

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, December 2, 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:	Acting City Manager	Garrett
	City Attorney	Downs
	Asst. City Clerk	Valencich

The pledge of allegiance was recited.

APPROVAL OF THE MINUTES. Regular Meeting of November 18, 2014 and Special Meeting of November 25, 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 hotel and restaurant liquor license request by Jim and Marsha Royse d/b/a Royse's Black Jack Steakhouse at 225 W. Main Street. Jim Royse, Marsha Royse, Leslie Fisher and Susan Rollins approached Council. Ms. Fisher and Ms. Rollins resumed their seats in the audience at the request of City Attorney Downs. Jim and Marsha Royse testified to City Attorney Downs' line of questioning that they are the two applicants for Royse's Black Jack Steakhouse; they are in partnership, not incorporated. The address of the premises is 225 W. Main Street in Trinidad. The application is for a hotel and restaurant liquor license and that they understand the requirement for food. They further testified that they have submitted to background checks and that Jim Royse's came back clear, however Marsha Royse's background is still pending. Their business plan was described as selling steak and alcohol; they will have a full menu. Although they have not been in the restaurant business before, they own and operate a bed and breakfast. Currently they are in the process of making modifications to the building, primarily having to re-do the front entrance area of the business. Plans were submitted and okayed. Chief Building Official Chris Kelley has given them a list of things to be done in order to get a certificate of occupancy and they have diligently been trying to do those things. The front door once complete will be ADA compliant. It resulted in a major structural modification to the front entrance. There are no other significant structural changes proposed. The rooms that exist above the restaurant that were historically rented will not be used in that way. The liquor license application does not include the upstairs portion of the building; however it does include the basement. The Royse's testified that they understand the requirements of holding a liquor license, for instance that no alcohol can be removed from the premises. They own the building. A copy of the deed of trust which was filed today at 4:00 p.m. was provided at Council's seating places. They have closed on the building and the deed of trust was signed on November 10, 2014. The two of them own the building as a married couple and partners. Regarding the petitions, they testified that they had them circulated with respect to the desires of the neighborhood and everyone was in favor of the license being granted. City Attorney Downs disclosed that he was approached by a circulator and signed the petition as an individual. To additional questioning from City Attorney Downs, the Royses testified that no one opposed them seeking a liquor license for the premises. The two petition circulators collected two to three pages of signatures all in favor of granting the license. Having reviewed their application filed with the City, the Royses testified that it was correct in all material respects. They testified to understanding their obligation with respect to being a liquor license holder and their employees will receive training. They could not provide a specific opening date. City Attorney Downs submitted that the application is complete and if Council was inclined to vote in favor of granting the license they do so conditioned on Marsha Royse passing the background check. Mayor Reorda called upon anyone present who wished to speak against the license request. A motion to approve the 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 was made by Councilmember Fletcher and seconded by Councilmember Miles. Upon roll call vote, the motion carried unanimously. Mayor Reorda read the following into the record:

This matter came on for hearing on the application of Jim and Marsha Royse d/b/a Royse's Black Jack Steakhouse at 225 W. Main Street in Trinidad, Colorado, for a Hotel and Restaurant Liquor License, before the City Council of the City of Trinidad, Colorado, acting in its capacity as the local licensing authority on December 2, 2014, in City Council Chambers in City Hall. The City Council having reviewed the application and supporting documents, letters of recommendation, reports of the City Clerk and other City staff, petitions admitted into evidence at the hearing and testimony taken during the hearing, makes the following **FINDINGS**:

