

ALPINE CITY COUNCIL MEETING
Alpine City Hall, 20 N. Main, Alpine, UT
October 8, 2019

I. CALL MEETING TO ORDER: The mayor called the meeting to order at 7:00 pm.

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

Mayor Troy Stout

Council Members: Lon Lott, Kimberly Bryant, Carla Merrill, Ramon Beck, Jason Thelin

Staff: Shane Sorensen, Charmayne Warnock, David Church, Austin Roy, Chief Brian Gwilliam

Others: Stephen Wright, Sherrie Wright, Greg Clark, Leslie Clark, Teagan Towle, Kevin Towle, Donna Belnap, Alan Macdonald, Linda Macdonald, Hal Hughes, Darcy Hughes, Loraine Lott, Nicholas Jensen, Troy Benson, LeeAnn Lorenzon, Will Jones, Sylvia Christiansen, Kiersten Belnap, Julie McKeon, Meagan Hacking, Scott Kenney, Susan Kenney, Pam Reschke, Kristi Collins, Brenda Welker, Becky Snow, Laura Haacke, Layne Webb, Cynthia Bates, Brian Bates, Leslie Auckin, Julie Sorenson, Jim Sorenson, Cindy Cloward, Ronda Aramaki, Amanda Collins, Randy Austin, Matt Austin

B. Prayer: Jason Thelin

C. Pledge of Allegiance: Ramon Beck

II. CONSENT CALENDAR

A. Approve City Council Minutes of September 24, 2019

B. Pay Request – 2019 Overlay Project – Staker & Parsons: \$182,633.19

MOTION: Lon Lott moved to approve the Consent Calendar. Ramon Beck seconded. Ayes: 4 Nays: 0. Kimberly Bryant was not present at the time of the motion. Ayes: 4 Nays: 0. Motion passed.

<u>Ayes:</u>	<u>Nays:</u>	<u>Not Present:</u>
Jason Thelin	none	Kimberly Bryant
Ramon Beck		
Carla Merrill		
Lon Lott		

III. PUBLIC COMMENT

Gordon Willis – Bald Mountain Drive: Mr. Willis said he was concerned about the Clark residence being built behind his home. He said it was substantially taller than the height limit allowed. He said the building permit for the home was initially revoked because of the excessive height and Clarks asked the City Council for a variance. The Council granted a variance of 7.5 feet above the height limit of 25 feet, but he believed the home was even taller than that. He had submitted numerous GRAMA requests to understand what had happened with the surveys, which kept changing. There was a 10-foot difference between one survey and a later survey. He asked how that could happen? He didn't believe the natural grade could change that much. He said he had twice requested the survey data and had not gotten it. He had asked who did the survey and when it was done. Throughout the construction of the home, revisions were made by the builder and new pages were inserted into the plans, but they were not date stamped so it was impossible to know what was original and what was new. He asked how the City even knew if he house was in compliance with the height restriction.

Shane Sorensen said that when the Clarks brought in their first plans, the City did not where they got their topographical map because that was not something the City typically asked. He said Dudley Associates was hired to do a survey and Dudley came back with a 10-foot difference. He said that elevations were relative and explained that when a topographical calculation was made on site, someone with a backpack walked around and picked up data. They didn't get a point at every corner or midpoint. He said one of the problems was that the ground had been disturbed so it varied from the original calculation. He said Mr. Willis was asking Alpine City to create a new topo on something that had been disturbed. The City staff were not licensed surveyors, but they had looked at it and were

comfortable with it. They didn't have the equipment necessary to gather the information Mr. Willis wanted short of having someone go up on the roof with a GPS.

Teagan Towle – Elkridge Lane said that for his Eagle Scout project, he planned to perform service work for Alpine City. He had spoken with Austin Roy and wanted to refresh the paint on the red curbs around Creekside Park.

Alan Gilman – Westfield Road. He said he had been a faithful observer of the newsletter that went out showing the agendas for the meeting. He said he did not get a copy of the amended agenda showing the PI Rate Study on Friday and felt the meeting should be canceled. Shane Sorensen explained that the agenda was amended on Monday. He didn't get the information until the weekend and since there were a limited number of meetings left in the year, he had emailed Charmayne Warnock to get it on an amended agenda.

