

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, October 21, 2014, at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bolton, Bonato, Mattie, Miles, Torres
Also present:	Acting City Manager	Garrett
	City Attorney	Downs
	Asst. City Clerk	Valencich
Absent:	Councilmember	Fletcher

The meeting commenced at 7:15 p.m.

The pledge of allegiance was recited.

APPROVAL OF THE MINUTES. Regular Meeting of October 7, 2014. A motion to approve the minutes as presented was made by Councilmember Miles and seconded by Councilmember Bolton. The motion carried unanimously.

PUBLIC HEARING. New Medical Marijuana Optional Premise Cultivation Operation license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road. Mayor Reorda opened the hearing and Robert Schultz addressed Council. To City Attorney Downs' questioning, Mr. Schultz testified that he is the principal for Trinidad's Higher Calling U, LLC and still the only principal of the limited liability corporation. The address of the proposed facility is 1000 Independence Road, the former Pepsi building in the Industrial Park. There have been four marijuana licenses previously approved for Trinidad's Higher Calling U, LLC, and this is the fifth application for a license. This application is for the medical grow facility to supply the medical dispensary that was previously approved. It is for the cultivation for the medical facility. Mr. Schultz showed Council that he had been issued his key card and testified that he has received the three retail licenses from the state but the two medical licenses are pending. They are submitted, however, and in the process. Trinidad's Higher Calling U, LLC, is a Colorado corporation in good standing with the Secretary of State's office. They have not established a trade name yet. Mr. Schultz stated that he has submitted to a background check by CBI and local law enforcement and passed them. All required documents have been tendered to the relevant municipal authorities. A lease, diagram and security program has all been submitted as well. He said he is shooting for an opening at the first of the year. He expects to employ ten people but hopes that the business will grow and he will employ twenty or more. The building and property are owned by Nicole Bernet. She has leased the property to Trinidad's Higher Calling U, LLC and knows the types of business that are to be located there. He further testified that he has received approval for Conditional Use Permits from the Planning, Zoning, and Variance Commission. He understands his ongoing obligation to comply with all municipal officials, law enforcement, fire, building, clerk and city attorney, and has been in contact with every one of them. All information contained in the application is accurate and he swore and affirmed to the same. There are no misrepresentations. He said he also understands his obligation to comply with Federal, State and municipal law. Regarding water he understands that in times of water shortage he may be cut off from municipal water. Mr. Schultz told Council that 21 people attended a responsible vendor training last week at the Quality Inn put on by Maureen McNamara from Denver. It was the first facility to do the training and she was very impressed with what they had. Ms. McNamara recommends all other facilities do some training as well as law enforcement. The security system is being installed this week and he told Council that they are more than welcome to check out his business. Mayor Reorda asked Mr. Schultz if he is the only owner of Trinidad's Higher Calling U, LLC. Mr. Schultz responded affirmatively. City Attorney Downs reminded Mr. Schultz that as employees are retained he is required to notify the local authority. He submitted to Council that this application is complete. Councilmember Miles acknowledged that Mr. Schultz had testified to being the only owner and confirmed that he is the only one with financial interest except the landlord. She commented that it appears that he is paying a reasonable commercial arms-length lease rate. She asked Mr. Schultz why he did not apply for this license at the same time as the previous ones. Mr. Schultz answered that he didn't have the funds at the time to apply for all of them at one time. Councilmember Mattie reminded Mr. Schultz that he is proceeding under authorization of City ordinance and an amendment to the Colorado Constitution. He confirmed that he understood that marijuana continues to be a controlled substance under the view of the Federal government and that he desired to proceed anyway. A motion to approve the license application of Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado, for a Medical Marijuana Optional Premise Cultivation Operation License, was made by Councilmember Miles and seconded by Councilmember Mattie. The motion carried with all Council members voting aye except Councilmember Bonato who cast a dissenting vote. Mayor Reorda confirmed that no one present wished to speak for or against the application and then read the following findings into the record:

This matter came on for hearing on the application of Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado, for a Medical Marijuana Optional Premise Cultivation Operation License before the City Council of the City of Trinidad, Colorado, acting in its capacity as the local licensing authority on October 21, 2014, in City Council Chambers in City Hall. The City Council having reviewed the application and supporting documents, reports of the City Clerk and other City staff, evidence at the hearing and testimony taken during the hearing, makes the following **FINDINGS**:

