

ALPINE CITY COUNCIL MEETING
Alpine City Hall, 20 North Main Alpine, UT
October 12, 2010

I. WELCOME: The meeting was called to order at Alpine City Hall at 7:00 pm by Mayor Hunt Willoughby.

A. Roll Call: The following Council members were present and constituted a quorum:

Mayor Hunt Willoughby

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

Staff: Charmayne Warnock, David Church, Shane Sorensen, April Naidu, Chief Kip Botkin, Jay Healey, Greg Ogden

Others: Jannicke Brewer, Glade Tuckett, Spencer Tuckett, Clyde Shepherd, Chad Bartlett, Deborah Magnusson, John Magnusson, Ross Welch, Marne' Reneer, Doug Cunningham, Michelle Cunningham

B. Prayer: Kent Hastings

C. Pledge: Spencer Tuckett

II. PUBLIC COMMENT: Spencer Tuckett said he had talked to Ron Devey about an Eagle Scout project and Mr. Devey had suggested planting trees in the southwest area of the new park. As part of his project, he would raise money to purchase the trees and then plant them.

Douglas Cunningham said he lived in Highland along the city border with Alpine. He asked for help with a situation that he said was lowering his property value. There was a horse riding school in Alpine that affected the quality of life in the neighborhood. It happened three or four times a week. He said he had documented the abuse with names and dates and times. Alpine had written a letter to the people telling them they couldn't operate a horse riding school. He said they were the same residents that had asked for an 8-foot fence and had built a 12-foot fence. Their backyard was a field with clouds of dust. He said that despite his requests, the situation had escalated beyond a nuisance. He had been harassed by them and he had even called the police. He said the people said they could do anything in their own back yard and they had been there eight years before the Cunninghams. Mr. Cunningham said he had done nothing to incite their hostility. He said he had invited the mayor of Highland out to his home; the mayor then sent a letter to the mayor of Alpine. Mr. Cunningham said that Alpine was now saying that the neighbor was accepting donations for horse riding lessons. The attorney was trying to decide if anyone could set up a business contrary to zoning. He said that Alpine City had a business ordinance on the books for good reason. There were to be no backyard businesses. He said he also had an ongoing appeal with the county tax commission. He was trying to get them to join his appeal to the City because it was lowering his property value. He said he was asking Alpine to be a good neighbor by enforcing their ordinance that allowed a business only in the home or garage.

Bradley Reneer questioned Mr. Cunningham about the harassment. Mr. Cunningham said they had confronted him in the school yard. The people's attorney had sent them a threatening letter. One night they rode their horse for an hour along the trail, back and forth behind his home. Another time a girl was sitting on their high wall mouthing off at his wife. He had called the police to defuse the situation.

Kimberly Bryant asked April Naidu to report on the information the City had.

April Naidu said she had sent a letter to the Zebleys in spring 2009 regarding the question of horse camps, and told them that that type of use was not allowed in a residential zone. She said the Zebleys responded and said the horse riding was an occasional occurrence, not a business. Mrs. Naidu said that since that time she'd had no reports of large-scale uses. He had talked to the father of one of the girls who rode horses there. He told her that he wanted his daughter to have some horse time and the Zebleys had opened up their backyard to her. He said the Zebleys had not asked for money, but he did pay them something because he felt it was the right thing to do. April Naidu said she had talked to Mrs. Zebley and was told that they allowed neighbors and friends to come over and work with their horses. Mrs. Zebley's daughter was in

FFA and part of their assignment was a service project. The daughter worked with a girl in the neighborhood, letting her groom and ride the horses. Mrs. Naidu said the Zebleys did occasionally plow the backyard and that generated some dust. The ATV riding was a recent activity. She said that based on what she had learned, there was no evidence the Zebleys were operating a business. She couldn't send them to court based on perceptions. She had to have evidence of actual violations. As far as harassment, April Naidu said that was outside her role of code enforcement.

Jim Tracy asked about the 12-foot fence. April Naidu said originally the Zebleys had an unfinished wall with rebar poking out of it. The City told them to either cut the rebar or finish the wall. When the family came in for a hobby breeder's license, they talked about the fence between the Zebley's lot and the trail. It was decided that it made more sense to measure the fence from inside the yard since that was where the animals were. However, the trail was situated lower than their lot so the fence appeared higher on the trail side. Since the trail sloped to the south, it was even higher (11 or 12 feet high) on the south end.

