pulled out the site trailer for now and it is anticipated to be fully complete by June. Regarding the loss of one of the men working on the project, City Manager Acre said the City sent its condolences. OSHA investigated the accident, but he said he hasn't seen the report. The proper protocol was followed. Councilmember Mattie recalled the water level being reduced for the construction work. He asked if it can be reversed. City Manager Acre answered that after we get the staff gage installed he talked to the state engineer to see if we can increase the level and get the spring runoff. Councilmember Mattie reminded that several meetings ago he suggested a spreadsheet be created listing all of the City projects showing their progress. He said it could be put on the City's website. He concluded that it is important to him to see it. City Manager Acre said he hadn't forgotten the request.

Union. Mayor Reorda asked City Manager Acre to report on his meeting with the Union. City Manager Acre said he hasn't gotten back with them. However, he did send them the City's financial information. The local Union President has been out of town and recently returned. Mayor Reorda suggested they consider getting an outside auditor to look at the finances since there are discrepancies from Washington and the union. City Manager Acre said the City has an audit done every year. Mayor Reorda said he is suggesting an outsider. City Manager Acre said it can be done if that is Council's desire. Councilmember Mattie said his point is well made and taken but pointed out that it will involve an expense. Mayor Reorda asked Council to think about it. City Manager Acre said he'd look into it and get information and cost.

**REPORTS BY CITY ATTORNEY.** Medical Marijuana. City Attorney Acre pointed to the latest version of the medical marijuana draft ordinance along with a page from the Denver code regarding advertising and signage. Councilmember Miles asked the schedule going forward on medical marijuana. City Manager Acre said this draft can be put on the February 11<sup>th</sup> work session agenda and can then be taken for a first reading on February 18<sup>th</sup>.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** 3.2% Beer Retail License (Off-Premises) renewal request by Walmart Stores, Inc. d/b/a Walmart #962 at 2921 Toupal Drive. Local Manager Jimmy Windam addressed Council. He said he's been the Manager here for eight months and comes to Trinidad from Alabama. He added that it is a beautiful town. A motion to approve the license renewal was made by Councilmember Fletcher and was seconded by Councilmember Bolton. Upon roll call vote the motion carried unanimously.

Ad-hoc appointments (without voting rights) to the Arts and Cultural Advisory Commission. Councilmember Bolton moved for the ad-hoc appointments of Bruce Leonard and Vilas Tonape to the Arts and Cultural Advisory Commission without voting rights until such time that they attain the one-year residency requirement and then with full voting rights. The motion was seconded by Councilmember Fletcher. Roll call was taken on the motion which carried unanimously.

Appointments to the Tourism Board. Councilmember Fletcher confirmed that the restaurant category is still open. City Attorney Downs advised Council that Fred Vaugeois is with Southern Colorado Repertory Theatre (SCRT) which is a 501c3, not having ownership in the normal sense. Mr. Vaugeois says he is a part owner in Partners Contracting, Inc., a business on Main Street in Trinidad. City Attorney Downs said the business is what he considers to be a tourism-related business as they provide consulting for SCRT. He added that Partners Contracting, Inc. was incorporated on March 5, 2001 and is a Colorado corporation in good standing with the Colorado Secretary of State's office. He concluded that Mr. Vaugeois therefore meets the criteria necessary to fill an appointment on the Tourism Board under the current ordinance language. Councilmember Bolton confirmed that if appointed he would be the one and only member from outside of the City with a business in the City. Councilmember Mattie made a motion to appoint Pat Patrick, Susan Palmer and Fred Vaugeois to the Tourism Board. The motion was seconded by Councilmember Pat Fletcher and carried by a unanimous roll call vote.

Appointment to the Parks & Recreation Advisory Committee. Councilmember Bolton moved for the re-appointment of Diane Beach and Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

Appointments to the Board of Building Code Appeals (1 permanent and 2 alternates). A motion to appoint Carl Goodall to the permanent position and Jim Dunford and Jerome Begley to the alternate seats was made by Councilmember Bolton and seconded by Councilmember Torres. Roll call was taken on the motion which carried unanimously.