Charmayne Warnock said that people probably did not receive the amended agenda which was usually attached to the Mayor's Message since Alpine City had changed the company that provided the service and the new company was not set up to send out the agendas. The amended agenda was, however, posted on the Alpine City webpage, at City Hall, and on the state noticing website 24 hours before the meeting as required by law. David Church said it met the legal requirements.

Will Jones - Grove Drive. He said he wanted to thank the volunteers for the incredible amount of work that had gone in this last year. He had overseen over 1,000 hours of volunteer labor on various projects. Mostly recently, Devon Black had put in the fence around the new parking lot in Lambert Park. Others were marking signs and putting up signs. He said the City staff also contributed hundreds of hours to projects in the community.

Shane Sorensen thanked Will Jones for his work on finding a contractor and a supplier for the fence in Lambert Park. Kimberly Bryant added that Will Jones did a tremendous amount of service himself. Mayor Stout noted that there were not many trails that were not facilitated or improved with Will Jones' involvement.

IV. REPORTS AND PRESENTATIONS

A. FY 2019 Audit Report – Greg Ogden

Independent auditor Greg Ogden reported on the 2019 Audit of Alpine City finances. He said the only finding was that the City didn't determine the utility usage by the different departments and did not notify rate-paying customers of a public hearing to inform them of the City's intent not to charge its department for utility usage. He recommended that internal controls be implemented to ensure compliance. Alpine City responded that they had entered a reoccurring monthly entry for 2020 to charge each department monthly for its share of utility costs to the City's Enterprise funds.

Greg Ogden then reviewed the finances for Alpine City and concluded by saying the Alpine was in the enviable position of being close to debt free, which was unusual for a city of its size. He said he audited 12 other cities.

V. ACTION/DISCUSSION ITEMS

A. Acceptance of the FY 2019 Audit Report

MOTION: Ramon Beck moved to approve the Audit Report for FY 2019. Kimberly Bryant seconded. Ayes: 5 Nays: 0. Motion passed.

<u>Ayes:</u>	<u>Nays:</u>
Jason Thelin	none
Ramon Beck	
Carla Merrill	
Kimberly Bryant	
Lon Lott	

B. Alpine Ridge Estates PFD – Concept Plan – For Information Only

Austin Roy said the proposed subdivision consisted of 15 lots on 13.306 acres in the CR-20,000 zone and was located at approximately 430 North 400 West. The Planning Commission had reviewed it and granted concept approval with the following conditions:

- 1) The developer be granted an exception to the slope requirements for buildable area and the 25% slope contained within the lot due to prior alterations of the land.
- 2) The developer consider an alternative name for the subdivision to avoid confusion with other existing subdivisions.
- 3) The developer meet the Fire Chief's recommendations.
- 4) The open space be private.

C. Site Plan – Snoasis Shaved Ice Relocation

Austin Roy said the Snoasis lease agreement with the landowner at 424 S Alpine Highway had expired and they planned to relocate the shaved ice shack to 195 E. 200 N. on property owned by the Balance Dance Studio. The dance studio operated nine months of the year during school and the shaved ice shop would operate in the summer for three months so there should not be a parking conflict. The site plan showed 15 parking stalls which exceeded the parking requirement of 7 or 8 spaces for that size building.

The ordinance required a side setback of 20 feet unless an exception was grant. The Planning Commission had recommended an exception of 10 feet. It would put the shaved ice shack 10 feet from the property line and 20 feet from the curb, which was the perceived property line. The tables would be in the grassy area. The property owner was talking to Purple to make sure the curb was painted red. Traffic would enter on the northeast corner and exit on the south to improve flow. A fence was shown between the commercial property and the adjacent residential property.

MOTION: Kimberly Bryant moved to approve the exception to the side-yard setback and the site plan for Snoasis Shaved Ice business at 195 E. 200 N. Carla Merrill seconded. Ayes: 5 Nays: 0. Motion passed.