1. The application is complete and signed by the applicant, and the applicant has paid the appropriate application and license fees.
2. The application appears to be in substantial compliance with all the requirements of Article 11, of Chapter 14 of the Trinidad Municipal Code. The applicant has testified to their willingness to comply with any and all areas of said Article whereby compliance at this time cannot be fully attained or substantiated.
3. According to the testimony of the applicant, the application does not contain any material misrepresentations.
4. The proposed medical marijuana business comply with applicable zoning regulations. The City Council hereby finds that based upon the testimony of the applicant, the building in which the proposed medical marijuana business will be

located will conform to the Trinidad City Codes, including the zoning code and all International Codes adopted by the City.

5. Robert Mitchell Schultz testified in favor of granting the license. No one testified in opposition.
6. The applicant through the facts and evidence adduced as a result of the City's investigation and testimony provided, made a prima facie showing the member of the limited liability corporation is of good moral character and any employees of the entity will likewise be of good moral character.
7. The City Clerk's report showed that there are currently nine medical and retail marijuana licenses overall approved within the City of Trinidad, with three ownerships, at three addresses.
8. Based on the evidence presented at the hearing and the investigative materials provided for the hearing, the City Council finds that the location of the businesses is appropriate, and that the applicant officer is of satisfactory moral character and there is a willingness by the applicant to fully cooperate with the officials of the City in the operation of these businesses.

THEREFORE, the City Council of the City of Trinidad, Colorado, as the local marijuana licensing authority, hereby approves and grants a Medical Marijuana Optional Premise Cultivation Operation License to Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado. The issuance of said licenses shall be withheld until a certificate of occupancy is issued by the Chief Building Official and upon his absolute confirmation of compliance with all codes adopted by the City of Trinidad.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Thomas Murphy, CORA. Mr. Murphy addressed Council and reminded them that the regular meeting before last he had asked a number of questions. He said he was going to press for that this evening, but because of the number of people in attendance and number of issues on the agenda will wait until the next meeting. To Mayor Reorda's comments about the sound system not picking up everyone's voices for the video/audio recording Mr. Murphy produces, Mr. Murphy offered to bring back the people who installed the system and offered to perform a sound check prior to the meetings and adjust it as needed.

Ernest Santos addressed Council regarding the appeal. He told them that he lives in Trinidad. Regarding the marijuana business taking over Cimino's business, he asked if it is worth losing that business, Big O Tire and the oil shop and maybe a couple of motels that want to move because of the people that are going to be there. Mayor Reorda answered that it wasn't the City's decision. It was the decision of Howard Lackey, the property owner. Mr. Santos argued that the City approved the application. Mayor Reorda said they did on the basis that the owner said Terry Sanchez had approval to use that building. City Attorney Downs clarified that the license hasn't been approved. A Conditional Use Permit for the property was disapproved and then approved, however the CUP is not going forward there; Forever Green is not going forward there. CannaCo, the most recent CUP applicant was denied by the Planning Commission at that location. Mr. Santos told Council that this is a small community and that we have more applicants for marijuana than Pueblo West who is ten times bigger than Trinidad. He asked what we will do with all of those shops. We don't have the people to support that many. He concluded that he hates to see what happens to the young kids in our City.

Chris Furia addressed Council regarding the appeal and Planning Commission. Mr. Furia said he looks forward to commenting further at the public hearing on the CannaCo appeal and the dismissal of some of the Planning Commission members. He and others in the audience were confused when noted that it didn't show on the agenda that there would be public comment taken on those items. He said he had a packet of information for Council relevant to this. He asked if they'd like to receive it now or at the public hearing relative to CannaCo. City Attorney Downs told Mr. Furia it would be best to submit the information during the hearing for CannaCo. It was noted that the Planning Commission had also received this packet of information. He reiterated that it would be more appropriate at that public hearing. He clarified that there will not be public comment taken at the appeal hearing, however if the Planning Commission's decision is reversed on appeal there will be a public hearing on the license application. Mr. Furia said himself and others in the audience feel they need to speak at this time in case they are not allowed to at another time. CannaCo was denied by the Commission. One reason that Council is saying is that every application needs to be consistent and beyond him, he said. They keep saying there is a legality issue. If the ordinances were written correctly to start with and not rushed into, he said there would not be legalities to address. He said they have a unique situation concerning the application at Toupal Drive. There have already been two CUPs issued for medical marijuana at that location and asked if it is allowable to have different entity able to sell at retail at the same location. Mr. Furia said there is also a CDOT traffic study required that hasn't been addressed and a septic problem at the site as well as a vagrancy issue. He said it seems that none of these issues have been addressed necessarily, so each situation should be unique and they look forward to that. He asked that his comments be incorporated into the record for the appeal filed by CannaCo. He concluded that it is extremely frustrating how Council is handling some of the issues in our City. The exact same thing seems to be happening as they saw happen a few years ago to the school board and the superintendent that ran it. The public is being chastised and not able to express their concerns. He told Mayor Reorda that he is one of the leaders to get that problem corrected. However, now he and Council seem to be following in the same footsteps in not allowing citizens to speak or allowing due process.

