

February 9, 2010

Minutes of the City Council Meeting held on Tuesday, February 9, 2010 at Alpine City Hall, 20 North Main, Alpine, Utah 84004 at 7:00 pm.

The following members were present:

Mayor: Hunt Willoughby

City Council Members: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy

Staff: Ted Stillman, Janis H. Williams, Charmayne Warnock, Ron Devey and David Church

Others: Jannicke Brewer, Caleb Warnock, *The Daily Herald*, Kip Botkin, *Police Chief*, Sgt. Jake Mooseman, Greg Young, Craig Carlisle, *Fire Chief*, Jessica Bryant, Ron Eaton, Cameron King, Ross Welch, Alexa Lee, Jerry Larson, Joan Evans, Don Leavitt and Adele Leavitt

- I. **CALL TO ORDER.** Mayor Hunt Willoughby called the City Council Meeting to order at 7:00 pm and welcomed those in attendance. City Council Members and staff were introduced.
- II. **PRAYER/OPENING COMMENTS** – Troy Stout
- III. **PLEDGE OF ALLEGIANCE.** Ted Stillman led the audience in the Pledge of Allegiance.
- IV. **PUBLIC COMMENT** - Time has been set-aside for the public to express their ideas, concerns and comments on items not on the agenda. There were no comments from the public.
- V. **CONSENT CALENDAR**

Business Licenses:

Carla Pratt; MANDI'S CANDIES, 393 N. Matterhorn Dr.

Cheryl Schauerhamer; CHERYL'S SALON, 750 North Main

MOTION: Jim Tracy moved to approve the Consent Calendar. Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 0. Motion passed.

VI. **ACTION ITEMS**

A. LYNTON HOME - LIMIT OF DISTURBANCE. Ted Stillman said the Lynton home is under construction up on Preston Drive and the site plan was approved with a 60,000 square foot limit of disturbance area. There is a retaining wall that needs to be built adjacent to the limit of disturbance. In order to safely build the retaining wall the builder needs to disturb about six feet into the limit of disturbance area; however, the area will be restored once the wall is complete. Greg Young said that our Building Inspector from Sunrise Engineering wanted the Council to grant permission to encroach in the limit of disturbance area. Troy Stout asked if scrub oak would be removed and Greg Young said yes. This won't affect the trail and they just want this to be safe. Greg Young said they won't be able to replant scrub oak but he will be able to plant something very similar so it will blend in. Shane Sorensen said that when this came to Planning Commission and the City Council this wasn't something he could perceive.

MOTION: Jim Tracy moved that at the request from our City Inspector and in light of safety that the City Council allow a 6 foot encroachment on the Lynton limit of disturbance area to construct a retaining wall. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 0. Motion passed.

B. UDOT – TRANSFER OF ROAD. Ted Stillman said that UDOT is proposing to transfer Main Street to the City from just south of the roundabout to the City limits as they are doing a lot of road alignments. UDOT has offered Alpine City \$25,296 to facilitate the transfer; however, Ted Stillman said this road needs to be resurfaced now. Shane Sorensen estimated it would cost \$178,178 to mill and resurface the road. Staff recommended that the City not take ownership of the road until UDOT mills and repaves it. Mayor Hunt Willoughby said that UDOT's basis for offering the \$25,296 was one-seventh of what the overlay

would cost because roads are overlaid once every seven years; however, it needs it now. Mayor Willoughby asked if we would be willing to take on the added mileage if we had a new paved road. UDOT had sent a letter to the Mayor which stated "There should be a shared commitment for maintenance responsibilities" and when UDOT transferred Main Street to the City from just south of the roundabout to 200 North they paved it first. Shane Sorensen said that if UDOT milled and repaved the road right now they would just mill down 1" and put 1" back and this actually came in within \$10,000 of budget. Shane Sorensen felt there should be some spirit of cooperation as they are trying to make our road system better and then explained why this was being offered to us. Shane Sorensen said he felt UDOT needed to give us something for it and be fair about it as Alpine doesn't get anything for this. Jim Tracy referred to the sentence in their letter regarding shared responsibilities and suggested we take UDOT up on their offer but offer to do the snow plowing, sweeping and the striping of the road and let them do the milling and repaving. We repave roads in the City as part of our ongoing maintenance projects and if we have to repave Main Street we will have to skip two years or ongoing maintenance just for that one section. Shane Sorensen said that based on his observation the only things they have done since they repaved the road is snow removal; they sweep it once a year and stripe it. Shane Sorensen also said he went to a meeting last year and the Road Commission listened to our concerns and said they would go back and look at this again. Representative John Dougall told Bradley Reneer that we can't play hardball with UDOT because they can and have in the past with other cities just given over the road with no money. We should negotiate but not act like we can make demands. David Church said the current thinking of UDOT, the Road Commission and some members of the Legislature is that on highways such as this one that no longer serve a State purpose need to come off the State system and need to get on the County and City system.

