

SEPTEMBER 27, 2005

Minutes of the **CITY COUNCIL MEETING** held on **TUESDAY, September 27, 2005** at Alpine City Hall, 20 North Main, Alpine, Utah 84004 at 7:00 pm as follows:

The following members were present and constituted a quorum:

Mayor – Philip D. Barker

City Council Members: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby

Staff: Ted Stillman, Jeff Robb, Janis H. Williams, Shane Sorensen, Jay Healey and Annette Scott

Others: Jannicke Brewer, Dale Porter, Jim Tracy, Tracy Wallace, Craig Skidmore, Will S. Jones, Jason U.

Thelin, Ruben J. McDougal, Greg Ogden, Angie Pettro, Caleb Warnock, *The Daily Herald*, Ross Beck, Dana

Beck, Annette Beck, Maria Beck, Richard Hamick, Phyllis Bellon, Arlin Bellon, Craig McDaniel, Ula B.

Hemingway, Robert Hemingway, LaVon Devey, Paul Bennett, Angie Pettro, Debbie Nickle, Jenna Nickle,

Andrew Dickens, Tiffany Dickens, Ra Puriri, Scott Owen, Darla Nelson, Andy Spencer and Justin Hamblin

I. CALL TO ORDER. Mayor Philip D. Barker called the City Council Meeting to order at 7:03 pm and welcomed those in attendance.

II. PRAYER/ OPENING COMMENTS – Hata Puriri

III. PLEDGE OF ALLEGIANCE. Jenna Nickle of the Alpine Days Rodeo Royalty 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 –

A. Business Licenses:

Andrew Spencer – ALPINE CIVIL DESIGN, LLC; 175 North 200 East

Brian Parrish – THINKBOX ADVERTISING & DESIGN; 310 N. Grove Drive

Angela W. Pettro–SPAZZZ; 264 S. Main Street (Commercial Bus License)

B. Bond Releases:

Roger Whitby – Whitby Woodlands, Plat A - \$5,023.17

Roger Whitby – Whitby Woodlands, Plat B - \$30,663.42

Rob Clauson – Alpine Commons PRD - \$18,168.00

David Moon – Moon Subdivision, Phase 2 - \$13,449.12

Darin Edwards – Wayne Court - \$39,683.04

John Paskett – Paskett Court - \$35,168.79

Mark Peterson – Dry Creek Orchards, Plat A - \$44,851.39

Will Jones – Dry Creek Orchards, Plat B - \$23,424.39

C. Payment Requests:

Patterson Construction – Box Elder Water System Reimbursement - \$8,000.00

Kent Hastings asked if Dry Creek Orchards was the subdivision behind Alpine Elementary and had several questions about the Bond Release.

Ted Stillman said the City agreed during the development of the Box Elder Subdivision to reimburse 45% of the cost of the water system and in April, the City paid Patterson Construction \$105,209.30 toward the Box Elder water system construction costs. The Settlement Agreement also required the City to reimburse \$2,000 for each water connection sold in Box Elder. The City reimbursed the \$2,000 a lot until 1998 when the then Mayor directed that the payments cease until the whole Box Elder water system dispute was settled. Since that time four additional homes have been constructed in the Box Elder Subdivision, so the City owes \$8,000. Mr. Stillman further stated that in our ongoing program to pay if we owe, it is proposed that the City pay Patterson Construction \$8,000 for the four water connections.

MOTION: Hunt Willoughby moved to approve the Consent Calendar. Thomas Whitchurch seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

VI. SCHEDULED ITEMS

A. 2004-2005 AUDIT. Greg Ogden presented the 2004-2005 Audit and said the City was in a very good financial situation. Mr. Ogden explained what the sewer depreciation was and thanked the staff that helped him to complete the Audit. Thomas Whitchurch thanked Greg Ogden for doing such a good job in completing and doing a thorough audit. Kent Hastings had a few additional questions about the unrestricted monies and Greg Ogden said that Alpine City has more unrestricted money than any other city he audits.