Bill Phillips addressed Council regarding CUPs and the Planning, Zoning and Variance Commission. Mr. Phillips told Council that he and his wife Carol own Big O Tire and Grease Monkey on Toupal Drive. He thanked Council for letting him speak and acknowledged that they have a tough job representing the people and businesses of Trinidad. He said he has attended a lot of Planning and Zoning Commission and City Council meetings in the last several months where a lot of marijuana conditional use permits were discussed. Mr. Phillips reminded Council that they represent the people and said there are a lot of people and businesses in the community who are not in favor of a marijuana business at the particular location they are applying for. He suggested Council should solicit input and respect their opinion. He further suggested they reach out to those people who won't come before them because they are afraid. Council needs to ask their opinions. Mr. Phillips said he is opposed to CannaCo's conditional use permit, as he was for Forever Green, and would like to see Phil Long Toyota stay there for business reasons. He said they do business with Phil Long and the businesses in that area are complimentary to one another. He added that he doesn't believe that conditional use permits for locations where existing businesses are located that are generating revenue and tax dollars should be considered. They have to know they have done some damage to Phil Long. The residents of the Toupal Drive area have some real concerns. He said he's met with them on several occasions. They are opposed to living and bringing up their kids near a marijuana facility. They have concerns about traffic and the safety. There are also police and fire concerns because there is one way to get in and out of that area. The septic system and leach field could be a real problem, and he suggested the EPA will be involved if there are those kinds

of problems. This is a vagrancy prone area and people think it will increase vagrancy with this type of facility locating there. The Planning Commission is the checks and balances to the City Council and their role is an important one. He said he believes they are trying and are doing a very good job. They denied Forever Green and CannaCo CUPs because they thought it was the right decision. He suggested their decision should be respected and understood. Further, Mr. Phillips noted that the Planning Commission listened to the people and gave the public all the time they wished to speak. He encouraged Council to do the same. He reiterated that they are doing a great job. He asked that when making their decision, Council do the right thing for the businesses and people that they represent. He asked that his comments be entered into the appeal record for CannaCo. Councilmember Miles told Mr. Phillips that she understands his request to solicit comments, but explained that Council is advised that they are acting in a quasi-judicial role in these types of matters. City Attorney Downs elaborated that normally he would say please talk to the citizens. However, in this matter, Council is sitting in a quasi-judicial capacity, like a judge, and must remain free from lobbying one way or another to be better able to sit in judgment of appeal. They cannot solicit comments on the subject. Mr. Phillips argued that they represent the people and were elected to represent the people. Mayor Reorda said Council took an oath to uphold the Colorado Constitution and the laws of the City of Trinidad. The Constitution of the state says marijuana is legal. If Council goes against it they are going against the Colorado Constitution.

Dicky Laner, (Richard E. Laner, Jr.), addressed Council regarding CUPs and the CannaCo appeal. Mr. Laner said he understands that marijuana is legal in Colorado. He reminded that it passed by a narrow majority, not a large one. It is legal but it doesn't mean you want it anywhere in Trinidad. It is up to City Council to decide and look at each thing individually. In this area it is not only taking the place of another business, but he said he lives in that area and doesn't see it as a positive thing for the area. He questioned what it will do to their property values. What is happening in Colorado is still an experiment and it may not work. The Federal government still has not legalized it and could still shut it down at any point. He urged Council to think about each application and where it is locating. The residents were never addressed about what was happening in the neighborhood, yet the people who made application say they want to be good neighbors. Good neighbors talk to each; they didn't. He concluded that he wants to make sure the laws are followed and guidelines are followed and they are in compliance with City zoning requirements. Mayor Reorda reminded that he just read into the record that they are to comply and said he just doesn't want it in his neighborhood. Mr. Laner reiterated his opinion that Council should look at each place. He asked how many are being allowed and opined that marijuana is not a positive thing.