1. The neighborhood consists of that area located within the City's corporate limits.
2. Jim and Marsha Royse testified in favor of granting the license. No other persons testified in favor of or in opposition to the granting of the license.
3. The City Clerk's report showed that there are 41 liquor-licensed outlets within the neighborhood. Of these, there are four 3.2% Beer Off-Premises licenses, one 3.2% Beer On-Premises license, one Club license, 14 Hotel and Restaurant licenses, one of which has Optional Premises, eight Liquor Store licenses, and 10 Tavern licenses, one Arts license and two Beer and Wine licenses.
4. The applicant submitted a petition regarding the liquor license application, which was admitted into evidence. A total of 76 signatures appeared on the petition, of which 69 were residents or business owners/managers from within the neighborhood, 21 years of age or older, all favoring issuance of a liquor license at this location. No petitions opposing the issuance of the license were submitted.
5. The applicant through testimony and other evidence, made a prima facie showing that the reasonable requirements of the neighborhood are not being met by existing liquor outlets, and that the adult inhabitants of the neighborhood

favor issuance of the license.

6. Based on the evidence presented at the hearing and the investigative materials provided for the hearing, the City Council finds that the reasonable requirements of the neighborhood are not being met by the existing liquor outlets, that the adult inhabitants of the neighborhood favor issuance of the license to the applicant, and that the applicant officers are of satisfactory moral character.

THEREFORE, the City Council of the City of Trinidad, Colorado, as the local liquor licensing authority, hereby approves the application of Jim and Marsha Royse d/b/a Royse's Black Jack Steakhouse at 225 W. Main Street in Trinidad, Colorado.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. Mike Cimino addressed Council regarding 3019 Toupal Drive. Mr. Cimino advised Council that for their information regarding 3019 Toupal Drive, they have filed a lawsuit for disclosure on the property for default on a loan to Phil Long for money owed. Phil Long has received a letter and will now be making payments to International Bank because of a second default by Howard Lackey whereby he is not paying his payments to the bank. He commented that the information may be relevant to someone who might want to inhabit that location.

COUNCIL REPORTS. Councilmember Mattie had nothing to report.

Councilmember Fletcher reported on her participation in the Conversations with Council led by Councilmember Miles on small business on November 17th. She also reported on her attendance of the ARPA meeting in La Junta that Thursday. On November 24th she participated in the Conversations with Council where Tim Stroh discussed tax incentives for historic buildings. She continued that the lighting of the tree at City Hall on Friday and parade of lights on Saturday for the Christmas season were delightful. The reception following the parade at JuJo's was fun as well. There was a lot of energy in the crowd that night and she thought a good time was had by all.

Councilmember Bolton thanked all who participated in the Christmas activities last week.

Councilmember Bonato expressed thanks to Mrs. Duran and Ms. Smith of Hometown Holidays for organizing the tree lighting and parade. He thanked the City employees for decorating and getting things looking really nice. The parade of lights was really fantastic, not just because of the soldiers and striker unit, but because of all of the people who participated. They did a wonderful job. Councilmember Bonato said he was able to meet the soldiers at JuJo's after the parade. He concluded that he hoped we could work harder next year with Council and staff to get things going for Labor Day.

Councilmember Torres had nothing to report.

Councilmember Miles reported on her moderating the Conversations with Council and said she was excited about what this can mean. Tara Marshall started the task force with staff a long time ago. It has come a long way. The meeting was very well attended and there were a lot of new faces. The historic preservation tax credits will be starting next July and it could make a difference with the rehabilitation of many downtown buildings. She encouraged people to ask questions and learn more about the tax credits. Concerning the ARPA board meeting she said that they talked about economic development utility rates in the Industrial Park because of the opportunity with it being annexed years ago. The City has an opportunity to compete for the new load. The ARPA board gave an encouraging and she said she hopes that progresses. Finally she reported that she is taking a short hiatus from serving as the Economic Development Board liaison because she finds herself in a conflict.

Councilmember Fletcher reminded that the first column appeared in today's paper, "Notes from City Hall." She said she looks forward to each member of Council producing an article.

REPORTS BY CITY MANAGER. Master Trail Plan. Acting City Manager Garrett told Council that the final Master Trail Plan public meeting will be held at 5:30 p.m. tomorrow evening at the Community Center.

Brownsfield. Council was informed by Acting City Manager Garrett that there will be a public meeting regarding the Brownsfield grant this Thursday at 5:30 p.m. in Council Chambers at City Hall. Council was encouraged to attend.