April Naidu said they had sent the Zebleys a letter telling him the fence was too high and they had to take it down. He responded by saying they would sue if he had to take it down because it had been their understanding that it was okay.

David Church said the City had been pushing the issue of the fence height but then they received information from Mr. Cunningham that he didn't care about the fence. But if it was an issue, they would pursue it. He said that functionally it was a retaining wall with a fence on top. It was similar to other situations they had seen.

Jim Tracy asked about the width of the trail easement. Alpine's easement was 20 feet and Highlands was about the same. Mr. Tracy referred to the fencing ordinance, which stated that when the width of an easement was less than 50 feet, fences may not exceed six feet in height or obstruct visibility. Open style fences were preferred.

Mr. Cunningham said he didn't really have an issue with the fence. He merely brought it up to show that the Zebleys had a pattern of bending the rules. He said he preferred looking at the fence rather than looking at the abuses behind the fence.

David Church said the question of whether the City would consider a few riding lessons a week a business had been an issue for a long time. He said he had made the call that a few riding lessons a week did not constitute a business. If it turned into riding camps and a riding school, he wouldn't consider that a typical residential use. He said he had sent a letter to the Zebleys. He had been informed by Mrs. Zebley that they gave lessons two or three times a week. Some paid and other did not. They did not advertise and there were no signs. Mr. Church said that in his opinion, it had not reached the level of a business.

Troy Stout suggested that it was similar to teaching piano except it was on a horse outside. Jim Tracy said it was similar to a swimming lesson or tennis lesson.

Mrs. Cunningham said that a business had to be in your home or garage. She said they had signed up to live in a residential neighborhood. They bought their house at the end of the market and now they couldn't sell it. She said she didn't think this should be allowed in a residential neighborhood.

Mayor Willoughby said they would continue with their review. He'd like to talk to the separate parties and see what could be done.

III. CONSENT CALENDAR:

A. Payment Request – Hawker Enterprises, LLC – 100 South Park: Shane Sorensen asked that this item be postponed until some details were worked out.

IV. REPORTS

A. 2009-2010 Financial Audit: Greg Ogden distributed copies of the Audit Report for the fiscal year ending June 30, 2010. He said the City was required to spend or encumber impact fees within six years of collection. The City had unspent water and sewer impact fees that would need to be spent as soon as possible. Cities were allowed to hold fees longer than six years if they submitted an extraordinary and compelling reason in writing why it was necessary, and submitted the date by which the fees would be spent.

Shane Sorensen said the sewer line was under contract and the design was about eighty percent finished. The contract was for \$30,000 so that took care of the sewer impact fees. The job would bid it out in February. On the water impact fees they had ended up in an unexpected situation with the anticipated improvement of Fort Canyon Road. They had been moving forward with the road plans but it came to a halt, so they decided to allocate the water impact fees to water line improvement projects that had been approved by the Council two weeks earlier. They would have to figure out how to pay for Fort Canyon when the project resumed.

Greg Ogden said that overall, the financial position of Alpine City as of June 2010 was very good in spite of the slow economy. City assets versus what they owed were in the City's favor. He said they were seeing more and more cities with negative numbers because they needed to dip into their reserves. He commended Alpine City for running a good ship and keeping the numbers on the positive side. The unassigned fund balance, by law, had to be between 5% to 18% of the next year's revenues. Alpine's balance was at the right level.

Regarding the sewer, he said expenses for sewer had increased over revenue probably due to the increased fees from TSSD but he anticipated that it would not show as a loss in the future. Shane Sorensen said there was an error in the meter read and the City had been overbilled for sewer service for eight months. They would be getting that back and it should be corrected over the next year.

Greg Ogden concluded by saying that the City was in good hands. He added that Alpine was the only city where the treasurer actually drafted the financial statement, and Annalisa Beck did an excellent job.

MOTION: Kent Hastings move to accept the 2010 financial audit. Trot Stout seconded. Ayes: 5 Nays: 0. Kent Hastings, Jim Tracy, Bradley Reneer, Kimberly Bryant and Troy Stout voted aye. Motion passed unanimously.