Appointments to the Urban Renewal Authority. Councilmember Miles made a motion to appoint Cherie Kollander and David Barrack to the Urban Renewal Authority. Councilmember Bolton seconded the motion. The motion carried unanimously upon roll call vote. Councilmember Fletcher asked if she was correct in that Council decided that they can have members from outside of the City limits. City Manager Acre said they decided there could be two from outside the City with a business interest in the City.

Appointments as Council liaisons to various City boards and commissions. Councilmember Mattie recalled that the last time Council discussed this there were Council members who expressed interest in serving. He said he re-thought it after leaving the meeting and asked if it wouldn't be better to have the boards and commissions report to Council in total instead. Councilmember Bolton said they already have that requirement. Councilmember Mattie said he didn't understand the purpose of having liaisons. Councilmember Miles said as a liaison to Economic Development it is often helpful to have

the City's view aired at those meetings. She suggested they could do more reporting as liaisons during Council Reports. Councilmember Mattie asked if having Council members present is an encumbrance or hindrance to the meetings. Councilmember Bolton responded that she didn't think so. She said that the liaisons also help give guidance. She added that in her role as liaison to the Arts & Cultural Advisory Commission she doesn't report on their behalf. She pointed out that there would not be ad hoc members on the Arts Commission had she not been there with the suggestion. City Manager Acre said as a former board member with liaisons he found it very helpful. It was a better way of having Council involved. Councilmember Mattie moved to appoint Councilmember Torres as a liaison to the Tourism Board, Councilmember Fletcher as a liaison to the Library Advisory Board and Parks & Recreation Advisory Committee and Mayor Reorda as liaison to the City Tree Board. The motion was seconded by Councilmember Miles and carried unanimously upon a roll call voice vote.

Consideration of Memorandum of Understanding between the City and Colorado Department of Local Affairs regarding the Colorado Main Street Candidate Program for 2014. Councilmember Bolton moved for approval of the Memorandum of Understanding. The motion was seconded by Councilmember Fletcher. Roll call was taken on the motion, which carried unanimously.

Authorization to waive fees associated with the tavern applications only as it pertains to those licensees affected by a 2013 Liquor Enforcement Division directive. Mayor Reorda announced that the licensees affected were Mount Carmel Health, Wellness and Community Center and Southern Colorado Repertory Theatre. A motion to waive the fee was made by Councilmember Bonato. Councilmember Miles seconded the motion. Upon roll call vote, the motion carried unanimously.

First reading of an ordinance adjusting the City of Trinidad landfill fees, and setting a hearing for consideration of said ordinance. The ordinance was introduced by Councilmember Bolton and then read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on February 18, 2014, was made by Councilmember Bolton. The motion was seconded by Councilmember Mattie and carried unanimously upon roll call vote.

ORDINANCE NO.

AN ORDINANCE ADJUSTING THE CITY OF TRINIDAD LANDFILL FEES

First reading of an ordinance revising the City's water rate schedule and the City's plant investment fees, and setting a hearing for consideration of said ordinance. Councilmember Mattie introduced the ordinance which was then read aloud in its entirety. Mayor Reorda asked what happens if someone doesn't use that many gallons. City Manager Acre said he'd have to check but thought it was typically based on estimates. If they are way under it could be re-visited, but there would be a charge to un-tap and tap. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on February 18, 2014, was made by Councilmember Fletcher. The motion was seconded by Councilmember Torres. Councilmember Bolton recalled her suggesting at the work session that they make all Plant Investment Fees subject to negotiation. She asked if they were going to make that change or discuss it at the public hearing. City Manager Acre said he recalled that they would take care of that through creating formal incentives. Councilmember Bolton asked if it will be in a future ordinance. City Manager Acre said he thought it would be better in one ordinance rather than in individual ordinances. They could look at incentives for maintaining or recruiting businesses through sales tax, permit fees and tap fees. Roll call was taken and the motion carried unanimously.

ORDINANCE NO.