Urban Renewal Authority. Acting City Manager Garrett pointed out at Council's seating places a list of potential Urban Renewal Authority appointees. Tara Marshall asked that additional names be submitted to her this week so a URA 101 can be scheduled.

Action 22. Acting City Manager Garrett advised that the Action 22 economic development planning follow up meeting from the September meeting will be held on December 17th at 11:30 a.m. She asked Council to RSVP to her so she could RSVP collectively.

Southwest Chief Meeting. Council was reminded that on December 19th at 10:00 a.m. the Southwest Chief Meeting will be held at City Hall.

Financial Reports. Acting City Manager Garrett pointed to Financial Reports for period ended October 31, 2014, at Council's seating places and noted Finance Director Medina's presence for questions.

REPORTS BY CITY ATTORNEY. Marijuana. City Attorney Downs reported that the first marijuana business opened in Trinidad this weekend. Mayor Reorda said if you haven't been there you should go inside and see what's happening. City Attorney Downs identified the business as Trinidad's Higher Calling U.

UNFINISHED BUSINESS. Findings and Decision regarding the 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 2019 Toupal Drive. City Attorney Downs advised that as agreed upon by Council, they all expressed their feelings in writing to him concerning the appeal by November 24th. Councilmember Mattie moved that the decision of the Planning, Zoning and Variance Commission of October 14, 2014, denying the Conditional Use Permits for CannaCo, at 3019 Toupal Drive be reversed, and that the Conditional Use Permits be and hereby are granted, as supported by the following findings:

FINDINGS OF FACT, AND CONCLUSIONS, WITH RESPECT TO THE CANNACO APPEAL FROM THE TRINIDAD PLANNING, ZONING AND VARIANCE COMMISSION MEETING OF OCTOBER 14, 2014

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND:

1) At a hearing held on October 14, 2014, the Trinidad Planning, Zoning and Variance Commission denied three conditional use permit applications for a retail marijuana establishment at 3019 Toupal Drive, in Trinidad, Colorado. Those conditional use permit applications were numbered and are identified as 2014-RMS-24, 2014 RPMF-24, and 2014 RMCF-24. These applications were brought in the name of CannaCo.

2) After a fairly lengthy hearing, the Trinidad Planning, Zoning and Variance Commission denied the conditional use permit applications. There were five Commission members that made up the Planning, Zoning and Variance Commission as of October 14, 2014, and all were present. The denial of the conditional use permits was by a three to two vote, with Commission Members Davis, Leone and George voting to deny the applications for the conditional use permits.

3) City Staff, in the form of City Planner Louis Fineberg and City Attorney Les Downs were present at the Planning and Zoning Commission hearing in question. Staff advised the Commission both during and at the conclusion of the hearing that the proposed conditional use permits should be granted.

4) The reasons cited by the majority of the Commission for the denial of the applications were: concerns about safety (Commissioner Leone), concerns about overlapping conditional use permits at that premises (Commissioner Davis), and no reasons given by Commissioner George.

5) A timely appeal was filed and perfected by the applicant/appellant pursuant to Trinidad Code of Ordinances section 14-139. Per ordinance, the appeal hearing was scheduled in front of the Trinidad City Council, for November 18th, 2014. Pursuant to section 14-141 of the Trinidad Code of Ordinances, a delayed decision was agreed upon by the Trinidad City Council, with findings and a decision to be tendered by the individual members of City Council to the City Attorney by noon, November 24th, 2014. The vote on the subject appeal was scheduled for the regular meeting of the Trinidad City Council on December 2nd, 2014.

II. THE APPEAL HEARING:

6) An appeal hearing was held in front of the Trinidad City Council on November 18th, 2014. A procedure was agreed upon, where the applicant/appellant, the parties in opposition, and the City Attorney would all be heard from.