B. Financial Report: Hunt Willoughby said the financial report would be postponed because Annalisa Beck's son had surgery that day.

V. ACTION/DISCUSSION ITEMS

A. Bookmobile Agreement: April Naidu reported that the cost for bookmobile service had increased to \$27,387.54 from just over \$13,000 for the previous year. She said she spoke with Kent Sundberg who said the reason for the dramatic increase was because the state was no longer subsidizing it.

Kent Hastings asked if there was an option to eliminate some of the bookmobile stops to reduce the hours, and thus reduce the cost. He said he had called Timberline middle school and they said no one at the school used the bookmobile. He called Alpine elementary and they thought they could get the grades that used the bookmobile through in about an hour. It didn't go to Westfield elementary at all. If they eliminated Timberline and cut the hours at Alpine elementary, would that reduce the hours enough to cut the cost to be more in line with what they had been paying?

Chad Bartlett said he was the director for the Utah County Bookmobile. He said there was some truth to what Kent Hastings had said. There were only six classes at Alpine elementary that used the bookmobile. They did get quite a few people coming in when they were parked at Timberline, but they were mostly residents from the community.

Kimberly Bryant asked if he thought the adults that used the bookmobile while it was parked at Timberline would use it while it was parked at the Main Street chapel.

Chad Bartlett said he expected they would. He said Alpine was one of their busier routes, and people did seem to enjoy coming to the bookmobile. He said that if Alpine eliminated one of their stops, there were other cities such as Cedar Hills that were interested in having bookmobile service.

Jim Tracy said that the hourly rate had jumped from \$65 an hour to \$159 hour. Could they ask the state to reduce that? Or if they did discontinue bookmobile service, should they consider increasing the reimbursement on library cards to \$50, which was the cost of a card for Highland City's library. He said he had talked to City staff and the City had spent just over \$12,000 for library reimbursement for the previous year.

The Council discussed ways of boosting bookmobile patronage such as running an article in the Newsline and putting up an A-frame sign that posted the times and location.

Chad Bartlett said their collection of books was very good and they could always order books from the state library.

The Council discussed how they would reduce the hours for bookmobile service. It was suggested they have it at Alpine Elementary for 1.5 hours, have it at Timberline for one hour and on Main Street for 1.5 hours, or perhaps eliminate Timberline altogether and have a longer stop on Main Street.

Jannicke Brewer said it was easier to find the bookmobile if they had fewer locations and spent more time at the locations.

David Church said they may be early in deciding the hours of use because they still needed to find out what the state was willing to do.

MOTION: Kent Hastings moved to direct staff to work with the state and tell them Alpine City was interested in keeping the cost the same as the previous year by reducing the hours of bookmobile service as demonstrated on the spread sheet, and see if the state would accommodate Alpine City's request. Troy Stout seconded. Ayes: 5 nays: 0. Kent Hastings, Troy Stout, Bradley Reneer, Kimberly Bryant and Jim Tracy voted aye.

B. Zone Change Request: April Naidu said the property owners along the west side of Alpine Highway at 476 S, 504 S, 526 S. and 528 S. had requested a rezoning from CR-40,000 to business commercial. The Planning Commission had held a public hearing and made a recommendation to approve the zone change. She said the City Council had several options. They could schedule their own public hearing although it was not required by ordinance or they could make a decision that evening or they could bring it back at a later time for more discussion.

Jannicke Brewer said the Planning Commission had made a positive recommendation to rezone the property. The curve on Alpine Highway wasn't a very desirable area for residential dwellings. It was next to the business commercial zone and would be a logical place to extend the zone. There was some opposition to the zone change from neighbors across the street who felt it would increase traffic.

Jannicke Brewer said the General Plan said the business commercial zone may be extended. There were no plans for the properties at the moment. She noted that if the zone was changed, it would allow all the uses presently approved for the business commercial zone including quarter-acre residential lots. However, because of the frontage and the depth of the lots, she said she didn't foresee a huge increase in small lots.

Jim Tracy said he had attended the Planning Commission meeting and one of the reasons they cited for the zone change was to make it easier to sell the property, and he didn't think that was a good reason to rezone something. The Bangerter and recording studio people had requested a zone change and the City said no. If it was their intent to never rezone the Bangerter property, it would be easier not to rezone that if this

property was residential. If it was their intent to eventually rezone the Bangerter property, should they give that direction to the Planning Commission and look at the whole thing.

