

**ALPINE CITY COUNCIL MEETING
Alpine City Hall, 20 N. Main, Alpine, UT
October 9, 2018**

I. CALL MEETING TO ORDER. Mayor Troy Stout called the meeting to order at 7:00 pm. He said item C which addressed the Ridge at Alpine subdivision would be postponed

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

Mayor Troy Stout

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

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

Others: Greg Ogden, Natallee Ence, Dylan Ence, Landon Ence, Alpine 8th Ward Scouts, Gordon Willis, Susan Willis, Dale M. Buxton, Brad Cahoon, Tyler Cahoon, Rob Burgess, Gale Rudolph, Robert Jeffs, Will Jones, Sylvia Christiansen, Mike Russon, Cori Russon, Breezy Anson, Robert Jeffs,

B. Prayer: Kimberly Bryant

C. Pledge of Allegiance: Landon Ence

II. CONSENT CALENDAR

A. Minutes of the City Council Meeting of September 25, 2018

B. Payment to Morgan Paving - \$29,655.34

C. North Point View, Plat C – Reimbursement for Master Planned Storm Drain

D. Approve Contract with Nickerson Company to pull pump from 300 North Well

E. Traffic Study Proposal for Mountainville Academy – Hales Engineering

F. Bond Release #4 – North Point View, Plat C - \$29,644.75

Kimberly Bryant said she had participated in the meeting of September 25th over the phone and was only able to be there for a brief time. She was primarily participating in order to vote to extend the Municipal Grant. Just as she was hanging up, she was asked how she would vote on a Willow Canyon height issue. She said she'd had no time to consider the question and wanted her comment deleted from the minutes.

MOTION: Kimberly Bryant moved to approve the Consent Calendar and the minutes of the September 25th meeting as amended. Ramon Beck seconded. Ayes: 5 Nays: 0. Motion passed.

Ayes:

Jason Thelin
Ramon Beck
Carla Merrill
Kimberly Bryant
Lon Lott

Nays:

None

III. PUBLIC COMMENT

Mayor Stout invited the public to comment on items not on the agenda, and to limit their comments to three minutes.

Will Jones said he was representing Conner Peterson, an Eagle Scout who wanted to work on a project in Lambert Park. He had been hit by an auto when he was coming down the trail on a bike. His project would be to make the trail safer by cutting down some overgrown trees and posting four signs warning that it was a trail crossing. Shane Sorensen said he had spoken with him and he was bringing in a proposal.

IV. REPORTS AND PRESENTATIONS. None

V. ACTION AND DISCUSSION ITEMS

A. Fiscal Year 2018 Audit Report – Greg Ogden. Shane Sorensen introduced Greg Ogden who was the independent auditor who had audited Alpine City's finances for a number of years. He also introduced Dave Sanderson, Alpine City's Finance Officer.

Greg Ogden reviewed his Management Letter and Alpine City's Annual Financial Report with the Council, which had received copies of the material prior to the meeting. He said there was only one Finding against the City which was in the General Fund. They were \$20,000 over budget. Shane Sorensen explained that it was impacted by the lawsuit which was something they hadn't been able to anticipate or budget for. Mr. Ogden said that otherwise the City was in really good shape financially. He then reviewed some of the details in the Financial Report. Again, he said Alpine City was in really good shape. They had very little debt in comparison to other cities he audited. Alpine had plenty of money in the unrestricted funds account which provided what they needed to run the departments of the city. Auditors liked to see that the city was charging enough in fees to cover the cost of services. The full report could be read online at the State Auditor's Office.

MOTION: Lon Lott moved to accept the Alpine City Audit Report for 2018. Ramon Beck seconded. Ayes: 5 Nays: 0. Motion passed.

Ayes:

Jason Thelin
Ramon Beck
Carla Merrill
Kimberly Bryant
Lon Lott

Nays:

None

B. Exception Request -Gateway Historic and Business Commercial Setback Requirements - Bank of American Fork – 105 South Main Street. Ramon Beck stated that he had worked for the Bank of American Fork for 45 years but had retired earlier that year.

Austin Roy said the Bank of American Fork was planning to demolish the existing building and construct a new building on the same site. They were requesting an exception to the setbacks as allowed in the Gateway Historic Zone. The ordinance stated that a building may not be set back less than 30 feet on street frontages. The original building was placed closer than that. The ordinance stated that the Council may grant an exception to setback requirement for properties in the Gateway Historic zone. He showed the site plan for the new building which had a setback of 11 feet on the north side along 100 South. The west side showed as setback of 20.5 feet on the west side of the building along Main Street. A survey had been done.