Alexander Serafini addressed Council regarding marijuana licensing. Mr. Serafini said he works at Phil Long Toyota but was before Council representing himself. He said his opinion is that a marijuana facility is what one makes it. It is not positive or negative. What is positive and beneficial is education. If people have concerns for the children, education is needed.

Carolyn Dillow Phillips addressed Council regarding CUPs and the CannaCo appeal. Ms. Phillips introduced herself as the co-owner of Big O Tires and Grease Monkey and said she was before Council in opposition to the application by CannaCo. She said she has attended each hearing before City Council and Planning Commission and reminded Council that this isn't fun. It is very intimidating to address this issue. She said she has worked all day and is coming off a business trip and would much rather be home. When they are grilled as citizens expressing their concerns and beliefs, and as a female business owner really treated rudely and interrupted by Commissioner Pritchard and the City Attorney and City Planner, she doesn't want to be here. She reiterated that it is intimidating. She said she believes in our community and our children and this is a wrong decision. She agreed with Mr. Laner in that the communication has not been there. She said they were surprised. She had to go down each row and ask a lot of questions to get answers. Good neighbors don't do that to each other. Overall the Planning Commission asked a lot of questions and were very respectful. Certain members were rude as it went along and makes her not want to be here. She reiterated that she believes in the community and contributes to the community. She told Council that she pays taxes that pay their salaries and she has a right to express herself. Ms. Dillow told Council that the septic system will be a big problem. She said she doesn't know how they can just ignore what people are asking and expressing as concerns. She said she didn't think the septic system will pass for a marijuana facility in Colorado. Councilmember Bonato asked if the septic system and leach field has ever been discussed with the Planning Commission. City Attorney Downs said it has come up but there was no real conclusion. Ms. Dillow reminded Council that Governor Hickenlooper called the legalization of marijuana reckless. She stated that she is from Pueblo and has seen the chaos. She has family in Pueblo West and they are in fact repealing a lot of those facilities because of the problems they have caused. She urged that we not go down that road blindly and that we learn from our neighbors. Mayor Reorda told Ms. Dillow that if anyone on Council treated her rudely he apologized. City Attorney Downs likewise apologized and offered apologies for City Planner Fineberg as well, adding that they didn't mean to.

COUNCIL REPORTS. Councilmember Mattie told Council that he represented the City at a meeting of the Chamber of Commerce one or two weeks ago at the College with Councilmember Fletcher regarding Referendums 2A and 2B, the City's tax measures. Mayor Reorda commented that he was told they did a terrific job.

Councilmembers Bonato, Torres and Miles had nothing to report.

Mayor Reorda reported on his attendance at the Hispanic Chamber dinner where they presented awards to local students. He said he was very impressed. They had a terrific agenda. A 13-year old who is fighting cancer sang at the dinner and they had a great speaker. They are to be commended for the job they are doing in the City of Trinidad.

Councilmember Bolton told Council that she attended the Friends of the Library fundraiser last Friday and that it was a great event. She also reported that the Southwest Chief Commission will be meeting in Trinidad on December 19th and further information will be forthcoming.

REPORTS BY CITY MANAGER. Schedule. Acting City Manager Garrett reminded Council of the breakfast meeting with the County Commissioners and SCCOG Executive Director on Wednesday, October 29th at 8:00 a.m. at Bueno's Restaurant. She also reminded them of the roundtable meeting that same evening at 5:00 p.m. with the Housing Authority Board at the Corazon Square.

Groundbreaking Ceremony. Acting City Manager Garrett told Council that the groundbreaking ceremony for the CNG fueling station is scheduled for Thursday, October 30th at 10:30 a.m. at 806 Goddard Avenue. Invitations are forthcoming.

Health Insurance Renewal. Acting City Manager Garrett informed Council that the City received a favorable renewal quote from CIGNA, the City's health insurance carrier, with an approximate 10% increase. She explained that it was helpful this year to have received other quotes. The health insurance committee agreed to the renewal.