MOTION: Thomas Whitchurch moved to accept the 2004-2005 Audit as presented. Hata Puriri seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

B. RECYCLING. Ted Stillman said that in April we received a proposal from ACE Disposal to begin recycling in Alpine. ACE required us to have 250 households sign up for recycling and at present, 260 households have signed up. ACE proposed a subscription service that would allow residents to voluntarily sign up for recycling; however, the City would still do the billing. ACE would charge the City \$4.50 per month for every other week service and \$6.25 per month for weekly service. The City's current charge is \$4.13 for the 2nd can, and Mr. Stillman suggested this be raised to give more incentive for residents to recycle as Highland charges \$9.00 for the 2nd can. Mayor Barker said he was in favor of recycling, but felt we should educate the residents in wanting to participate in the recycling program. Hata Puriri asked if ACE Disposal would take the recycling to North Pointe. Jim Tracy recommended that we drop the price of the recycling can by \$1.00 and raise the price of the 2nd garbage can by \$1.00. Richard Hamick said there are three different recycling centers they use and some of them don't make ACE responsible for any residual trash that is in that can. The recycling materials that are acceptable include aluminum cans, newspapers, plastics and cardboard. Weekly pickup vs bi-weekly pickup was offered to the residents and was discussed. Kimberly Bryant felt this was an easy recycling program and she felt that when the residents see how easy it is to recycle, more will participate in the program; however, Mrs. Bryant felt we should not penalize those residents who do not want to participate.

MOTION: Hata Puriri moved that we instruct staff to create a contract with ACE Disposal for the recycling program with the following conditions:

1. That the charge for every other week service be \$4.50
2. That the price of the second can remain the same at \$4.13
3. And that the recycling contract expire the same date as for our regular service and then be renegotiated

Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

C. SPAZAZZ SITE PLAN (LOCATED IN THE OLD GEORGE HEATON HOME AT 264 S.

MAIN. Ted Stillman said this business would be located in the old George Heaton home at 264 S. Main Street just south of Authentique. Angie Petro said her firm manufactures spa products. The administration office would be located in the home on South Main but the spa products will still be manufactured in California. The Planning Commission approved the Site Plan at their meeting of September 6, 2005. The cross easement was so both businesses could use the common driveway and the parking calculations do not include parking on Main Street.

MOTION: Thomas Whitchurch moved to approve the Spazazz Site Plan located at 264 S. Main Street for Angie Petro subject to:

1. That lighting be installed in the parking lot
2. That the parking spaces will be 19' long
3. That the garbage be stored in the garage

4. That the parking area will be paved and striped
5. That there will be a cross easement with the adjacent owner

Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

D. McDANIEL BOUNDARY LINE ADJUSTMENT. Ted Stillman said that Craig McDaniel owns a 5-acre parcel adjacent to the south border of Lambert Park. Mr. McDaniel is selling his property and has found that there is a discrepancy between his property line and the City's Lambert Park property line. Mr. McDaniel has had the property surveyed and has prepared a Boundary Line Agreement changing the boundary where the City has thought the line was. Shane Sorensen has researched the deeds for the Lambert Park property and found that it has been called out from the section from the beginning. Mr. Sorensen also talked to the owner of the title company who is an attorney and he thought the City had all rights to the disputed property since there is nothing on record of the City or previous property owners relinquishing their rights to the property and since there is apparently no old fence along the property line; however, Shane Sorensen found a fence on the property that coincides with the alignment that Craig McDaniel claims. Based on the fact that there is evidence to support both sides, staff recommends that the City approve the Boundary Line Agreement as recommended by Craig McDaniel. Mayor Barker said he didn't want to see the City just give the McDaniel's extra land, but now that research has been done, he feels better about granting the Boundary Line Agreement.