<u>Ayes:</u>	<u>Nays:</u>
Jason Thelin	none
Ramon Beck	
Carla Merrill	
Kimberly Bryant	
Lon Lott	

D. Request to Waive Enforcement of the Height Restriction by 6.5 feet for Lot 21 of the Willow Canyon Subdivision.

Austin Roy said that the Annexation Agreement for Willow Canyon stated that homes above the High Bench Ditch may not exceed at height of 25 feet above natural grade to the highest part of the roof or parapet. Since the first homes were built in Willow Canyon, homes with a height over 25 feet had been approved by the HOA and the City. The most recent approval to waive enforcement of the height restriction was for the Whittenburg home. They received an adjustment of 13 feet 10.5 inches for topographical reason, resulting in a total height of almost 39 feet. Prior to that, the Council approved a height for the Tim Clark home of up to 32.5 feet. The Willow Canyon HOA recommended approving the request to waive enforcement of the height restriction for lot 21.

The Council discussed the merits of waiving the restriction and the reason why the height limit was imposed in the first place, which was to preserve a more pristine view of the hillsides. To date, 22 or 23 homes had been allowed to exceed the height limit of 25 feet and there were six remaining lots that fell under the same restriction.

David Church said the Council could deny the request, but they would need to state their basis for doing so because it would most likely be challenged.

MOTION: Lon Lott moved to waive the right to enforce the height restriction on lot 21 of Willow Canyon subdivision so long as it did not exceed 6.5 feet above the 25-foot height restriction as measured from natural grade. Ramon Beck seconded. Ayes: 3 Nays: 2. Motion passed.

Ayes:

Ramon Beck
Carla Merrill
Lon Lott

Nays:

Jason Thelin
Kimberly Bryant

E. Verizon Cell Tower Location

Mayor Stout said Verizon had previously approached the Council with a proposal to construct a cell tower in Burgess Park. There were many concerns voiced by both the residents and the City Council about placing the tower in Burgess Park where it would become an attractive nuisance since the park was heavily used by youth. Verizon was asked to consider some alternate locations. They did studies on two other locations, one of which was also in Burgess Park and the other one was at the end of Ranch Drive in city open space.. One of the obstacles with the third location was that it would require an easement agreement with the Metropolitan Water District to cross their land. It would also be located closer to residences than either of the other two locations.

Verizon representatives Troy Benson and Nick Jensen were present to answer questions. Nick Jensen said they had reached out to the water district, who indicated they would be open to granting them an easement to access the city property. He noted that the coverage in the third location would be less effective than either site in Burgess Park. The coverage in the second Burgess Park location was less effective than their first and preferred option which was the one they had discussed at the meeting of August 13, 2019.

David Church reminded the Council that they were looking at two issues. The first was whether or not the City wanted to be landlord. The second issue was approval of a new tower whether it be on city property, public property or private property. He said the burden was on the cell service provider to show that they had a hole in their coverage and they needed to put up a tower. The city could not discriminate against providers. Health effects could not be considered as long as the tower met the FCC guidelines. The City could regulate aesthetics and zoning.

Austin Roy showed the distance between the three different sites and residences. The first option in Burgess park was 700 feet from the nearest residence. The second Burgess Park site was 400 feet from residences. The third site at the end of Ranch Drive was 200 feet from residences

Nick Jensen explained that they used a lot of data to determine coverage. Alpine had terrain issues which created coverages issues for large areas of the community. The areas of poor coverage might have reception in the building but not in the basement. He said the biggest worry was that there would be a 911 call that didn't get through.

There was a question about the feasibility of locating the tower on an abandoned tower on Shepherd's Hill. Nick Jensen said he had visited the hill but didn't think the Alpine ordinance would permit what they needed. There was no space on the existing pole. He said one of the challenges was that they were trying to serve Alpine with as little infrastructure as possible. They would potentially need to put up another tower if there were complaints or a 911 call didn't go through.