REPORTS BY CITY ATTORNEY. None.

Councilmember Bonato asked Council's consideration in moving item 8i, Consideration of removal of members of the Planning, Zoning and Variance Commission, to be heard after 8a, Tavern liquor license renewal request by Robert Leonetti d/b/a Park Café at 608 Arizona Avenue, as a courtesy to those present. He moved to amend the agenda accordingly. The motion was seconded by Councilmember Bolton and carried unanimously upon roll call vote.

UNFINISHED BUSINESS. Public hearing for consideration of an ordinance amending Gas Tariff No. 1 to allow the City to sell natural gas to compressed natural gas fueling station owners for their resale in that exclusive alternate energy form. Mayor Reorda declared the public hearing open and called for comments for or against the ordinance. There being none, the hearing was closed.

Second reading of an ordinance amending Gas Tariff No. 1 to allow the City to sell natural gas to compressed natural gas fueling station owners for their resale in that exclusive alternate energy form. The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Bolton and seconded by Councilmember Torres. Upon roll call vote the motion carried unanimously.

ORDINANCE NO. 1966

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, AMENDING GAS TARIFF NO. 1 TO ALLOW THE CITY TO SELL NATURAL GAS TO COMPRESSED NATURAL GAS FUELING STATION OWNERS FOR THEIR RESALE IN THAT EXCLUSIVE ALTERNATE ENERGY FORM

Public hearing for consideration of an ordinance repealing and re-enacting Chapter 7, Finance and Taxation, Article 6, Economic Development Fund, to rename it Economic Development Incentive and to set forth allowable development incentives. Mayor Reorda declared the public hearing open and called for comments for or against the ordinance. There being none, the hearing was closed.

Second reading of an ordinance repealing and re-enacting Chapter 7, Finance and Taxation, Article 6, Economic Development Fund, to rename it Economic Development Incentive and to set forth allowable development incentives. The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Miles and seconded by Councilmember Bonato. Upon roll call vote the motion carried unanimously.

ORDINANCE NO. 1967

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, REPEALING AND RE-ENACTING CHAPTER 7, FINANCE AND TAXATION, ARTICLE 6, ECONOMIC DEVELOPMENT FUND, TO RENAME IT ECONOMIC DEVELOPMENT INCENTIVE AND TO SET FORTH ALLOWABLE DEVELOPMENT INCENTIVES

Public hearing for consideration of ordinance amending Article 11, Chapter 14, Section 14-202, License Required, to lift the restriction on the number of medical marijuana center licenses that may be issued within the corporate City limits. Mayor Reorda declared the public hearing open and called for comments, for or against the ordinance. Lee Hadaway addressed Council. Mr. Hadaway said that he has a limited liability corporation that has one of the original 15 medical marijuana conditional use permits. He reminded Council that when this started the City was going to issue five. The only way to get recreational was to first have medical, and there were only going to be five. However, since there were 15 who wanted to apply for the conditional use permits they let everyone apply. So from Friday to the following Tuesday it went from five to 15 and they were going to draw the names out of a hat. Then it was decided that all 15 would get conditional use permits. He said he was still under the impress until four weeks ago that an applicant had to have medical marijuana licensing first to get recreational. Now he said Council wants to lift the limit on the number of medical centers. There are only 400 medical marijuana cardholders in town. If all 15 were to set up shop, that's 26 customers per shop. He said they were told that the City was going to raise the limit to 15 but not to worry because not all would follow through. The most they'd have to worry about is six or seven. That's where we are not and now you want to raise it? What about the people who played the game, jumped through the hoops and have done everything they were supposed to? Every time you turn around the game is being changed. He recalled Council also saying they wanted to look out for the locals first, but all of that is out the window now. Whether he does anything with his or not, he said he'd like Council to stick with that they started out with, although it is too late to go back to the first come first served, but thought they should hold it to the 15. Barbara Santos addressed Council. She said she is deathly against putting in any more medical or retail marijuana businesses because we have a 7,000 plus people and there are 15 applications already. If you put in seven of these that's 100 people per. How many senior retired people, which we are a majority of, will use medical marijuana since they don't sell it in town, the doctors will not prescribe it in town, and who are you going to sell it to? How many businesses will go out of business because of the problems marijuana will bring in? It supposedly mellows out everybody. There are people now that are not working. Companies can't get people to work because they are drugged out. It's going to be worse. We have to live with Council's decisions and those decisions are making Trinidad the laughing stock of the entire state. Carolyn Dillow Phillips