David Church said the new design was an improvement over the current building. It would be safer because it improved the sight triangle on the corner and moved the drive-throughs back so the cars didn't come directly out onto 100 South.

Jason Sandberg, the architect, said that rotating the building allowed better visibility, but they needed to have it closer to the street to make the plan work.

Shane Sorensen said the new design would have more green space than the current design.

Carla Merrill said the Planning Commission had recommended approval based on the condition that the building be moved ten feet to the east. A discussion followed regarding measurement of setback. Shane Sorensen said setback was measured from the property line which was typically a foot behind the sidewalk.

Jason Sandberg said that moving the building ten feet to the east would move it even farther from the property line than required. He said they would love to have the new building located where the current one stood. After more discussion a motion was made.

MOTION: Carla Merrill moved to approve a setback exception of 11 feet on the north side for the proposed Bank of American Fork, and require that the building be shifted 10 feet to the east but allow an exception of up to one foot on the west side. Jason Thelin seconded. Ayes: 4 Nays: 1 Motion passed. Ramon Beck voted nay stating he'd like to see it remain in the location where the old building stood.

Ayes:

Jason Thelin
Carla Merrill
Kimberly Bryant
Lon Lott

Nays:

Ramon Beck

C. The Ridge at Alpine Subdivision, Phase I Final – Paul Kroff. This item was postponed.

D. Request that Alpine City Waive the Right to Enforce the Height Restriction in the Willow Canyon Annexation Agreement for 75 N. Preston Drive – Tim Clark. Austin Roy said Mr. Clark had come back with a request to allow his home to be 7.5 feet above the maximum height of 25 feet as set forth in the Willow Canyon Annexation Agreement. At the meeting of August 28, 2018, he had requested that the City allow him a height of 15 feet above the 25-foot limit. It was denied. His second request at the meeting of September 11, 2018 for a height of 9 feet was also denied.

Mayor Stout invited those who were there for this particular item to comment but keep their comments to three minutes.

Brad Cahoon, with the firm of Durham Jones & Pinegar, said he represented Tim Clark. He had submitted a letter to the City Council on Friday. He argued that the City Council had the authority to make a decision on a height restriction. On top of that, a precedent had been set in which previous Alpine city councils had approved other adjustments to the height of homes in Willow Canyon. He said his client was experiencing a severe hardship because he had been issued a building permit which was revoked. Excavation work had begun, but there was no hard construction. He said they wanted to have some elevation so the upper floors could be above the cut. The Clarks had spent \$300,000 related to architectural adjustments and were paying the contractor in order to retain him and keep him on the job. He urged the Council to allow Mr. Clark to build a home 7.5 feet above the 25-foot height restriction as had been approved for other landowners. He said the opponents were threatening legal action, but based on his reading of the law, he felt prepared to defend his client's decision and help the city defend the decision to allow construction above the height limitation.

Gordon Willis – Bald Mountain Drive, Mr. Willis said the Council needed to look at why they were giving a variance to the height restriction. Mr. Clark's lot had less slope and more square footage than the other lots in the area. He pointed out that the Clarks and their contractor were not following the site plan they submitted. The house was located 75 feet north of what the drawing showed. He also had a problem with the excavating they were doing, which was right in the middle of Willow Canyon stream. It was in complete conflict with the drawings they submitted. He said the existing stream channel divided the property in the middle and was not to be disturbed. His home was directly downstream of where they were excavating and he was wondering if he was going to get flooded. The SWPPP did not take into account excavating in the stream and he was nervous about how it was going to turn out. They had violated the SWPPP and moved the house from where it was in the original drawing. According to the Annexation Agreement, they could clear 50% of the oak trees. By moving the stream, they cleared an additional 15,000 square feet of vegetation that was not anticipated in the drawings. He said he was seeing that about 46,000 square feet had been cleared in violation of the agreement. They did not get a stream realignment permit. As a citizen and an anxious neighbor, he would like to see zero variance given, and require plans to fix the creek and revegetate and put the house where it was approved to be located.

David Church said the land disturbance issue in the Pen and Case litigation was that the Annexation Agreement was not as clear as they'd like it to be. Pen and Ink wanted to increase the area of disturbance on their lot to 90,000 square feet. He wasn't sure what was originally contemplated in 1996 but what was decided was that 60,000 square feet could be disturbed on the large lots outside the subdivision.