Mayor Stout opened the meeting to public comment. He asked them to keep it to three minutes and not repeat something that had already been said.

Randy Austin – Twin River Loop. Mr. Austin began by thanking the Council for the work they did. He said this was the fourth public meeting to discuss the Verizon tower and they still had as many questions as they did at the first meeting. He said they had asked the City to evaluate other sites. Of the three sites presented that evening, there were only two new options. One was still in Burgess Park and the third option was inferior. He asked if the citizens were to believe there were only three options? He said the foundation for the review process was to prioritize city-owned property which would provide revenue to the City. He said he would like to recommend a different approach. Revenue should not matter. They should be looking for the best location whether it was on public property or private

property. He said the City Council had the power to control where they placed the tower. They should not assume that Verizon would automatically move it to school property.

Brian Cropper – River Road. He said he'd sent an email to the Council earlier that day, which he hoped they had read. He said he wanted to point out the logical inconsistencies in the process. Verizon had said their #1 choice was in Burgess Park, but there were other locations identified as possible sites which included Creekside Park and Peterson Park. He wanted to know why a study had not been made of those sites? He asked why it had to be in Burgess Park?

Shane Sorensen said that if the tower was located in the center of Creekside Park, it would still be closer to homes than it would be if located in Burgess Park. Peterson Park was close to Shepherd's Hill which already had towers.

Brian Cropper said that if the impacts on health or property values were not supposed to be considered, why would proximity to houses matter? He asked if a tower in Creekside Park have better signal strength.

Hal Hughes – River Circle. He said Verizon was presenting false options. They were asked to provide health statistics but did not do that. He said Verizon was facing action for health effects from radiation exposures. Insurance companies would not insure them. He said that the Planning Commission had asked Verizon to come back with other possible locations and they did not. They only provided schematics for option 1. It was plain they were trying to stack the deck. Option 3 was inaccessible. In short, Verizon was not listening to Alpine or its concerns. He said the decrease in property values would more than offset any revenue that would be realized. He said Verizon had only presented bad solutions to nonexistent problems. He told people to check the 10-K filing Verizon had provided to its investors.

Bradley Reneer – Parkway Drive. He said Burgess Park was on the very edge of the area where Verizon need coverage, and there was no coverage in the middle of the area. Even with a tower in Burgess Park there would be insufficient coverage. He suggested they place a shorter tower on Cemetery Hill would cover the entire area.

Chrissy Henniman said she wanted to see what the distances were for a tower in Creekside Park. Austin Roy said that if the tower was centered in the middle of the park it would be about 500 feet to the closest residence. It was almost 1200 feet to Alpine Elementary.

Laura Haacke – Parkway. She said she was surprised that Burgess Park was still on the list of options. She said she wanted to see more proof and more studies that it needed to be there. She asked why there was a height restriction on Shepherd's Hill but not in Burgess Park. She said Burgess Park was a landmark and a special place. As a parent she had to make tough decisions. If it was a choice of her kids getting hurt or her, she would always choose to be the one that was hurt. She said one of the possible spots was behind City Hall. She wondered why the City wanted to place it in a park by a school instead of by City Hall. She said they should strongly consider putting it behind City Hall.

Christy Collins - 100 South. She said they weren't considering the close proximity of the proposed tower to Timberline. She asked the Council not to rush into a decision blindly.

Daryl Hughes – River Circle. She said it felt weird that they were muzzled and couldn't talk about health issues. She asked if they were aware that there was no safe limit for radiation exposure for pregnant women and babies. She asked if they were aware of the damage created by cell tower radiation. The world's largest study done in Italy confirmed the link between cancer and cell tower radiation. In a German study they found that radiation from cell towers injured trees. The Department of Interior said that the standards for cell towers were outdated. Property values declined where cell towers were located. She said the Council should know the answers to these questions because she had mailed the information to them. She asked them to take steps to protect the community.

Amanda Collins – Rosanna Lane. She asked if they had a copy of the law. She said according to the map, it looked like they had coverage; it wasn't great in basements.