Kent Hastings asked why they didn't extend the road from the Freeway into Alpine and Mayor Hunt Willoughby said part of this ties into the reconstruction of I-15. Mayor Willoughby said we have a good relationship with our Region III Director and said it would be adversarial to give them the ultimate of what we would like and then negotiate with them. Mayor Willoughby said this would be a heavy duty plow area because of the wind and Shane Sorensen said this would be moved up to the top of the list along with a few other roads in town. Shane Sorensen suggested that we carbon copy the letter to all the Road Commission members and all those who UDOT sent their letter to. Mayor Willoughby asked if we are interested in doing it for the \$25,296.00 and then said we will come up with a letter.

C. ORDINANCE NO. 2009-02, AN ORDINANCE AMENDING SECTION 2.2.2 OF THE DEVELOPMENT CODE WHICH SETS THE TERMS OF MEMBERS OF THE PLANNING COMMISSION. Mayor Hunt Willoughby said the City Council at their meeting of January 26, 2010 voted to send an Ordinance to the Planning Commission for their recommendation that would reduce the term of the Planning Commission members to four (4) years. The Planning Commission considered the Ordinance at their meeting of February 2, 2010 and made the following motion:

" Steve Cospers moved to leave the Ordinance on term limits for the Planning Commission at six (6) years based on the finding that it takes time to learn the Ordinances and how they work, learn the subdivision process, provide continuity and the finding that more experience makes one more effective. Tami Hamilton seconded. Ayes 5. Nays: 1. Bryce Higbee, Steve Cospers, Jannicke Brewer, Tami Hamilton and Ron Eaton voted aye. Jason Thelin voted nay. Motion passed."

Jannicke Brewer said the members of the Planning Commission were surprised they were asked to consider this request. The members felt it wasn't a burden to serve on the Planning Commission for six years and if you have to resign then someone else takes your place. The Planning Commission was concerned that a 4-year term might coincide with elections and this might become a political appointment. Mrs. Brewer further stated that we would have to appoint two new commissioners each year if we go to 4-year terms. There is a learning curve and it takes the commission members time to get up to speed. Some subdivisions are in the process for four or five years to complete and it would be hard for the Planning Commission to have new people every year. Jim Tracy asked how many people have served for more than six years and Jannicke Brewer said that Dale Porter and Steve McArthur did. Kent Hastings said that Planning Commissioners in other cities he has checked with serve only for four years. Councilman Hastings further stated that when he served as the liaison from the City Council on the Planning Commission for only one year, he felt up to speed on all issues. Mayor Hunt Willoughby said he doesn't see a driving force to change the Planning Commission terms to four years. We are unique and not like other cities. Troy Stout asked if the Planning Commission terms have always been six years, was there ever four-year terms and is there a driving reason to change it. Councilman Stout said the only term he knows of that is longer than four years is the US Senate and those

are elected positions but asked if there was anything else out there at the municipal or state level that is longer than four years. Councilman Stout said that what he was getting at is that four year seems to be the traditional number we put on terms and why Alpine went to six years, he doesn't know. Troy Stout continued saying that what concerns him is when we reappoint somebody we are actually reappointing them through their twelfth year and if we have a four-year term we would be reappointing them through their eighth year. Councilman Stout said that two terms covering twelve year seemed a little excessive to him and said he felt that a six-year term does put a limitation on others in the community who would like to serve. Bradley Reneer said it is wise to have continuity and the Chairman of the Planning Commission always attends our meetings and keeps us advised of what the Planning Commission does. Kent Hastings disagreed and said that one member in attendance does not represent the whole Planning Commission and thinks six years is too long.

Jim Tracy said when he became chairman of the Planning Commission it was difficult for him to do all the research and he was retired and had the time to do all the reading needed. Councilman Tracy said that someone who is working full time and takes on the chairman position will have a very heavy burden. Nobody has come up with a good reason to change the Planning Commission terms and said that right now the Planning Commission is working well and we should continue as is then stated that if it's not broke let's not fix it. Kimberly Bryant asked what if the Planning commission isn't working well and Jim Tracy said we could amend the ordinance to remove a member. Right now the ordinance said we can remove a member for poor attendance or for just cause. Kent Hastings said he differed with Jim Tracy and felt this would be beneficial to the City. Jim Tracy said the Planning Commission was correct when they said it shouldn't be political and if it was on four years, Councilman Tracy recommended that this be on odd years and all current members serve out their current terms and all the new appointees be appointed for four years. Bradley Reneer said he felt better with Jim Tracy's recommendation.