7) At the appeal hearing the following parties/witnesses were heard from:

---For the applicant: Mr. Josh Bleem, as the owner operator of CannaCo, and Mr. Howard Lackey as the applicant's landlord;

---For the groups in opposition to the application: Mr. Chris Furia, representing residents in the subject area; Mr. Bill Phillips representing businesses in the subject area, and; Mr. Gary Fentiman, representing the Phil Long Dealership, the existing business at the proposed location for the applicant's place of business;

---Les Downs, as City Attorney for the City of Trinidad.

---Staff members Mike Valentine as the Public Works Director, and Louis Fineberg as the City Planner also answered questions from individual City Council members as the questions arose.

III. FINDINGS OF FACT AND CONCLUSIONS:

8) The applicant has shown that the proposed conditional use permits for 3019 Toupal Drive are for a valid and legal business operation and undertaking, and that the sale of retail marijuana is permitted and allowed by the City of Trinidad. There is no reason why this type of business should not be allowed at this address or at this location.

9) Concerns about safety, or overlapping conditional use permits, are without merit. Such concerns, if they existed at all, were not elaborated upon or adequately expressed. There is no legal or factual reasons why conditional use permits for a retail marijuana operation at this address should not be issued. While medical marijuana conditional use permits did exist for another applicant for this address, that has no bearing on whether or not Cannaco should be issued retail marijuana conditional use permits. Further, safety issues were not sufficiently articulated or expressed, and if such safety issues had been set forth clearly, such concerns could have been dealt with as additional conditions for the conditional use permits being issued.

10) It was, therefore, an abuse of discretion and reversible, actionable error for the Trinidad Planning, Zoning and Variance Commission to deny the conditional use permits for CannaCo, at 3019 Toupal Drive.

11) As was stated by staff, if there were meritorious concerns about this location or any matters associated with it, the Commission could have attached conditions to the granting of the conditional use permits. That wasn't done, nor was it attempted.

For the foregoing reasons, it is the opinion of the majority of City Council that the Planning and Zoning Commission should be reversed, and the conditional use permits for this applicant at this address should be and hereby are, granted. The motion was seconded by Councilmember Bolton and carried by majority vote with all Council members voting aye, except Councilmember Bonato who cast a dissenting vote. Councilmember Miles commented that she thought that City Council, in hearing the license application, should address the issues raised about CDOT and the possible need for an access permit, or a study of the septic system, etc. because they are valid concerns and they should be resolved.

Hotel and restaurant liquor license renewal request by Image Hospitality, Inc. d/b/a Quality Inn at 3125 Toupal Drive. A representative was present. Councilmember Fletcher asked if it is open. Harry Patel on behalf of Image Hospitality, Inc. advised that it is. Councilmember Fletcher moved to renew the license. Councilmember Bolton seconded the motion, which upon roll call vote carried unanimously.

MISCELLANEOUS BUSINESS. Modification of premises request by M & M Distributing, LLC at 422 N. Commercial Street. Councilmember Bolton moved for the approval of the modification of premises request. The motion was seconded by Councilmember Fletcher and carried by a majority vote with all Council members voting yes

with the exception of Councilmember Bonato who voted no.

New Retail Marijuana Store license application filed by M & M Distributing, LLC at 422 N. Commercial Street. Councilmember Fletcher made a motion to set the new retail marijuana store license application for public hearing on January 6, 2015 at 7:00 p.m. Councilmember Mattie seconded the motion. Upon roll call vote the motion carried by majority with all Council members voting aye, excepting Councilmember Bonato who cast a dissenting vote.

New Retail Marijuana Cultivation Facility license application filed by M & M Distributing, LLC at 422 N. Commercial Street. Councilmember Bolton made a motion to set the new retail marijuana cultivation facility license application for public hearing on January 6, 2015 at 7:00 p.m. Councilmember Miles seconded the motion. Upon roll call vote the motion carried by majority with all Council members voting aye, excepting Councilmember Bonato who cast a dissenting vote.