MOTION: Hunt Willoughby moved to approve the Boundary Line Agreement between the McDaniel property and the City's Lambert Park as proposed by Craig McDaniel based on field observations and an historical property line review. Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

E. ERCANBRAK MINOR SUBDIVISION. Ted Stillman said that Paul Ercanbrak owns 1.63 acres at the southwest corner of 300 North and Alpine Blvd. and would like to develop three lots. The Planning Commission at their meeting of September 20, 2005 set a Public Hearing for October 18, 2005 and reviewed the Ercanbrak Minor Subdivision subject to the following:

1. That the right-of-way for 300 North be shown on the plat and be dedicated to Alpine City
2. That the City's water policy be met with Alpine Irrigation Company shares
3. That redlines on the plat and construction drawings be corrected
4. That the developer bond for the required improvements

Ted Stillman said this subdivision is on tonight's agenda for information only. Thomas Whitchurch said the Planning Commission was concerned about the width of 300 North and Shane Sorensen told the Council about an agreement and easement that was recorded when Clark Burgess built his house. Shane Sorensen said there would be only one additional house that would access off of Alpine Blvd.

F. ALPINE DAYS REPORT. Tracy Wallace, Chairman of 2005 Alpine Days, gave an overview of the celebration and said that financially they appear to be very close to what they budgeted. Mr. Wallace felt it was a successful event. Mayor Barker thanked Tracy Wallace for his hard work in being the General Chairman of Alpine Days and presented him with a plaque. Dana Beck put together a slide presentation for this year's Alpine Days Rodeo for the enjoyment of those attending City Council.

G. SIDEWALK REPLACEMENT PROGRAM. Shane Sorensen said staff is currently obtaining bids for the sidewalk replacement project. Mr. Sorensen had prepared a memo that went out to contractors that said "Alpine City is soliciting bids by invitation for the Sidewalk Replacement Project which would consist primarily of removing and replacing existing sections of existing sidewalk that has settled or been damaged in some manner that has created a trip hazard. Some curb and gutter replacement may also be included in the project....."

Shane Sorensen said the project was bid as a unit price bid and bids were received, which were due on Monday as follows:

	Ben-Crete, Inc.	Ken Gordon
1. Remove and Dispose of Existing Sidewalk (4": nominal thickness)	\$1.75	\$ 3.00
2. Remove and Dispose of Existing Curb and Gutter	\$5.00	\$ 3.50
3. Construct Sidewalk (4" thick)	\$2.25	\$ 2.75
4. Construct Curb and Gutter	\$9.00	\$12.00
5. Saw Cutting Sidewalk (4" nominal thickness)	\$2.50	\$ 1.40

MOTION: Kent Hastings moved to accept the bid for the Sidewalk Replacement Program submitted by Ben Crete and instructed staff to replace the more critical sections of sidewalk first and then report back to the City Council. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

H. ORDINANCE NO. 2005-18 – AGRICULTURE NOISE. Ted Stillman said that on the west side of Alpine there is a farmer who has land in Alpine, Highland and the County. This farmer is getting complaints from an adjacent property owner who lives in Highland about noise. This farmer would like us to adopt a Noise Ordinance that allows for agricultural noise, as the Alpine Noise Ordinance currently does not contain noise protection for agriculture. The Planning Commission reviewed this issue and recommended the following change to the ordinance which would protect agriculture from noise complaints:

CHAPTER 13-331 NOISE

It is a Class C misdemeanor for any person to disturb the peace or quiet of any neighborhood, family or person by loud or unusual noises, by tumultuous or offensive conduct and that noises emanating from farming and or agricultural activities in their normal course shall not be deemed to be unusual, tumultuous or offensive.

Thomas Whitchurch felt we should look at adding some language that would address the issue of dust and odor. It was suggested that we instruct the Planning Commission to look at this.