Jannicke Brewer said she had made a chart for Planning Commission and if this ordinance is taken down to four years, Ron Eaton's term would have already expired because he was filling out two years of a six-year term and Jason Thelin's term would already be expired. Bradley Reneer said he felt the Planning Commission members should be able to finish their current terms. David Church said the Planning Commission is completely governed by the municipality's ordinance and is not controlled by State Law.

Jim Tracy said the appointment/reappointment of members should be on odd years and be effective on January 1 because that is when the appointments are made. One advantage of having seven members and six-year terms is that one member is appointed every year. Councilman Tracy said he saw more negatives to the four-year term and Bradley Reneer agreed and said that possibly some citizens would feel more comfortable with a four-year commitment than a six-year commitment. Troy Stout said the people he talked to were startled to find out the term was for six years and suggested that we look at staggered terms. Mayor Willoughby said that could become more political. Jim Tracy said that Highland City is reviewing their Planning Commission laws right now. Councilman Tracy stated that some subdivision plans go on for more than four years and to have somebody that has been involved for a longer period of time for the reviews and approvals is advantageous. Troy Stout asked how often the chairman of the Planning Commission is elected and Jannicke Brewer said the Bylaws state every other year.

MOTION: Bradley Reneer moved that we change Paragraph 2 to read "As the Planning Commission member's term expire, future appointments will be for four years." Jim Tracy seconded. Ayes: Kimberly Bryant, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 1. Kent Hastings voted nay. Motion passed.

There was discussion about the previous motion. Kimberly Bryant said she would have voted differently if she had understood the motion. Kent Hastings said he thought we should take another look at the motion as he thinks paragraph 2 in the draft ordinance was OK as written. Troy Stout said he understood the motion and said it seemed fair that the people who have agreed to serve have been asked to serve for a length of time and we are asking them to finish that. Councilman Stout said he didn't want to change the ordinance so much that it changes the status quo of today of what people have agreed to serve. Jim Tracy said he thinks the wording of this ordinance is correct, but felt that it should take effect in January when the terms are up.

MOTION: Kent Hastings moved to approve Ordinance No. 2010-02 as amended and in 2.2.2 strike the sentence that says "provided that the first appointments shall be for such terms that the term of one member shall expire annually." Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer and Troy Stout. Nays: 1. Jim Tracy voted nay. Motion passed.

D. DISCOVER AND PRESERVE ALL HISTORICAL ACCESSES AND TRAILS IN AND AROUND ALPINE CITY THAT PASS OVER PRIVATE PROPERTY. Ted Stillman said that at the City Council meeting of January 26, 2010 the City Council was shown a map of these historical trail accesses and they were discussed. As a follow up to that discussion it is proposed that the City Council review the historic trail accesses.

Kimberly Bryant asked about the 800 South trail and what happened to the BYU group that was going to build the bridge. It was stated this was not an historical trail. Mayor Hunt Willoughby said that today when he was walking in he got an e-mail asking about this trail. Mayor Willoughby said this was not part of the discussion and Kimberly Bryant said it was her understanding that this was about any trail that had been used historically for more than ten years. Jim Tracy said that at that meeting we were asked to e-mail any additional trails that we could think of to that list. Councilman Tracy asked if there were any additional trails that should be added to this list.