David Church said they could give her copies of the laws and whether or not Verizon had made a sufficient showing to the city that a tower was needed. He said there was important distinction between whether the city acted as a

landlord and leased the property for the tower or acted as a regulator. He said that once an applicant came to the city and said they had a lease with the school or some other entity, it started a clock. There was a certain time period in which the city had to respond. Once they came in with an application, they had to show that they had coverage issues. If the city disagreed, they had to hire their own expert. That had to be done within a short period of time. The process set forth by the federal government required the process to move quickly and placed the burden on the city to prove the service provider was wrong and didn't need a tower. Mr. Church said the meeting that evening was to determine if Alpine City wanted to be the landlord. If the city said no, they would need to begin the process to disprove the need for a tower.

The Verizon representative said they had spent a great deal of time searching for alternate locations that met the code. Alpine did not have a lot of sites that qualified.

Mayor Stout turned the discussion over the City Council.

Jason Thelin said they should evaluate Creekside Park, Cemetery Hill, and Peterson Park. The Verizon representative said they had looked at Cemetery Hill but there was not a lot of available space for a tower. There was some room in the lower area, but it may not work so well.

Lon Lott asked if there was another site that would provide better coverage regardless of whether it was public or private property. The Verizon representative said he had spent countless hours looking for sites that met code and provided full coverage. He said he didn't think the site existed.

Mayor Stout said he lived in the area that showed coverage issues. He had a Verizon phone and was content with the coverage that he had.

Kimberly Bryant said they had to decide if they wanted to be the landlord or not. She said she didn't like the insinuation that the Council or staff had tried to force the tower onto city property. They had tried hard to listen to the public. She said no matter where they put the tower, they would see people coming in to oppose it. She said that if they turned it over to another property owner, the residents couldn't be mad if it went on school property. Once the Council decided not to be the landlord, it was out of their hands. She said that revenue was not the reason Verizon was looking for a site on city-owned property. It was outlined in the code that city property would be the first priority.

Laura Hacking asked if they would be able to discuss it in meetings if the site was private. Mayor Stout said the school board did not hold public hearings.

Creekside Park was discussed as a potential site. Jason Thelin said that if they were going to lease space in Creekside, he'd rather see it in Lambert Park where it would at least be against the mountains or if it was placed on the proposed site in Burgess Park, it would be camouflaged among the trees and away from the houses.

MOTION: Ramon Beck moved that the City Council was not interested in leasing any park space for the Verizon cell tower. Kimberly seconded. Ayes: 1 Nays: 4 Motion failed.

Ayes

Ramon Beck

Nays

Jason Thelin

Carla Merrill

Kimberly Bryant

Lon Lott

MOTION: Kimberly Bryant moved to table this item to look at more possible sites. Ramon Beck seconded. Ayes: 3 Nays: 2. Motion passed.

Ayes

Ramon Beck

Kimberly Bryant

Lon Lott

Nays

Jason Thelin

Carla Merrill

F. Fence Between Healey Park and Stonehedge Open Space

Members of the Stonehedge HOA had previously requested that Alpine City participate in the construction of a fence between the new parking lot in Healey Park and their adjoining private open space. They had presented a bid from Best Vinyl for a three-rail vinyl fence with a gate at a cost of \$5,399.39 and requested that the City pay half the cost.

Shane Sorensen said there was a lot of city-owned property against private open space and if the City participated in every fence that was built, it would cost a lot. He said a two-rail fence would lower the cost by about \$1,000. He said the Council could decide what to do but it was not something they had budgeted for. He said that if the purpose of the fence was to keep people off their open space, he didn't see the reason to have a gate.

Rasty Snow said the residents in the subdivision wanted a gate so they could walk to church. The gate would also be used by the mower to cross Healey parking lot in order to access their private open space to cut the grass. The gate would be locked most of the time. He said the original drawing of the parking lot showed a fence between the parking lot and the open space. Shane Sorensen explained that it was a silt fence and was identified in the legend as such. He noted that the City had never received a complaint about nonresidents using the private open space.

Mayor Stout said the Council would have to defend a decision to spend City money to help someone fence their private open space.