Kimberly Bryant asked if there was still ground available in the commercial zone. Mayor Willoughby said there wasn't a lot of open ground, but there were residences in the business commercial zone that could be used for commercial.

Bradley Reneer said he felt the area along Alpine Highway would be more valuable for commercial than farther up in Alpine.

Troy Stout said Alpine had a commercial district and a master plan. The point was to minimize the commercial area. If they were running out of commercial space and felt it would benefit the city to expand it, there might be a reason to rezone but there seemed to still be available space in the existing commercial zone. He said he didn't see any immediate need to expand the commercial area, and didn't see how it would benefit the city. He said he would favor maintaining the current zoning.

Hunt Willoughby said that two weeks earlier they had made a motion to encourage businesses by making the sign ordinance less restrictive. That seemed contradictory.

Troy Stout said the intent was to help new businesses succeed rather than expand the zone.

Jim Tracy said that if the property was rezoned, the building lot size would go down to quarter-acre lots. Whoever bought it might be looking at it for smaller lots, not business commercial uses. Bradley Reneer said that at most there could be eight homes and that was not significant.

Jannicke Brewer said one of the reasons they recommended it was because in the 2005 survey, 58% of the respondents said they wanted commercial growth and favored more business. They were hoping for restaurants.

Troy Stout said he was one of those that responded to the survey, but he had preferred it in a designated area. One of the concerns about the charter school had been that if it failed, it would most likely become a business. No one wanted that in a residential area. He said he thought more commercial would be supportable in the designated district.

Jim Tracy said that if someone came to them with a plan that would benefit Alpine and those properties were the only place it would fit, they would be more likely to look at it. Rezoning to help someone sell their property was not a legitimate reason to rezone.

Clyde Shepherd said he appreciated the time of the Council. He said he was not asking the City to help him sell his property. He was asking them to consider the request and the benefit to Alpine. In 2005 residents said they wanted more commercial. The existing commercial was difficult to get to certain hours of the day because of school traffic. He said only two residents showed up in opposition to the zone change and they had put up their sign for everyone to see. He said it would be impossible to put something massive on the property because of the way it dropped off to the flood zone. Another concern voiced was that it would be quarter-acre lots but it was only 3.7 acres and after a road was put in, it would be impossible to put in very many small lots. He said the properties already had commercial on the north and east and they fronted on Alpine Highway. The people had granted land to assist in the widening of the road. Whether or not the City wanted anything to do with the Bangerter property was not his concern. One of the Bangerter sons wanted to buy the farm and keep it in the family. Another son wanted to develop it. He said it would be nice to have some commercial along the highway because it wouldn't be affected by the congestion in town.

John Magnusson said he lived across the street. His wife had been at the previous meeting. He said Suzanne Tyler lived across the street and she was opposed to it. He was trying to figure out the impact on his property. He already had to deal with the art center, the weddings and parties across the street. If it was a strip mall with a pizza place and a day care there would be even more impact. He said the cars already got backed up in the turn lane. He asked if his property would also go commercial if that went commercial.

Kimberly Bryant said that when they zoned something commercial, they couldn't control what type of business went in there. Regarding the survey, she said that things had changed since that was taken. There had been a lot of commercial built in Highland and Lehi since then. She said she'd talked to people who said they wanted to see less commercial in Alpine because there was so much commercial going on in Highland. She said another thing she had an issue with was saying yes to this request when they had said no to the other rezoning.

MOTION: Kent Hastings moved to deny the zone change request for the properties located at 476 South, 504 South, 526 South and 528 South Alpine Highway because it did not comply with the General Plan and they had denied a zone change to the adjoining property. Troy Stout seconded. Ayes: 4 Nays: 1. Kent Hastings, Jim Tracy, Kimberly Bryant and Troy Stout voted aye. Bradley Reneer voted nay. Motion passed.

D. Smooth Canyon Agreement Extension: David Church said that ten years ago the City had entered into an agreement on the Bonnie Eardley property. The agreement was written to expire in ten years. He said the property was actually annexed on January 4th so it wouldn't expire until the first of next year. The Council briefly discussed it and decided to table it until other items were addressed.