Box Elder South adjacent to Lambert Park - Troy Stout asked about some trails in Box Elder South and Mayor Willoughby said these trails have been developed in the last ten years as mountain bike trails. We are looking at getting from current City boundaries on trails that have been there for a long time to public land on the other side. David Church said the law states that a trail or road that has been used for more than ten years as a public access or highway is deemed to be dedicated to the public by use. Any member of the public who thinks that could assert that. The controlling entity for those roads and rights-of-way is the governmental entity which those trails are in. These trails/roads are in the county and they are governed by that entity. Jim Tracy said he doesn't think we are the proper people to decide this but the Utah Wilderness Access Foundation should be tackling this one. David Church said we don't want to confuse ten years with public use. It is ten plus years, adverse use. Permissive use doesn't make it a public highway and it has to be ten uninterrupted years. David Church said he wants to be careful as he isn't sure it is the City Council's position to state that that section that runs through Lambert Park is a public highway for all purposes. Ron Devey said he grew up in Alpine and said the only trail there used to be was the Three Mine Trail. Ron Devey said that Lambert Park is City property and showed where the historic trail was. Ron Devey said this was not an issue to him as we have access today to the Forest Service by going south of the Box Elder South property. Jim Tracy asked if we could go after the original historical trail and since it is a County trail and the owners applied for a subdivision to build homes, would they have to work around the trail. David Church said the County could vacate the trail and say it does not serve a public purpose; however, it would not be a City trail but a County trail. David Church said the Council should have this discussion with the County and decide if it was appropriate use of tax payer's dollars to fund a challenge on the trail. Mayor Willoughby said we will write a letter to the County stating that if this is developed Alpine City would like to still have access to the mountains. Ross Welch asked the Council if they would be amenable to shifting the trail to the south to access the Forest Service property. Mayor Hunt Willoughby felt we are not tied to a specific location of the trail but felt we only want to get an access from the City limits to the Forest Service. Troy Stout said the mountain bikers like the historical access and Ross Welch said that property owners have certain rights and do not like the mountain bikers to trespass on their property. This property is before the County right now as a proposed subdivision and the County does not address trails very well. Ross Welch said that most people do not like trails behind their own house, but they like trails. Kimberly Bryant asked David Church if we could switch the location of a historical trail and David Church said a trail is a recreational thing and we don't get to acquire recreational rights. The law says it is access and access is defined as a public highway. Ron Devey said we only want to get access to the mountains. Mayor Willoughby said we have used the trail by trespass until the fence went up and if the landowners go ahead with their subdivision, we lose that trail. Ron Devey said there is a trail just south of Box Elder South that is already there which gives us access to the mountains

Dry Creek Trailhead to Schoolhouse Springs – Ted Stillman said the property this trail is on is completed out of the City limits and Mayor Hunt Willoughby said part of our discussion tonight would be to prepare for the future and if this property comes before us as part of an annexation we would require a trail access through there. Kent Hastings asked if the public has lost all rights to the trail through that area since the owners subdivided the land. David Church said Alpine's boundaries are our boundaries and we don't have any extra territorial authority and proximity doesn't give Alpine any more rights. We are interested in trails and the people in Salt Lake are interested in trails down here as we are interested in trails in Salt Lake or Mapleton. This trail would be limited to the use it has and if it is a foot trail that is what it is and the use cannot be expanded. Jannicke Brewer said that when this subdivision came before the County Planning Commission, members of our City Council and trail committee attended to protest and ask for the trail because it has been there historically. The County said they don't have a trail map and is not on any trail map so we can't require it. Mayor Willoughby said a decision was made at that meeting but we can look at these properties that are outside the city and our annexation policy plan right now but should that come into the City we would require

trails through there. Troy Stout felt we should go after any traditional use of trailheads or trails that connect public to public at any level and maintain those as a public access.

Fort Canyon – Ted Stillman said that Ft. Canyon has three accesses with one that has been closed since 1985 when Ilangeny Estates Subdivision was recorded. This trail access was an old pioneer access and when Ilangeny Estates was recorded a new access was created as the roads in Ilangeny are public roads; however, a small section is not a public road and was privately owned and has changed hands several times. A big gate was installed at that point. That section of the road was purchased by a property owner and is now part of his yard. The third access has a locked gate and when Three Falls lost the prior access they purchased this one. The Planning Commission has granted preliminary approval to Three Falls and when the first final plat comes before the City Council and is approved we will get 500 acres of open space, the roads and all the trails. The Three Falls developers put up a gate which is currently open because of the filming that is going on up there. This access will become public. Ted Stillman showed where the old pioneer went. David Church said that in going through all the documents in the old Ilangeny Estates there was lot of discussion in 1984-1985 with the developers whether this was a public road or not. The developers insisted very strongly at that time that the old historic road was not a public road. Jim Tracy said that when Three Falls went through the Planning Commission, the historic trail/road was not included in the trail system. Mayor Willoughby said when Three Falls is completed this historical trail will be redundant and unnecessary. Ted Stillman said the State took away our privilege to take trails through eminent domain and Shane Sorensen said there are multiple accesses through the Three Falls to the west.