addressed Council. She said she is from Pueblo and has family in Pueblo West. Her four sisters are active teachers in Pueblo. Pueblo proper will be putting it up for a vote in front of the people. They are not going to be so bold as to say we are going to allow all these medical and retail marijuana shops because they feel like they are there to represent the people. They have a population of over 100,000. Pueblo West on the other hand has medical marijuana shops and they are looking to repeal them because of the increased crime and problems it is causing in the schools. They have chaos in the schools right now according to her sisters because of the licensing of marijuana. She reiterated that it is reckless. She said Trinidad doesn't have to follow in the reckless footsteps. We can be intelligent. We don't have to be the laughing stock of the state of Colorado. Ms. Phillips said she has sat through these hearings and has watched these applicants from Pueblo to snap them up here in Trinidad because they can't get them in Pueblo. They are sitting out there laughing saying "Go to Trinidad if you want a license; they will approve anything." She urged Council to be intelligent, value our young people, and to value and listen to the people of the area. Bill Phillips addressed Council and stated he is owner of Big O Tires and Grease Monkey, commercial property owner in the City of Trinidad. He said he is against the increase in the number of conditional use permits for marijuana licenses to an infinite number. Conversely he said he's like to see the number go down. He said he did believe this to be an attempt to quell the black market. Mr. Phillips opined that the City is already in jeopardy with 3019 Toupal Drive, having multiple conditional use permits associated with it. We have our work cut out for us to stay above board with the two CUPs that are going to be issued or the two different companies who are going to own CUPs if it is overturned in a later part of the meeting for 3019 Toupal Drive. It is going to be a legal issue for the City. Councilmember Torres commended Bill Phillips on how he conducts himself with courtesy and in maintaining his professionalism and because he doesn't insult Council's intelligence. There being no further comments, the hearing was closed.

Second reading of an ordinance amending Article 11, Chapter 14, Section 14-202, License Required, to lift the restriction on the number of medical marijuana center licenses that may be issued within the corporate City limits. The ordinance title was read aloud. Councilmember Mattie moved to approve the ordinance on second reading, stating that with all due respect to the arguments presented tonight, yet recognizing the rule of the majority in the most recent vote statewide and locally, and true to his responsibility to endorse the Constitution and the Amendment therein, and with respect to the operation of the free enterprise system, whereby people should be given an opportunity and if they fail, that's their risk. The motion was seconded by Councilmember Miles. Upon roll call vote the motion carried with the following votes being cast:

Aye – Mattie, Miles, Reorda, Torres
 Nay – Bolton, Bonato

ORDINANCE NO. 1968

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO,
 AMENDING ARTICLE 11, CHAPTER 14, SECTION 14-202, LICENSE REQUIRED, TO
 LIFT THE RESTRICTION ON THE NUMBER OF MEDICAL MARIJUANA CENTER
 LICENSES THAT MAY BE ISSUED WITHIN THE CORPORATE CITY LIMITS