New Retail Liquor Store license request by El Paso Liquor, Inc. d/b/a El Paso Liquor at 1101 E. Main Street. A motion to set the new retail liquor store license request for public hearing at 7:00 p.m. on January 6, 2015 and set the tentative neighborhood boundary as the corporate City limits was made by Councilmember Bolton and seconded by Councilmember Bonato. Roll call was taken on the motion which carried unanimously.

First reading of an ordinance appropriating certain sums of money out of the revenues of the City of Trinidad, Colorado, to defray and meet the liabilities of the City of Trinidad for the fiscal year beginning January 1, 2015 and ending December 31, 2015; said ordinance being termed the annual appropriation bill for the 2015 fiscal year, 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 December 16, 2014 was made by Councilmember Fletcher. Councilmember Bonato seconded the motion which carried unanimously upon roll call vote.

ORDINANCE NO.

AN ORDINANCE APPROPRIATING CERTAIN SUMS OF MONEY OUT OF THE REVENUES OF THE CITY OF TRINIDAD, COLORADO, TO DEFRAY AND MEET THE LIABILITIES OF THE CITY OF TRINIDAD FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2015; SAID ORDINANCE BEING TERMED THE ANNUAL APPROPRIATION BILL FOR THE 2015 FISCAL YEAR

Resolution authorizing renewal of health insurance benefits for City employees and their dependents through CIGNA Health Care for plan year January 1, 2015 through December 31, 2015. Councilmember Bolton moved for the adoption of the resolution and Councilmember Fletcher seconded the motion. Upon roll call vote the motion carried unanimously.

RESOLUTION NO. 1443

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, AUTHORIZING RENEWAL OF HEALTH INSURANCE BENEFITS FOR CITY EMPLOYEES AND THEIR DEPENDENTS THROUGH CIGNA HEALTH CARE FOR PLAN YEAR JANUARY 1, 2015 THROUGH DECEMBER 31, 2015

Appointments to the Planning, Zoning and Variance Commission. Acting City Manager Garrett reminded that there are currently two vacancies on the Commission and three applicants, Robert Bruce, Tom Potter and Jim Begano. Two may be selected this evening to fill the vacancies. One term will be a full four-year term and the other will be a two year term. She asked for direction on who will fill which term. Councilmember Mattie commented that since there were originally three vacancies and Carl Goodall was appointed to fill one of those vacancies, it left two. Each applicant came forward to present their position and be interviewed and he asked them six questions relevant to their appointment to the board. He said each of the applicants satisfactorily answered the questions to his thinking. Therefore any one of the three can fill the two vacancies. He suggested out of fairness to Robert Barker and Tom Potter who applied first be appointed and should a new vacancy occur on the Planning Commission, Jim Begano be given priority consideration. Councilmember Bonato argued that Jim Begano turned his letter late because he didn't know about this position and the Chronicle News said it was opened until filled. He opined that Councilmember Mattie's suggestion was unfair. Councilmember Bolton asked Councilmember Mattie if his suggestion was a motion. He confirmed it was. Councilmember Bolton seconded the motion. Upon roll call vote the motion carried by majority with all Council members voting aye except Councilmember Bonato who cast a dissenting vote. Acting City Manager Garrett stated the term would be determined by whoever turned in their letter first or drawn from a hat.

Ratify approval of submission of grant request to Department of Local Affairs for Water Treatment Plant Upgrades (beyond what was approved on November 18, 2014). Councilmember Bolton moved to ratify the submission of the DOLA EIAF grant application for Water Treatment Plant upgrades and Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