800 South – Mayor Willoughby said that some of the road blocks were property ownership and quite extensive retaining walls and excavation to get down to the creek from where we did have public access. Ted Stillman showed on a map a lot that is owned by Metropolitan Water and said they are going to build a well. The City had an opportunity 12 or 13 years ago and there was a derelict piece of property in the Ranch Subdivision which became part of the lots. To pursue a trail across Dry Creek we would have to go across private property and we have had discussions with several property owners to get an alignment for the trail. At that time the purchase of the derelict parcel for the trail was discussed and the City Council then decided to let that derelict parcel go back to the property owners. Charmayne Warnock showed where the historical access was and said the trail committee designed another trail and changed the trail alignment. Charmayne Warnock said the City has an easement in the Ranch Subdivision to get to their lift station. The residents in the 800 South area are isolated. Mayor Willoughby felt we need to bring this back up and talk to the new owners of the lots in the Ranch Subdivision. It was suggested that Shane Sorensen talk to the new owners. Staff will look at the property ownership and approach the new property owners. Shane Sorensen said the reason the City looked at the trail alignment in this area was because it would only require one bridge. Lehi walks equipment down there and drives there every day to check their diversion to make sure it is not plugged. Adele Leavitt who lives on 800 South said there are a lot of factors that come in to play when looking at trails as an historical aspect. Both Charmayne Warnock and Adele Leavitt worked quite hard to get this trail. Grant Bangeter had been approached and he did not want to give all his property. Shane Sorensen said that several times the City has applied for a grant with UDOT to put in a sidewalk on the west side of Alpine Highway from 800 South to the Junction but we have not been successful.

E. NEWSLINE POLICY FOR MAYOR and CITY COUNCIL MEMBERS. Ted Stillman said that at the City Council meeting of January 26, 2010 the Council discussed creating a Newsline Policy for the Mayor and City Council Members. David Church had prepared a draft policy for the Council to review and discuss. Mayor Hunt Willoughby said that in his mind to have a resolution on the Newsline policy is Government gone awry and felt we didn't need a resolution. Mayor Willoughby opened up the discussion by asking if we need a resolution and if we do does the draft policy prepared by David Church fit the bill for what we want to see.

Bradley Reneer asked Joan Evans if she gets paid for this or is it a volunteer service. Joan Evans said she did an internship through BYU with Alpine City being her internship. Joan Evans said she remembered the interview with Mayor Joel Hall and said she has learned a lot as it is her passion to write about people in town and she has enjoyed this. Mrs. Evans said she wanted clarification what the Council wanted. Bradley Reneer said he didn't see a problem with having some guidelines for how we want the Newline done, but doesn't want this to be so restrictive and heavy. Joan Evans said she has enjoyed working with Charmayne Warnock and said she hasn't received any negative feedback from the public. Kent Hastings asked if there was anything that could be put in this resolution to make her job easier and possibly include the 15th of each month for a deadline in this resolution. Bradley Reneer asked if there are any legitimate reasons why something would be put in the Newsline that was submitted after the 15th. Mayor Willoughby felt that it

was overboard big government to have a resolution where most things should be the editor's policy. Kent Hastings asked if we should put a section in the Newsline where local businesses that have a license with the City could advertise. Joan Evans said the purpose of the Newsline has been for informational purposes and she doesn't see a reason to allow ads. Bradley Reneer said we want to make the Newsline non-political except for candidate profiles which is legitimate; however, if we start allowing ads can we reject ads that are of a political nature or promote a candidate or edit content. David Church said we want to avoid making a public forum and the Council can control time, manner or place but not content. David Church says we need to look at cost benefit. Charmayne Warnock said that Joan Evans writes the feature article and she formats it. Charmayne Warnock had questions after reviewing the draft resolution and said that most of the Newsline comes from residents about Arts Council, DUP, school activities, baseball, luminaries, choir, recreational programs, River Meadow Senior Center, etc. and felt No. 4 in the resolution needed to be rethought. Mrs. Warnock said the 15th has been a suggested good cut-off date; however, there needs to be some flexibility because some Newslines are empty and important information or articles can be accepted after the 15th. Jim Tracy said he looks forward to reading the Newsline when it comes and to adopt a resolution to prevent the Mayor from writing an article prior to an election is overkill. Kimberly Bryant felt the City Council members should write an article about their job assignments for information and not their opinions.

Bradley Reneer said there won't be an election for another year and suggested that the City Council members rotate writing an article for the Newsline and that we look at this in another year. Troy Stout said what we want to keep from happening is written in item 7 which states "The Newsline may not include any article by the Mayor or a Council member within ___ weeks before any municipal election if the Mayor or the City Council Member submitting the article is on the ballot for that election." This sentence was discussed at length.