Robert Jeffs was legal counsel for the Clark's neighbors. He said the City Council should have received correspondence from him. He said the City did not actually have a right to grant a variance from the Annexation Agreement. Appellant courts were limited to the narrow questions with which they were presented. They had to determine if an action was illegal, arbitrary or capricious. He said he felt the granting of a variance by the City Council was illegal because it violated a covenant that ran with the ground. If they were going to grant a variance, according to Alpine City's own ordinance, a variance could only be granted if complying with the law created a hardship and was not necessary to carry out the purpose of the agreement. The purpose of the Annexation Agreement was to prevent unsightly homes from being built on the hillside. There would be no two-story homes above grade, but the Clark home was three stories above grade. There were no special circumstances associated with the property that were not on other neighboring properties. There was nothing that necessitated a variance. When the City Council granted variances on other lots, they considered the special circumstances associated with the variance. He had not heard one thing about the Clark property that made a variance necessary. There was no basis for it and it was therefore, arbitrary and capricious.

Gordon Willis said that in addition to clearing addition area, they were rerouting the stream and putting the house where the stream was. If they excavated to the north for a new streambed, there would be excavating more vegetation and terrain.

David Church said that even though it was referred to as a variance, it was not a variance and had never been a variance. The Annexation Agreement was not a land use ordinance and could not be sent to a board of adjustment. It was contract between the city and the landowners. The only thing the City Council could do was to decide whether or not to enforce the terms of the agreement in regard to the height of a home. He asked if the Council wanted to instruct staff not to enforce that particular section of the agreement which limited the height of a home to 25 feet above natural grade.

Carla Merrill asked if the Clarks had worked with the Willow Canyon HOA. Mr. Cahoon said they had but there was no consensus on the HOA. He said that Mr. Willis' comments about the streambed were not relevant to height and could be addressed another day.

Susan Willis – Bald Mountain Drive. She said she had talked with Joel Kester who had asked for a set of plans showing exactly what they were doing and received only sketches. He was looking for something from which he could make actual calculations and they had not been produced.

Lon Lott said he had read all the emails that residents had sent out. He appreciated their input and concern. The Council was in a unique situation because of the precedent that was set years ago. There were some homes that had variances approved that did not come to the council. He had personally looked at some of the homes that were allowed to build above the 25 ft height and the decision seemed very arbitrary.

Carla Merrill said she had also read the emails and it was hard situation. She would prefer to abide by the agreement but realized this property was not part of the HOA. She could see both sides. The property owner trying to work with the City to get his home built and the other property owners who were already there had concerns about what was being built.

Ramon Beck said he had voted to allow Mr. Clark to build 9 feet above the 25-limit at the last meeting. He had read the emails and felt they had some salient issues.

Jason Thelin said he did not think a precedent had been set by previous allowances. He was frustrated that there seemed to be no effort by the Clarks to work with the neighboring property owners. The house was so outlandishly tall and it seemed the latest plan was the same as the one they originally submitted. There were no plans to modify the house. They were just digging down a bit.

Kimberly Bryant said that when the City annexed ground, they took it seriously. They treasured their mountains and hillsides. Everyone who bought property up there knew what they were buying. She said every situation was different. There was no precedence. Some got an allowance to build their house taller and some did not. It depended on the situation.

Mayor Stout said the hillsides had always been an issue in this town. There were big houses up there but he was not criticizing the size. They were trying to bring some consistency to the height. It made sense to embed the houses into the hillside so they didn't obstruct the view. He said there may have been mistakes in the past. He didn't think they had to repeat the mistakes.

Ramon Beck asked if relocating the stream was an issue. Shane Sorensen said anyone who did that had to get a permit from the state. If they had a permit, they didn't have a copy of it. They were told that the Division of Water Rights wanted the channel in its original location.

David Church said that when they presented the site plan at DRC, they showed an altered streambed and staff told them they had to get a permit from the state.

MOTION: Kimberly Bryant moved to deny the Clark application for an exception that would allow him to build above the 25-foot height limitation. Jason Thelin seconded. Ayes: 2 Nays: 3 Motion failed.

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

Tim Clark's contractor Steve Davies said they had tried to make the maps as accurate as they could. They had not moved the stream bed. They did not move the house 75 feet.

Shane Sorensen said the area was on an alluvial fan and things could have moved. There was a debris flow through there. He said they would follow up on it.

MOTION: Lon Lott moved that consistent with previous actions of the City, the City waive its rights to enforce the height limitation in the Annexation Agreement so long as the height did not exceed 7.5 feet above the 25-foot height limitation. Ramon Beck seconded. Ayes: 3 Nays: 2 Motion passed.