MOTION: Thomas Whitchurch moved to adopt Ordinance No. 2005-18, An Ordinance amending the Alpine City code Regarding Noise. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

I. ORDINANCE NO. 2005-19 – SIGN ORDINANCE. Ted Stillman gave the council members a copy of the Sign Ordinance reflecting all the changes made by the Planning Commission. A Public Hearing now needs to be set. Kent Hastings said that people have garage sales and he doesn't see any problems with those signs and Thomas Whitchurch said the changes in this ordinance would allow the city to take the signs down. Jim Tracy said he is now taking down about 20 garage sale signs per week.

MOTION: Thomas Whitchurch moved to set a Public Hearing on the Sign Ordinance for Tuesday, October 25, 2005. Hata Puriri seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

J. RESOLUTION NO. R2005-09 and ORDINANCE NO. 2005-16 – QWEST TELECOMMUNICATIONS TAX. Ted Stillman said that Qwest has requested a refund of \$18,387.05 for overpayment of the Telecommunications Franchise Tax. The City Council asked for additional information from Qwest to justify their request for a refund. Qwest calculated the overpayment by the following process:

1. Identifying each customer who purchased a package from Qwest during the period.
2. Totalling the amount each customer was billed for the package during the period.
3. From the total bill amount they subtracted the amount attributable to local exchange access charges.
4. The resulting amount represents the amount Qwest billed each customer for features (call forwarding, call waiting, etc.
5. From the total billed amount, Qwest subtracted the amount attributable to each customer for

- features (call waiting, call forwarding, etc.
- 6. Qwest then multiplied that amount by the applicable franchise tax rate.
- 7. The product of that calculation represents the franchise tax billed.

MOTION: Hunt Willoughby moved to adopt Resolution No. R2005-09, A Telecommunications Tax Resolution for the refund of \$18,387.05 for overpayment of the Telecommunications Franchise Tax. Thomas Whitchurch seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

Ted Stillman said the 2004 State Legislature changed the Telephone Franchise Tax to be a 6% Franchise Tax on phone service. The State lowered the Franchise Tax to 4% but raised the base, which now includes cell phones, call waiting, and long distance, etc. Qwest found out last year that they sent cities too much money and are now requesting a refund. The City's proposed Ordinance would reduce the Franchise Tax to 2.1%, which should make it revenue neutral.

Ted Stillman presented a Telecommunications Tax Summary as follows:

	2004/2005	2005/2006
Base Tax	\$35,904.06	\$35,904.06
Excess	\$51,505.28	\$33,118.23
Total	\$87,409.34	\$69,022.29
Tax Rate	4.0%	2.1%

Ted Stillman suggested that leaving the telephone franchise tax at the current level would assist in funding some critical land acquisition that will be discussed in Executive Session. Thomas Whitchurch asked if it wouldn't be appropriate to talk about this after the Executive Session.

MOTION: Hunt Willoughby moved that we adopt Ordinance No. 2005-16, A Telecommunications Tax Ordinance setting the rate. Kent Hastings seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

K. LAND AND WATER GRANT APPLICATION. Ted Stillman said the Land and Water Conservation Fund is a Federal Grant Program to assist in the acquisition and development of parks. It is administered by the State of Utah and applications are due by October 15, 2005. The program is a 50/50 match. Projects the City would like to apply to use these funds for were discussed and one of them was the construction of restrooms and a pavilion (including storage) in Legacy Park. The estimated cost of the restroom and pavilion is \$120,000.00 and the grant would pay for half or \$60,000.00; however, Mr. Stillman said he is not asking the council to make a decision tonight. Hata Puriri asked Ted Stillman to look at the South Pointe park as he feels this park needs a face lift.