MISCELLANEOUS BUSINESS. Consideration of removal of members of the Planning, Zoning and Variance Commission. Councilmember Bonato asked who put this on the Council agenda. City Attorney Downs answered that it was put on the agenda at the request of Mayor Reorda and Councilmember Mattie. Councilmember Bonato said he didn't know anything about it and was shocked to see it on the agenda. He said if there's a legal reason for putting this on the agenda there should be a legal memo provided. City Attorney Downs responded that it was part of the executive session so there was no need for him to provide a legal memo. He pointed out that he provided Council with a packet of information of relevant law on the Planning Commission and how they are installed and removed and a memo with reference to that also. It was not confidential, doesn't need to be, and he added that he is not trying to further an agenda or a cause. Councilmember Bonato asked why Council gets these things right before the meeting at their seating places. He asked why they didn't get it on Friday in their packets. City Attorney Downs said this was his decision at about 3:00 p.m. this afternoon to aid them in their discussion on how Planning Commission members are removed. Also, he provided it because there was a great deal of furor on Facebook. There's also a great deal of concern about whether Council should be the appellant body or the Planning Commission as the Appeal Board. He added that he wasn't tasked by anyone. He said he thought providing the information would be helpful to Council. Councilmember Torres commented that she thought what Councilmember Bonato was trying to say was her concern also. She said she first learned of this item being on the agenda from Facebook and she had a lot of questions at that point. She said she wasn't prepared at that point to remove anyone and wanted to know who, what and why. It should have come forward 24 or 48 hours before, not the day before. City Attorney Downs explained that everyone gets the City Council agenda at the same time. Council has them delivered to their houses. The media looks at the agenda as soon as they can. In this day and age of social media, people want to comment on anything out of the ordinary. He apologized for her learning about it from social media. Councilmember Torres said the packets were delivered Friday so obviously someone knew something. City Attorney Downs said the agenda is posted between 3:00 and 5:00 p.m. on Friday. As the packets are delivered we are posting the meetings publicly. Council may want a heads up but we are basically not trying to give an advantage to anyone. If two Council members ask for an item, it goes on the agenda generally. Posting is done as required. It's the normal course of events. Everyone gets it at the same time. Councilmember Bolton commented that she wasn't aware of the item being on the agenda either. Mayor Reorda said that is why it is being tabled. Councilmember Mattie said he too saw it only in his packet. He said when he had the discussion with City Attorney Downs after the last Planning Commission meeting, and the information presented to him at his work place regarding the Toupal Drive address having become a point of contention again, he said he felt they needed to meet to discuss the operations of Planning and Zoning in as much as from previous experience it creates situations for the City that could be libelous for us. It is important to look at the bigger picture. The City was put in a position of liability by perceived discrimination against a particular person and a particular address. He suggested when the Planning Commissioners vote in accordance with state law and follow the guidelines from staff and counsel, it is an appropriate act. But when they ignore those things, it creates a situation whereby he said he has a responsibility to protect the City. He asked for the agenda item to discuss the matter. At first blush it appears the intent is an attempt to preserve an ongoing relationship between a car dealership and

landowner. That's not a function of City government. City government should not tell a landowner who they can and cannot rent to. That is how the free market system works. That's how this came up. Sometimes you have to address the elephant in the room. He continued that he didn't think City government has a function in landlord-tenant relationships. If statutory and ordinance requirements are met we have a prescribed method to act within that area. At the conclusion of the Planning Commission meeting two meetings ago that resulted in the appeal from Mr. Sanchez, he reminded that he suggested training for the Planning Commission members so they may better understand the scope of their authority as provided by CIRSA. In response to his suggestion for training he had one member of the Planning Commission elected to resign. He continued that he respects and recognizes that all of the people who serve on our boards and commissions are volunteers and are not compensated. It was never his intention to belittle, demean or humiliate any of them. He pointed out his responsibility to be true to the desires of the majority of the most recent vote of the electors relative to the marijuana issue, even if it is inconsistent with his personal beliefs. This was intended to open dialogue between Council and the Planning Commission. The matter is suggested to be tabled to discuss this to better understand their motivation and the limits of their actions and how it impacts the City and all of us as taxpayers who would be responsible for judgment awards should that come to pass. Councilmember Bolton pointed out that she learned today that DOLA can and will provide training for the Planning Commission members. Councilmember Mattie suggested we can all do a better job. We need to not rush into things. He added that he is trying to adjust to situations presented to him and deal with them to the best of his abilities. Carolyn Dillow said that since he spoke about their business as an example, she wanted to respond that the argument he used is extreme tunnel vision. Having attended all of the Planning & Zoning Commission meetings founds that they asked a lot of questions in a lot of different areas and they weren't focused on tenant and property owner relationship. She opined that they were truly doing planning and zoning for the future economic growth of our City and community and were trying to ensure our children had something in the future, and they were not looking at immediate financial gain. Mayor Reorda reiterated that the Constitution of the state of Colorado states that marijuana is legal. City Attorney Downs asked that he not engage the audience. Councilmember Miles complimented the audience for being respectful and said it has been a good give and take. A motion to table this item to the November 5th regular meeting was made by Councilmember Miles and seconded by Councilmember Torres. Upon roll call vote the motion carried unanimously.

Tavern liquor license renewal request by Robert Leonetti d/b/a Park Café at 608 Arizona Avenue. Robert Leonetti was present on behalf of the applicant. Councilmember Bonato moved for the license approval and Councilmember Bolton seconded the motion. Upon roll call vote the motion carried unanimously.