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

E. Alpine Barn Wedding Venue Site Plan, Exception Request – 45 E. 200 N. - Dylan Ence. Austin Roy said the Harmony Forge building on 200 North was currently used as office space. The Ences were proposing to make it a wedding venue but it had inadequate parking so they were seeking an exception to the parking requirement. Article 3.24.3 of the Alpine City Development Code required 13.5 parking spaces for every 1,000 square feet for reception centers. The structure was approximately 4,500 square feet and would require 61 parking spaces.

The Harmony Forge building had 18 parking spaces on site. An adjacent property, which was owned by the same person who owned Harmony Forge had 21 spaces that could be used. Another 13 parking spaces were available at a business on the other side of 200 North. The applicant had obtained a letter from the owner of the property allowing them to use the spaces. That totaled 52 spaces. They needed an exception for the remaining 9 spaces.

Austin Roy said that Article 3.11.4.3.5 provided for the City Council to approve exceptions to the parking requirement to better implement design guidelines. The Planning Commission had reviewed the request and recommended approval of the exception with the following conditions: 1) The event center be limited to receptions after 5:30 pm; 2) Daytime events would not exceed 60 people; this restriction was not be applicable on holidays and weekends; 3) The applicant obtain written agreements from any landowners that agreed to allow off-premise parking that was not part of the lease agreement, and submit them to the City; 4) Provide an engineered parking plan prior to the City Council meeting.

Mr. Roy said the applicant had submitted the engineered parking plan and had a written agreement from landowners that would allow parking on their property.

Troy Stout asked how they would regulate how many people showed up. Dylan Ence said they owned another wedding venue in American Fork and had been in business for 8 years. They let the people know the requirements and had an employee direct traffic.

Kimberly Bryant said that if there was a parking issue, people would end up parking across the street at the church, which wouldn't be acceptable.

Mr. Ence said he was very aware of the parking issue. The actually meeting space in the barn was 2800 square feet. The fire chief had inspected the site and said the mezzanine could not be accessed by the public due to safety concerns. A 2800 square foot facility was not overly large.

Kimberly Bryant said she was concerned there would be an issue with people using the parking at PURPLE, the business next door. She added that she worked for PURPLE.

Mr. Ence said not all the attendees would be there at the same time. There was typically an ebb and flow of traffic at receptions.

Terry Pierce said he owned the business (PURPLE) next door to the proposed venue. He thanked the City for their patience with their parking issues. They did not park in the church which was private property and did not allow parking for non-church activities. He said he didn't think the ordinance contemplated how much of the building may or may not be used. He asked about whether the neighboring businesses that were allowing them to use their parking would not be using the spaces for their own employees. He asked the Council to not grant an exception. He added that his business had employees working in the evenings and on weekends. They had trucks coming in at night to make deliveries. He said it was not reasonable to open a business without control of the parking.

Dylan Ence said the financial firm next door to Harmony Forge building closed at 5 pm and were closed on weekends which was why they were able to use their parking. They had no intentions of using PURPLE's parking and did not intend to park on the streets.

Mayor Stout asked about employees prepping for the event. Mrs. Ence said they lived a block away from the venue and would have two or three employees setting up the event so there would be adequate parking for that. She said she felt the venue would be a beautiful addition to the city. They had a full staff at their primary location in American Fork. They would have staff at the Alpine site only during the actual event.

Lon Lott asked what the term of lease was and if Alpine would receive sales tax revenue from the venue. Mr. Ence said it was a seven-year lease. They would be paying sales tax.

Carla Merrill noted that since the actual usable space was 2800 square feet rather than 4500 square feet, the parking exception seemed more reasonable.

It was noted that the square footage needed to be calculated correctly. They would need a business license and a building permit for the renovations.

MOTION: Carla Merrill moved to approve the parking exception based on useable space of 2800 square feet since the loft space was not occupiable per the fire marshal, and with the following conditions:

- The event center be limited to receptions after 5:30 pm
- Daytime events not exceed 60 people; this restriction was not applicable on holidays and weekends.
- Obtain written agreements from any landowners agreeing to allow off-premise parking that was not part of the lease agreement, and submit a copy of the agreement to the City.

Lon Lott seconded. Ayes: 4 Nays: 0. Kimberly Bryant recused her herself. Motion passed.

<u>Ayes</u>	<u>Nays</u>
Jason Thelin	None
Ramon Beck	
Carla Merrill	
Lon Lott	

David Church said the restrictions should be recorded and the fire chief would need to make an annual inspection of the business.

F. Smooth Canyon Park - Parking Lot Expansion. Mayor Stout suggested they table this item until they had a chance to calculate how many athletes there were from Alpine who participated on the teams. Since the number of youth in Alpine was shrinking, he felt the projected need for soccer fields on a residential basis had shrunk. He questioned if they could justify three soccer fields in Alpine.