L. STREET LIGHTING. Shane Sorensen said Hunt Electric, Inc. approached him two weeks ago about our Street Lighting Project. The City Council recently chose a street light to be used for the Main Street Lighting Project. Mr. Sorensen said that Hunt Electric is a full service company that designs, constructs and maintains street lights and other types of projects and they have worked on many projects with Mountain States Lighting, the company that has helped us with our street light planning. Shane Sorensen said that Hunt Electric offered to give the city a proposal that would complete our street light project as a design build project. Mr. Sorensen felt it would be a good option to at least consider since we do not have anyone on our staff that specializes in street light and electrical design. Their proposal was broken into phases, such as the parking lot lights, bridges, roundabout and the remainder of Main Street. Shane Sorensen suggested that we put off making a decision on this project until we get all the information from them. Thomas Whitchurch asked if we got all the money from UDOT and Shane Sorensen said he would follow up on trying to secure the rest of the money.

M. MOYLE PARK CARETAKERS. Ted Stillman said that Wayne and Linda Hardman have been the Moyle Park Caretakers for a number of years and they would like to purchase a home in Alpine and end their caretaker work by the end of April, 2006. Mayor Barker suggested that we talk about this in Executive Session first.

N. FINANCIAL REPORT. Ted Stillman discussed the Financial Report through August 31, 2005, which reflects two months of revenues and expenditures for fiscal year 2005-2006. Mr. Stillman made the following comments:

1. Franchise Fees – Are up over the previous year. These will go down once Qwest is reimbursed for overpayments.
2. Plan check fees and building permit revenue – They are down about 1/3 from the previous year. The reason they are down is because the first two months of 2004-2005 included a new stake center and the assisted living facility.
3. Class C Road Funds – Revenues are down \$26,474 and this could be caused by two factors. The first being that all cities were overpaid Class C Road funds last year and UDOT is now taking the money back. The other reason is that the Census Bureau population estimates for 2004 have the population for Alpine at 7,896, but based on our building permits we should have had a 2004 population of 8,966. We are appealing their population numbers.

Shane Sorensen suggested that the Council take a look at the Detention Pond on Country Manor Lane. It was noted that the grass on the pump house lot on Allegheny Way looks very good and the residents in that area are pleased with the way the landscaping looks.

VII. COMMUNICATION

Kimberly Bryant – Said that nobody knows about the Fort Canyon Bond issue. David Church said the city needs to put together and send out a voter information pamphlet. Thomas Whitchurch asked if we were removing the secondary road from the Three Falls land. Kimberly Bryant feels that if we are going to spend a large amount of time, energy and money on this issue then we need to educate the residents. Mayor Barker said we would follow up on this.

Kent Hastings – Is starting to plan Family First for next year and he has talked to Michael Cheney, who is the CEO and founder of Persogenics. Persogenics is a research company on personalities and how they best interact with each other. He has a book on families that will be published in January. He is a good entertainer and is will make for a very good and informative evening. There is \$3,000 in the budget for this event and is scheduled for the weekend of February 10, 2006.

Thomas Whitchurch – Reminded the council about “Meet the Candidates Night” at Alpine Elementary. Both the Mayoral and City Council Candidates will be in attendance to receive questions.

Jannicke Brewer - Said the survey was successful with there being about a 30% participation. Results will be available in November.

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

MOTION: Kent Hastings moved to go to Executive Session for the purpose of discussing litigation and property acquisition. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

MOTION: Kent Hastings moved to go back to Open Session. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

MOTION: Hunt Willoughby moved that we accept the Mayor's recommendation for Richard and Helen Vernon to be the Moyle Park Caretakers and that we ask staff to develop an agreement with them. Kimberly Bryant seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

IX. APPROVAL OF MINUTES:

City Council Meeting of August 23, 2005

City Council Meeting of September 13, 2005

MOTION: Thomas Whitchurch moved to approve the minutes of the City Council Meetings of August 23, 2005 and September 13, 2005 as amended and adjourn. Hunt Willoughby seconded. Ayes: Kimberly Bryant, Kent Hastings, Hata Puriri, Thomas Whitchurch and Hunt Willoughby. Nays: Motion passed.

The meeting adjourned at 10:25 pm.