AN ORDINANCE REVISING THE CITY'S WATER RATE SCHEDULE AND THE CITY'S PLANT INVESTMENT FEES

First reading of an ordinance adjusting the City's rates for sewer service, and setting a hearing for consideration of said ordinance. The ordinance was introduced by Councilmember Fletcher and then read aloud. Councilmember Bonato asked how this affected people with septic systems. City Manager Acre answered that he didn't believe anyone on a septic system should be getting charged for sewer - just water. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on February 18, 2014, was made by Councilmember Bolton. The motion was seconded by Councilmember Miles and upon roll call vote carried unanimously.

ORDINANCE NO.

AN ORDINANCE ADJUSTING THE CITY'S RATES FOR SEWER SERVICE

**BILLS.** Mayor Reorda said he was handed something by a citizen regarding the purchase of auto parts. It was the bills from the newspaper showing amounts paid to the three auto parts stores ranging from \$400 to \$3,000. He asked if there was any way the City could equalize the amounts between the businesses and try to spread it out. City Manager Acre said that staff makes every attempt to share among all businesses in town. In each month there may be a discrepancy, however the following month the amounts are caught up. He added that they apply an economy of scale also to get the best deal. If they did not do so, they would not be good stewards of the taxpayers' money. Councilmember Bonato said the City has been pretty good at sharing in the past. Councilmember Fletcher asked about holiday compensation again. She said she understood it to be a one-time payment per year but it is on the report this month for \$48,000. City Manager Acre said that is on the payroll report. A motion to approve payment of the bills was made by Councilmember Bolton. The motion was seconded by Councilmember Bonato. Roll call was taken on the motion and it carried unanimously.

**PAYROLL**, January 18, 2014 through January 31, 2014. City Manager Acre re-addressed Councilmember Fletcher's question regarding holiday compensation. He explained that she is looking at the departmental total for the pay period rather than holiday compensation. He referred her to the top of the column to the 'total' heading. City Manager Acre said staff would change the report so that it is not confusing. A motion to approve the payroll was made by Councilmember Bolton and seconded by Councilmember Bonato. Roll call was taken and the motion carried unanimously.

Mayor Reorda commented that in his travels around the City, Tara Marshall's name comes up often. He hears from people that she's never in her office. He suggested an article be written for the paper explaining what she does. She wears 14 hats but the people at the Welcome Center think she's not doing her job. They need to know what she's doing. Get it out. Councilmember Miles agreed. The question is do we need a full-time director at the Colorado Welcome Center. Mayor Reorda pointed out that the Welcome Center has an Assistant Director, although the position is currently vacant. Tara Marshall advised that applications will close on February 12<sup>th</sup> for the Assistant Director. She said she'd like to see what we get and that it is a matter of allocating that person's time more productively than it was previously done. She thought if we do so, we will be okay. She added that the Colorado Tourism office is happy with the way it is arranged now. This Welcome Center was ranked #1 the past two years. We need an Assistant Director available more on weekends. Councilmember Miles said she heard that this is the only Welcome Center without a full-time Director. Ms. Marshall said that Colorado Tourism has ten full-time directors; five of them wear different hats. She provided specific examples. Seven Centers have Assistant Directors who work 20 to 25 hours per week. She said she thinks this is a change to make our operation more in line with the State's program. Councilmember Mattie said there are unknowing complaints made sometimes. Council has a responsibility to listen to them and investigate. Councilmember Bolton asked what is wrong with the Trinidad sign. City Manager Acre said they are replacing the light bulbs and looking at doing LED lights. The Power & Light Department is gathering costs and we need to figure out who pays for it. Mayor Reorda commented that since the recent power interruptions a lot of lights are out on corners of the streets. City Manager Acre said San Isabel Electric learned that someone shot out insulators off of a pole which caused the outages. Councilmember Miles added that San Isabel Electric Association rates are going up 35% to 40% because of SB252 which requires coops to meet requirements of renewable energy.

**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 Fletcher. The meeting was adjourned by unanimous voice vote of Council.

ATTEST:

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JOSEPH A. REORDA, Mayor

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AUDRA GARRETT, City Clerk