Shane Sorensen briefly reviewed the three parking proposals. The first one increased the number of parking spaces from 21 to 74. The second proposal increased the number of spaces from 21 to 52. The third proposal created a parking area north of the church parking lot to provide 54 parking spaces.

MOTION: Lon Lott moved to table this item pending more information on team membership. Ramon Beck seconded. Ayes: 5 Nays: 0. Motion passed.

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

G. Resolution No. R2018-13 Clothing Allowance Fee. Shane Sorensen said the City had received funds for Safety Compliance. He proposed that those funds be used as a clothing allowance for public works and parks employees. The stipulations on the clothing and use would go in the Employee Handbook.

MOTION: Ramon Beck moved to approve Resolution No. 2018-15, Clothing Allowance. 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	

H. Ordinance No. 2018-07, Amending Article 3.1.11.7, Definition of Buildable Area, Driveway Cut/Fill Clarification. Austin Roy said the Planning Commission had held a public hearing on the proposed amendment and recommended approval. The clarification would allow a developer to know where to measure the cut and fill, which would be at the finished grade of the centerline alignment.

MOTION: Ramon Beck moved to approve Ordinance No. 2018-07 Amending Article 3.1.11.7. Jason Thelin seconded. Ayes: 5 Nays: 0. Motion passed.

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

I. Ordinance No. 2018-08, Amending Articles 3.3.4 and 3.4.4. Austin Roy introduced the ordinance which was proposed by the City Engineer. The change would allow for more regularly shaped lots as development occurred in the steeper areas of Alpine.

Carla Merrill asked if these types of issues had to come to the Council or if they could be approved by staff. David Church said that in most cities they were approved by staff.

MOTION: Carla Merrill moved to approve Ordinance No. 2018-08 Amending Article 3.3.4 and 3.4.4. 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	

J. Proposal for 300 North Well Rehabilitation: Shane Sorensen said they'd had ongoing issues with the well. They had replaced the pump in 2015 and it went down again this year. Sediment was coming through perforations in the casing. He requested approval of \$120,000 to rehabilitate the well in order to have it in operation by next spring. It would come out of the PI Budget. There may be some additional expenses on top of that but if they needed more, they would come back to the Council.

MOTION: Ramon Beck moved to approve \$120,000 to rehabilitate the well on 300 North as explained by Shane Sorensen. 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. COUNCIL COMMUNICATION

Troy Stout said the League of Cities and Towns was going to reevaluate the use of impact fees and maybe add a little more time to use them and additional expenditures. More worrisome was a bill in the works to hold city officials liable if a developer had a grievance. They could come after the council and not just the city. It was a lot of personal liability and may discourage people from running for office. There needed to be a large outcry against it.

Mayor Stout also reported that UDOT had 44 million dollars to spend from a settlement with Volkswagon, which would go toward roads. Alpine would be an indirect beneficiary.

VII. STAFF REPORTS

Shane Sorensen reported on the following:

- They were investigating a new phone system for the Council Room. Highland City had a system that tied into the microphones.
- He had sent them an email about the fire department and budget issues. Because Cedar Hills had left the District, Alpine and Highland would have to pick up the costs. There would be an increase in budget but no increase in service.

- The new fire chief was interpreting the Wildland Interface Ordinance to mean that fire sprinklers were required for all homes in the Urban Wildland Interface area. Council members may be getting phone calls about it.
- He had received an update from Barry Johnson about the Quail Fire lawsuit. They were in the late stages of discovery and were almost ready to go to trial.

David Church said the Utah League of Cities and Towns had a committee that councilmembers could participate in. Monday the 15th was the next meeting if anyone was interested. The committee set policy on positions they took in the legislature. He said one of the issues was a bill in both the Senate and House intended to solve the housing issue. Basically, the bill would say that decisions on density would no longer be made on the local or municipal level because more dense housing was needed and the cities were not being cooperative so the decisions would be made at the state level. He said the people who currently controlled the legislature were in the development business. They felt the solution to housing was to have more density and more units.

Austin Roy said Ted Stillman was the new code enforcer and he was great. He had been going out with him on enforcement calls.

VIII. EXECUTIVE SESSION: None held.

MOTION: Kimberly Bryant moved to adjourn. Lon Lott seconded. Ayes: 5 Nays: 0. Motion passed.

Ayes
 Jason Thelin
 Ramon Beck
 Carla Merrill
 Kimberly Bryant
 Lon Lott

Nays
 None

The meeting was adjourned at 10:30 pm