Acquisition of CNG/gasoline trucks from Pioneer Natural Resources. Public Works/Utilities Director Mike Valentine addressed Council. He reminded that as discussed at work session the City has a tremendous opportunity to upgrade the City's fleet with an offer from Pioneer Natural Resources for these vehicles. He pointed to the list and said they have been broken out to show where they can be taken out of the budget. He recommended the City purchase those identified and upgrade the City's fleet. Councilmember Mattie asked if he intends to buy all nine vehicles. Public Works/Utilities Director Valentine clarified that he is suggesting they buy the first eight listed, eliminating the ninth. Councilmember Mattie concurred, noting the first eight are two to three years old and the ninth is two times older, near the

end of its effective life, with 98,000 miles. Also the others are CNG vehicles. Councilmember Fletcher asked if eight vehicles in the City's current fleet will be retired and auctioned. Public Works/Utilities Director answered that some will be and others will be transferred to other departments. He clarified that seven will be auctioned. Councilmember Bonato asked if he could consider buying four of the trucks and putting the extra money toward a loader down payment for the landfill. He said he knows the City needs trucks but thought there was a need for a loader more importantly. Public Works/Utilities Director Valentine answered that it is a possibility. He said he would have to go out to bid for a loader and it couldn't be done by the end of the year. He pointed out that a loader will cost around \$210,000. Councilmember Bolton made a motion to purchase the eight trucks as recommended from Pioneer Natural Resources and Councilmember Mattie seconded the motion. Councilmember Miles mentioned that at work session it was stated that these trucks are available to the City at about 30% of what they would cost new. Public Works/Utilities Director Valentine confirmed that statement and pointed out that these trucks have CNG conversions at an approximate cost of \$8,000 and utility boxes at an additional cost of \$9,000. He reiterated that they are a tremendous deal. Upon roll call vote the motion carried unanimously.

Approval of process to interview applicants and ultimately select the City Manager. Councilmember Miles noted that the proposed procedure should say that while they are in executive session they will nominate, not vote. Then in paragraph three it says the candidate getting two or few votes will be eliminated. Those getting more than three will survive, should say three or more will survive. Also, in the second round they reduce the number of nominations to move forward. It doesn't say how they define the top nominees. It doesn't really say the number that will determine who will be a finalist. She said it could be confusing and questioned if it will be the top three. City Attorney Downs said the more certainty we lend to the process the better. It could be the top three or five. He suggested they not leave anything to argument or unstated. He said he didn't know if they wanted to get an exact number. Councilmember Miles questioned what if four of the seven of them want three and three of the seven want four. She said she's afraid they will end up with five to seven finalists. Mayor Reorda confirmed they had received 25 applications. He said in executive session they will review them and selected the ones to interview. City Attorney Downs said the suggested procedure talks about a third round and Council having fewer votes by each Council member to reduce the number of applicants to get the final number. Councilmember Mattie commented that surprisingly it seems to work itself out. Councilmember Bolton further commented that as they get down to five for instance, what's to say two of the five will not pull their names from consideration or have accepted another position. Councilmember Miles made a motion to approve the procedure as amended and Councilmember Bolton seconded the motion. The motion carried unanimously upon roll call vote. The procedure approved is as follows: While in executive session, Council will, from amongst the pool of candidates who have applied, each nominate six candidates that they, as individual council persons, prefer. Each Councilperson is not only allowed six nominations, but is required to cast and utilize all six of their nominations. From those, the initial "top vote getters" will be the first round of finalists. "Top vote getters," should be comprised of any candidate who receives three or more nominations in the first round of nominations. Any candidate getting two or fewer will be eliminated from the first round of nominations. Any candidate with three or more nominations will survive until the next round of nominations. In the second round, each Councilperson will be allowed four nominations. Each Councilperson must cast four nominations. From those nominations, there will be a number of finalists, or second round "top vote getters." Those finalists will proceed to the third round of nominations. If necessary, there will be a third round of nominations. That will be determined by how many finalists survive the first two rounds of nominations. If there are more than five finalists, then Council will proceed to a third round of nominations. In the third round of nominations, each Councilperson will have two nominations. Each Councilperson must cast both nominations. After the third round of nominations, Council will have the finalists.

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

PAYROLL, November 22, 2014 through December 5, 2014. A motion to approve the payroll was made by Councilmember Fletcher and seconded by Councilmember Bonato. 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 Fletcher. The meeting was adjourned by unanimous roll call vote of Council.

ATTEST:

JOSEPH A. REORDA, Mayor

DONA VALENCICH, Asst. City Clerk