MOTION: Troy Stout moved to table the Smooth Canyon Agreement extension request until they discussed other items. Kimberly Bryant seconded. Ayes: 4 Nays: 0. Troy Stout, Kimberly Bryant, Kent Hastings, Jim Tracy voted aye. Bradley Reneer abstained. Motion passed.

Ross Welch said he thought this was a stand-alone issue and he thought it would be acted on.

E. PRO Commission Appointment: April Naidu said that Ron Eaton had to resign from his seat on the Planning Commission because of other obligations on Tuesday, but he could meet on Wednesday which was when the PRO Commission met.

MOTION: Jim Tracy moved to appoint Ron Eaton to the PRO Commission. Kimberly Bryant seconded. Ayes: 5 Nays: 0. Jim Tracy, Kimberly Bryant, Bradley Reneer, Troy Stout and Kent Hastings voted aye. Motion passed unanimously.

VI. ORDINANCES AND RESOLUTIONS

A. Ordinance No. 2010-11 – Home Occupations: April Naidu said the Planning Commission had discussed whether there should be a fire and safety inspection of a home occupation when the public visited the home. The amendment to the ordinance would require an inspection by the fire chief and building inspector unless no customers visited the home in which case the homeowner would fill out a self-fire inspection form which could possibly trigger an inspection.

David Church said they typically did the inspections in businesses such as child care. They looked for fire exits, etc. Some cities sent an inspector by to make sure the business was doing what they said they were doing.

Kent Hastings said he would like to see the inspectors go together and they should inspect only that portion of the home used for the business.

MOTION: Jim Tracy moved to adopt Ordinance 2010-11 amending Section 3.23.7.3 of the Development Code for Home Occupations, and inspect only that business portion of the home. Kent Hastings seconded. Ayes: 4 Nays: 0. Jim Tracy, Kent Hastings, Bradley Reneer and Kimberly Bryant voted aye. Troy Stout had left the meeting. Motion passed.

VII. STAFF REPORTS

Jay Healey said the pressurized irrigation would be turned off sometime after the 15th of October depending on the weather.

VIII. COUNCIL COMMUNICATION

Kimberly Bryant asked if the Council wanted to revisit the idea of going paperless for the packets. She hadn't like the idea of a screen separating them from the audience but they had new notepads that could lay flat. Mayor Willoughby said they would look at the budget and see what it would cost to invest in the electronic notepads.

Jim Tracy asked about outlawing spice, the new drug that was going around. David Church said it was a Board of Health issue with the county. They were adopting regulation on the sale and use of spice.

Jim Tracy said he noticed that staff spent a lot of time processing water bills. He wondered if they should make it an agenda item to talk about giving a discount to people who paid online to reduce the hours spent on the paper bills. Bradley Reneer said it seemed the elderly would be the least able to take advantage of that discount and asked if there would be legal concerns with offering different rates?

Jim Tracy said they should tell Annalisa Beck she did a fabulous job on the audit report. He asked if there was an update on the city administrator position. Mayor Willoughby said he had accepted the idea and the general salary. He would be meeting with him on Thursday.

April Naidu said there would be an open house for Ted Stillman on Friday, November 12th. They would be serving lunch with an open house to follow.

Kent Hastings said he knew an Eagle Scout who had put together a DVD about his uncle who died of a drug overdose. Perhaps the DVD could be a future agenda item for education purposes.

IX. EXECUTIVE SESSION: Discuss litigation, property acquisition and personnel.

MOTION: Kimberly Bryant moved to adjourn to executive session. Bradley Reneer seconded. Ayes: 4 Nays: 0. Kimberly Bryant, Bradley Reneer, Kent Hastings and Jim Tracy voted aye. Troy Stout was not present. Motion passed.

The Council returned to the general meeting.

X. APPROVE THE MINUTES OF SEPTEMBER 28, 2010 AND ADJOURN.

MOTION: Kent Hastings moved to approve the minutes of 28, 2010 and adjourn. Kimberly Bryant seconded. Ayes: 4 Nays: 0. Kent Hastings, Kimberly Bryant, Jim Tracy and Bradley Reneer voted aye. Troy Stout was not present. Motion passed.

The meeting was adjourned at 9:15 pm.