Alan Gilman said he felt the City would be setting a serious precedent by helping them fence their open space. Everyone would want the City to do that for them.

Pam Reschke said the City built a fence between Smooth Canyon Park and Creekside Park. Shane Sorensen said the fence in Smooth Canyon was built because park users were trespassing into someone's yard. The fence in Creekside was built to keep kids out of the creek. They extended so the fence material would be consistent. Ms. Reschke said she would rather have a fence like the one built between Smooth Canyon Park and the Slightings.

MOTION: Ramon Beck moved to pay half of the bill to fence the Stonehedge private open space, which would be \$2,562.50. Kimberly Bryant seconded. Ayes: 2 Nays: 3. Motion failed.

<u>Ayes</u>	<u>Nays</u>
Ramon Beck	Jason Thelin
Kimberly Bryant	Carla Merrill
	Lon Lott

MOTION: Jason Thelin moved that in order to not set a precedent, the City not participate in the construction of a fence on this private open space. Lon Lott seconded. Ayes: 4 Nays: 1. Motion passed.

<u>Ayes</u>	<u>Nays</u>
Jason Thelin	Kimberly Bryant
Ramon Beck	
Carla Merrill	
Lon Lott	

G. Request for an Exception for the Side-yard Setback in the BC Zone at 235 S. Main - Paul Anderson

Austin Roy said that Paul Anderson was seeking a side-yard setback of zero (0) feet for his proposed building at 235 S. Main. He explained that the Planning Commission had originally recommended approval for zero setback but when Mr. Anderson came to the City Council several weeks earlier, he indicated that a setback of two feet would be sufficient. It was approved by the Council. But after he laid out the parking spaces, he realized he really did need a zero setback for his building.

Jason Thelin suggested he make his building small rather than asking for an exception.

MOTION: Carla Merrill moved to deny Paul Anderson's request for a zero setback for property at 235 S. Main. Kimberly Bryant seconded. Ayes: 4 Nays: 1. Motion passed.

<u>Ayes</u>	<u>Nays</u>
Jason Thelin	Lon Lott
Ramon Beck	
Carla Merrill	
Kimberly Bryant	

H. PI Rate Study Proposal – Lewis Young Robertson & Burningham, Inc.

Shane Sorensen said that with the new pressurized irrigation meter project, they needed to establish a rate schedule. He proposed contracting with Lewis Young Robert & Burningham for a rate study to make sure the billing was equitable and accurate. The City had used them before. It would cost \$9,900.

MOTION: Kimberly Bryant moved to approve the PI Rate Study. Carla Merrill seconded. Ayes: 5 Nays: 0. Motion passed.

<u>Ayes</u>	<u>Nays</u>
Jason Thelin	none
Ramon Beck	
Carla Merrill	
Kimberly Bryant	
Lon Lott	

VI. STAFF REPORTS

Shane Sorensen

- He reported that the I Am Recovery Lodge wanted to increase their occupancy from 8 residents to 12. According to the ordinance, a request for reasonable accommodation was to be approved by the city administrator. There was also a time limit for when it had to be approved.
- He reviewed the schedule for the Quail Fire trial.

VII. COUNCIL COMMUNICATION

Carla Merrill said the Youth Council had decided on a date for the Meet the Candidate Night which would be October 14th. Since it was too late to get it in the Newslines, she asked if residents could be reminded with phone calls and texts.

VIII. EXECUTIVE SESSION

MOTION: Kimberly Bryant moved to go into closed session to discuss litigation. Carla Merrill seconded. Ayes: 5 Nays: 0. Motion passed.

<u>Ayes</u>	<u>Nays</u>
Jason Thelin	none
Ramon Beck	
Carla Merrill	
Kimberly Bryant	
Lon Lott	

The Council went into closed session at 10:45 pm. They returned to open meeting at 11:15 pm.

MOTION: Carla Merrill moved to adjourn. Ramon Beck seconded. Ayes: 5 Nays: 0. Motion passed. The meeting adjourned at 11:15 pm.