Appointment to the City Tree Board. Jennifer Laidig, the applicant for re-appointment, was present. A motion to re-appoint Ms. Laidig was made by Councilmember Miles and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

Consideration of Performance Agreement between Trinidad-Las Animas County Economic Development, Inc. and the City of Trinidad for administration of Economic Development Incentive Program. Councilmember Bolton made a motion to approve the agreement and Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

Approval of letter of support for Temple Aaron grant applications. Councilmember Bolton moved for the approval of the letter of support. Councilmember Torres seconded the motion, which upon roll call vote, carried unanimously.

Consideration of bid results for the 2014 Water SCADA System Project. Public Works/Utilities Director Mike Valentine advised Council that he conducted a bid opening today for the communication systems that functions between the water pumps and water tanks. He reminded Council that there had been a mandatory pre-bid whereby only one entity attended, the bid request, however, was sent to six or seven companies. Only one bid was received from Browns Hill Engineering & Controls, LLC. He also reminded Council that Browns Hill is the company that provides the communication and support from Monument Lake to North Lake. He concluded that the bid amount was \$111,834 and that it is an emergency situation. They thought the bid amount would be about \$110,000. He recommended they move forward with this bidder. A motion to approve the bid received from Browns Hill Engineering & Controls, LLC in the amount of \$111,834 was made by Councilmember Bolton and seconded by Councilmember Bonato. Upon roll call vote the motion carried unanimously.

First reading of an ordinance repealing and re-enacting Chapter 2, Article 17, Section 2-71(5)(a) and (b), and setting a hearing date 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 November 5, 2014, was made by Councilmember Bolton and seconded by Councilmember Mattie. Councilmember Mattie recalled language that stated members shall be punctual and prepared and corrected his second to include that language. Upon roll call vote the motion carried unanimously.

ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 2, ADMINISTRATION, ARTICLE 17, CODE OF CONDUCT AND CODE OF ETHICS, SECTION 2-71(5)(A) AND (B), CODE OF CONDUCT FOR PUBLIC SERVANTS AND CONSEQUENCES FOR VIOLATION OF CODE OF CONDUCT, RESPECTIVELY

Appeal of a decision of the Planning, Zoning and Variance Commission filed by CannaCo, Application #2014-RMS-24, #2014-RPMF-24, and #2014-RMCF-24, Request for Conditional Use Permit to establish a Retail Marijuana Store, Retail Product Manufacturing Facility, and a Retail Marijuana Cultivation Facility at 3019 Toupal Drive. City Attorney Downs suggested Council schedule the hearing on this matter for November 5, 2014. He said there is a big agenda but the appellants would like the hearing scheduled as soon as possible. The hearing can't be set any earlier than ten or later than 60 days from filing, so the earliest date is November 5th. Councilmember Miles commented that sometimes the most important things are last on an agenda and not given ample consideration. Councilmember Mattie suggested a special

OCTOBER 21, 2014

meeting on November 6th at 5:30 p.m. Councilmember Miles pointed out that it allows people who want to comment to be here after work. Councilmember Bolton moved to set the appeal for hearing on November 6, 2014 at 5:30 p.m. The motion was seconded by Councilmember Bonato and carried unanimously upon roll call vote. City Attorney Downs clarified that the public will not be allowed to comment, the same as last time, and it will be posted accordingly.

New hotel and restaurant liquor license request by Jim and Marsha Royse d/b/a Royse's Black Jack Steakhouse at 225 W. Main Street. City Attorney Downs acknowledged the presence of the applicants. A motion to set the application for public hearing on December 2, 2014 at 7:00 p.m. and the tentative neighborhood boundary as the City limits was made by Councilmember Bolton and seconded by Councilmember Bonato. The motion carried unanimously upon roll call vote.

BILLS. Councilmember Bolton moved to approve the bills and Councilmember Bonato seconded the motion. The motion carried unanimously upon roll call vote.

PAYROLL, October 11, 2014 through October 24, 2014. A motion to approve the payroll was made by Councilmember Miles and seconded by Councilmember Torres. Roll call was taken and the motion carried unanimously.

ADJOURNMENT. There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Bolton and seconded by Councilmember Bonato. The meeting was adjourned by unanimous roll call vote of Council.

ATTEST:

JOSEPH A. REORDA, Mayor

DONA VALENCICH, Asst. City Clerk