MOTION: Kent Hastings moved that the City Council adopt Resolution No. R2010-02, A Resolution of the Governing Body of Alpine City Establishing Limitations on the Alpine City Newsline as amended striking 1 through 6 of the draft resolution leaving as follows:

LIMITATIONS ON PUBLICATION. The Newsline may not include any article by or about a candidate for the month before and the month of any municipal election besides the candidate profiles.

Troy Stout seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 0. Motion passed.

Joan Evans and Charmayne Warnock were thanked for what they do. Jim Tracy said we have a vast collection of old Newslines and suggested that we put these on the Website.

F. TRAINING. Attorney David Church conducted a training session with the City Council. Kent Hastings said that at the Utah League of Cities and Towns annual Conference that is held in St. George every year, David Church's class is the most widely attended and if you go down you want to make sure you attend this class. Shane Sorensen said that David Church is just as popular at the annual Engineer's Conference.

David Church said the State Law requires that the presiding officer of the public body will ensure that the public body is provided with annual training on the requirements of the Open Public Meetings Act. Mr. Church emphasized that this is one section in the State Law where there is a declaration of public policy in the law itself. In the Declaration it says "The Legislature finds and declares that the State, its agencies and political subdivisions exist to aid in the conduct of the people's business and that to take their actions openly and that their deliberation are to be conducted openly." The second part is more difficult because of e-mails and sometimes the public shows up to a meeting to find that deliberations and decisions have already been made.

A meeting is defined as the convening of a public body when a quorum is present. It includes workshops and executive sessions even though the act does not define either. The definition also includes electronic communications. The definition of meeting is qualified by the description that it must be for the purpose of discussing, receiving comments from the public about, or acting on a matter over which the public body has jurisdiction or advisory power.

Convening is defined to mean the calling of a meeting of a public body by a person, authorized to do so, for the purpose of either discussing or acting on a matter over which that public body has either jurisdiction or advisory power. The exceptions to the definition of meeting are very narrow. They include chance meeting, a convening of a public body that has both legislative and executive responsibilities where no public funds are

appropriated, and where the meeting is convened just to implement administrative matters. David Church said group e-mails and conference calls could be called convening and social meetings are also not subject to the Open and Public Meetings Act. David Church said you don't have a meeting unless it is convened.

A Public Body is a group of two or more persons, officially created (by constitution, statute ordinance or resolution), that has the power to expend, disburse, or is supported in whole or part by tax revenue and has authority to do the public's business, it is governed by the act. The intent of this is to include all committees, commissions, or other groups that may be carrying out anything that looks like the public's business if they are supported by public funds. David Church said If three Council members get together there would be a quorum and it could be that you are in violation. There needs to be an agenda and this needs to be posted, and minutes taken and the meeting recorded. There is an element of trust and you should not violate the public's trust.

Notice of Meeting. Any public body that holds regular meetings, such as the regular city council meetings, must give public notice at least annually of the anticipated meeting schedule. The notice must include the date, time and place of the scheduled meeting. In addition to this annual notice of regular meetings, each meeting must have its own notice. This notice must be given at least twenty-four hours prior to the meeting and needs to consist of the agenda, the date, time and place of the meeting.

Emergency Meetings. When there are unforeseen circumstances and it is necessary to hold an emergency meeting, the notice requirements can be disregarded and the best notice practical needs to be given. An emergency meeting cannot be held unless an attempt has been made to notify all members of a public body and a majority of the public body approves calling the meeting. David Church there are specific reasons to call an emergency meeting.

Closed Meetings. Generally all parts of meetings are required to be open to the public. There are, however, some circumstances when a portion of a meeting or all of a meeting may be closed to the public. These are intended to be very limited exceptions. A public body can close portions of its meetings to do the following:

- a) Discuss the character, professional competence, or physical or mental health of an individual
- b) Hold a strategy session to discuss collective bargaining
- c) Hold a strategy session to discuss pending or reasonable imminent litigation
- d) Hold a strategy session to discuss the purchase, exchange, or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction
- e) Hold a strategy session to discuss the sale of real property
- f) Discuss the deployment of security devices and investigative proceedings regarding criminal conduct.

Minutes. The law requires that written minutes be kept of all meetings. The minutes must include certain minimal detail. The written minutes of an open meeting must include the date, time, and place of a meeting; the names of members present and absent; the substance of the matters discussed or decided on including a summary of the comments made by members of the body; a record, by individual by individual member, of the votes taken; the names of any person who made comments in the meeting; the substance in brief of the comments made; and any other material a member of the public body requests be entered in the minutes that is a record of what occurred in the meeting.

Recording of Meeting. All open meetings must be recorded. The recording can be digital or tape. The recording must be labeled with the date, time and place of the meeting and are public documents that must be made available to the public for its listening pleasure or for copying within three business days following the meeting. The recording must be complete and unedited. In addition the Utah Open and Public Meetings Act gives the public the right to record any open meeting. This recording could include either audio recording or video recording of the meeting. David Church said if someone wants to record the meetings or video tape the meetings they have the right to do this if they don't interfere with the meeting.

David Church said the Open and Public Meetings Act is important enough that it is a criminal offense if you knowingly or intentionally violate the act and is a class B misdemeanor. Bradley Reneer asked if after we adjourn, the recorder is turned off and the public is gone can we stand around and talk. David Church said the post-meeting meeting is the most common abuse. If there are only two Council Members involved there is

no problem. Mr. Church went on to say the public thinks that there is deliberation through e-mails during the week and there is a perception among the public and some members of the press that decisions have been made prior to the meeting and when they attend meetings the decision is done. Jim Tracy said when he gets an e-mail with an ordinance and he has a question he replies to the Mayor or only one person and not all the City Council members. All business should be done in front of the public and openly.

David Church told the Council you will know if you are cheating, you'll know if the decision has been made outside the meeting and you will know if you are deliberating outside the meeting. You take Oaths of Office and it is clear policy. Mr. Church told the council that if they feel they can't do the public's business in front of the public, they should get out of the business.

Jim Tracy asked if a developer has applied for development, meets all the current ordinances of the City, has paid all the fees and has submitted all the proper paper work under what grounds can I deny the development if I don't like it. David Church said there is only one exception in the State Code for denying the development under the description you've given and that is if there is significant serious life safety. David Church said that we write the rules and once they have been adopted we have to abide by them and they have to abide by them.

Jim Tracy also asked if the Chairman of the Planning Commission is obligated to let a City Council Member speak during a Planning Commission Meeting when the public comment has closed. David Church said he didn't know and he didn't know what the Planning Commission bylaws say and he doesn't know if the Planning Commission has adopted any Rules of Procedure. Both the City Council and Planning Commission have the authority to adopt their own Rules of Procedure and in the absence of rules the Chairman controls the meeting. David Church went on to say the fact that somebody is or is not a member of the City Council doesn't give them any more status than any other resident that shows up for the meeting but that is not to say that the Chairman should or should not call on anybody.

Bradley Reneer said we take an Oath of Office and asked if we should have our Planning Commission or other members of Committees take the oath. David Church said it wouldn't do any harm.

Jim Tracy asked about the PRO Committee and said there are subcommittees under the PRO Committee. Do we have to record the meetings and take minutes of the subcommittees? David Church said if the subcommittees are not created by an ordinance then they are not a public body.

Greg Gates said he wanted to have a skate park built in the empty field (100 South Park) and asked where would he go to bring this up. Mayor Willoughby told Mr. Gates there is a Park Master Plan on the 100 South Park and the skate board park was removed from the plan. Also, Greg Gates asked if he could use the gazebo in Legacy Park area to set up his band and play shows. Mayor Willoughby told him to schedule the park through the front desk at City Hall.

VII. REPORTS

A. CHAPPELL CONSERVATION EASEMENT. Ted Stillman said that in November 2009 the City Council approved a Conservation Easement with Jared Chappell on a portion of the Pack property. Mr. Chappell was going to record the Conservation Easement in December but has now decided to wait until May to record the Easement. A copy of the Conservation Easement was put in the City Council Member's packet for discussion. The major change was the trail from Three Falls Subdivision down to Elkridge Lane through the Grant property or down to the old Pack property. Ted Stillman said the first draft did not have a trail and staff worked with Mr. Chappell and his attorney to obtain a trail across the conservation easement. Jim Tracy had some questions about 2.7, Construction of Buildings and Other Structures, the second sentence states "Construction and/or operation of cellular towers, radio-telephone repeaters, wind powered electrical generators, television or radio antennas, radio-dispatch facilities, microwave or other wireless communications systems and structures in excess of 50 feet in height are prohibited. Before undertaking any construction that requires advance permission, Grantor shall notify Holder of such request at least 60 days before the onset of such work." Jim Tracy asked if anything that is under fifty feet would be OK. Ted Stillman said this property is in the County and would be under their ordinances. David Church said under this Conservation Easement anything taller than fifty feet is prohibited. David Church said if we don't agree with the Conservation Easement they have other people who will take it. Jim Tracy said we could ask the owners to take this out of the agreement and then we would have an influence. Troy Stout said he was under the impression that a

Conservation Easement gave away any rights to all development and was told that Mr. Chappell could give away what he wanted to and retain what he wanted to. Under this agreement there is one trail and it will have to be built by hand as we can't take in any motorized vehicles. It was discussed that we would approach Jared Chappel and his attorney to see if we could strike this out. If they don't agree then we know their intention.

B. FINANCIAL REPORT. Ted Stillman went over the Financial Report through January 2010 and said the Sales Tax continues to lag; however, property tax is very good. In the actual text under Pressurized Irrigation we have spent more money than we have taken in because we are not taking in any impact fees and by the next City Council meeting are looking at increasing the pressurized irrigation rate.

VIII. COMMUNICATION

Mayor Hunt Willoughby –

1. Said he received our annual Teens Against Graffiti Report from the Fourth District Juvenile Court and they have a program where the teens that do graffiti work with our police and clean up either their mess or someone else's mess. Last year they had ten cleanups in the Alpine/ Highland area and the one in Alpine was on North Grove Drive. Kip Botkin, Police Chief, said the value of their work was explained by the Mayor and when the tag referral fees come up they come out of the Police budget. Jim Tracy asked who oversees them and Kip Botkin said they are supervised by people from the Fourth District Juvenile Court and interact with our Public Works Department.
2. UDOT wanted everyone to know that they will be seeing orange cones everywhere. UDOT will be working from Payson to Lehi and this work should last for two years.
3. Two weeks ago we committed \$10,000 to keep the access open to Schoolhouse Springs and Mayor Willoughby talked to Mayor Wilson of Lehi. He is open to looking at the possibility of allowing access through there. Mayor Willoughby asked Kimberly Bryant if we could get our \$10,000 back and was told yes. Mayor Willoughby said he would like to put that money towards fencing the collection boxes rather than suing for access. Mayor Wilson said he would talk with his Public Works Dept and then go up there with Mayor Willoughby.

Kent Hastings – Family First Night will be held on March 19, 2010.

Troy Stout –

1. Asked how we are coming with another nominee for the Planning Commission.
2. Said our Council meetings are going late and wondered if we can ask people why they are here so we can handle that issue. Mayor Willoughby said that Ted Stillman tries to put those items towards the first on the agenda when we expect citizen participation.
3. Would like to go to an Executive Session to ask questions about Lambert Park.

Jim Tracy –

1. There will be a breakfast held by the Board of Realtors on February 18 at 7:30 am that the Council is invited to attend. Craig Call will be the speaker.
2. Asked if the City website could be updated to include the new City Council Members.
3. Back in April we gave \$20,000 to the Groundwater Recharge District that Barry Edwards spearheaded. With Barry Edwards leaving Highland is this program still operating. Ted Stillman said it is alive and well and Shane Sorensen is the director over it. Currently they have received proposals to find a consultant to do the actual study. Shane Sorensen said there were ten firms invited and they got six proposals.
4. Jim Tracy spoke with Annalisa Beck today and she is getting lots of calls about Alpine Days. We need suggestions for a chairman.

Ted Stillman –

1. Emergency Preparedness – There will be a CERT training and a mock disaster on February 20, 2010 at Alpine Elementary. Information will be sent out. This will be to train the CERT teams.
2. E-mail addresses need to be updated and it was suggested that e-mails be numbered so we know if one is missing and all have been received.

Shane Sorensen – Things are moving along on the park. The bid package will be available next week and the bids opening will be on the 25th.

IX. EXECUTIVE SESSION to discuss Litigation, Property Acquisition and Personnel

MOTION: Troy Stout moved to go to an Executive Session not to exceed five minutes for the purpose of discussing property acquisition. Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 0. Motion passed.

X. APPROVAL OF MINUTES

City Council Meeting Minutes of January 12, 2010
City Council Meeting Minutes of January 26, 2010

MOTION: Kent Hastings moved to go back to Open Session, approve the minutes of the City Council meetings of January 12, 2010 and January 26, 2010 as amended. Jim Tracy seconded. Ayes: Kimberly Bryant, Kent Hastings, Bradley Reneer, Troy Stout and Jim Tracy. Nays: 0. Motion passed.

The meeting adjourned at 10:30 pm.