

**Alpine City Council Meeting
Alpine City Hall, 20 North Main Alpine, UT 84004
January 15, 2013**

I. CALL MEETING TO ORDER: The meeting was called to order 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: Troy Stout, Will Jones, Bradley Reneer, Kimberly Bryant, Mel Clement

Staff: Rich Nelson, Charmayne Warnock, Shane Sorensen, Jason Bond, Annette Scott, Jannicke Brewer, Marla Fox, Jody Burnett, David Church, Chief Brian Gwilliam.

Others: Jim Tracy, Troy Page, Tina Page, Diana Mills, Nick Zurcher, Sabrina Zurcher, Heather Taylor, Katrina Kennedy, Mike Kennedy, Paul Walker, Bill Sidwell, Amy Fietkau, Cedar Jordan, Aaron Rust, Marlene Arnold, Lisa Livingston, April Slade, Jennifer Stout, Rachel Crandall, John H. Clark, Stephanie Pinegar, Jared Pinegar, Klaus Goeckeritz, Scott Blackburn, Maxine Blackburn, Darwin Beck, Carter Wilford, John Magnusson, Garn Arnold, Sherry Arnold, Cindy Millar, Kristi Hamilton, Todd Hamilton, Alex Hume, Jim Phelps, Cammy Phelps, Amy Rothermel, Mark Edminster, Jeff Hartley, Erica Hartshorn

Mayor Willoughby reminded people to please sign the roll.

B. Prayer: Troy Stout

C. Pledge: Katrina Kennedy

II. PUBLIC COMMENT: None

III. CONSENT CALENDER

A. Approve Minutes of December 11, 2012

MOTION: Will Jones moved to approve the minutes December 11, 2012. Kimberly Bryant seconded.
Ayes: 5 Nays: 0. Motion passed.

IV. REPORTS ANDS PRESENTATIONS

A. Financial Report for December 2012. This item was postponed.

V. ACTION/DISCUSSION ITEMS

A. Alpine Recovery Lodge - 1018 E. Oakhill Drive - Request for Reasonable Accommodation - Cindy Millar & Amy Rothermel: The proposed Alpine Recovery Lodge would be located at 1018 E. Oakhill Drive and was a residential, substance-abuse treatment facility, which was a permitted use in the residential zone under the Alpine City Zoning Ordinance Article 3.29. Alpine's ordinance limited the number of unrelated adults living in a home to four. The owners of the Alpine Recovery Lodge were requesting 18 residents for their facility and had filed for reasonable accommodation as outlined in Article 3.30 of the Alpine City Zoning Ordinance.

The applicants had been to the Planning Commission on January 8, 2013 who recommended the item to City Council. Alpine City had retained Jody Burnett as counsel.

Mayor Willoughby asked Jody Burnett to make a brief introduction to the process then they would hear from the applicant, Amy Rothermel.

Jody Burnett said the process for a reasonable accommodation request was a difficult issue and he appreciated the sincerely held beliefs and concerns of the people involved with it. He said his job was to protect his clients - sometimes from themselves - whether they knew it or didn't want it. He said he wanted to give the best advice possible to the City in regard to the residential treatment facilities, and how it was affected by the Federal Fair Housing Act.

Mr. Burnett said that residential facilities for people with disabilities were a permitted use in any residential zone in Alpine City, and a recovering addict was considered a disabled person. He said that under the ordinance, the facility could open tomorrow with four residents. The ordinance stated that no more than four, unrelated persons could occupy a residence. However, the applicant was applying for more than four residents under the Request for Reasonable Accommodation, Article 3.30, of the Alpine City Ordinance. Their request for more clients was based on two grounds:

- 1) The clinical effectiveness of counseling and group therapy;
- 2) The financial necessity of having more residents in order to make the facility financially viable.

Mr. Burnett said it was not guaranteed that the facility make a profit but the system had to be operated profitably enough to provide the necessary services. He also said that the reasonable accommodation request could not place an undue burden on the City or require a fundamental change in the city's zoning or land use.

He said that the applicant would present the information supporting their request. The Council was charged with making a decision on the request which should include written findings. He said any motion the Council made would need to include findings. He said they could do that in a number of ways. They could make those findings that night or direct Mr. Burnett to write the findings.

Amy Rothermel said she was one of the owners of the proposed lodge. They were requesting 18 residents. A summary of their request had already been provided to the City. She also noted that they were making an audio recording of the meeting.

Ms. Rothermel said the facility would be used by 18 residents who were recovering substance abusers as defined by the Federal Fair Housing Act. She said an 18 bed treatment center was necessary for two reasons. First, for treatment efficacy. There would be group therapy sessions each day dealing with men's and women's issues. The residents would be separated by gender and it was necessary to have at least six participants for an effective group therapy. She said that usually such facilities operated at about 75% occupancy so it would not be feasible to have fewer than 18 residents in order to have enough for the group therapy sessions. She said the house had 10 bedrooms and 8 bathrooms and could accommodate that many. She compared it to the house being occupied by a large family and extended family. She said that under the Fair Housing and Disability Act, it would be discriminatory to allow a large family to live in the home, but not allow recovering substance abusers to live there.

Ms. Rothermel said there would be no undue burden on the City. It would not require a change in zoning and there would be no impact on the neighborhood. There would be no more cars on the streets than other homes would generate. During the day there would be six to eight vehicles used by staff. There would be fewer cars at night because they would only have two staff members there at night. There would be no cars that were the property of the residents. They would be transported by family or staff. There was a three-car garage plus parking for 10 more vehicles with the potential to expand. The home was

surrounded by foliage that would screen the parking. She said there would be no traffic impact beyond a regular residence. There would be no burden on Alpine zoning or building programs.

Ms. Rothermel said she would like to address the traffic issue in more detail. She said she didn't believe a traffic study had been done so she figured out the impact on her own. There would be seven cars on site for daytime staff and two for nighttime staff. People would not be coming and going during the night. The shift changed at 7 pm and 8 am. She said there would be two vans that would be coming and going during the day for residents attending AA meeting (four a week) and for recreational purposes. One car would be used to transport residents to the doctor and pick up groceries. She said she had added that up and determined there would be 28 trips coming and going which worked out to one car every 24 minutes.

Councilwoman Kimberly Bryant clarified that the staff would all be showing up and leaving at the same time and the bulk of the traffic would be at 8 am and 7 pm. There wouldn't actually be one car coming or going every 24 minutes.

Ms. Rothermel said she had called Shane Sorensen and talked to him about the traffic impact. He'd said it was negligible.

Shane Sorensen said he hadn't said it in quite those words. He had no actual data but it was his understanding that the typical residence generated about 10 to 12 trips a day. This facility would have roughly double the number of trips.

There was a question about the need for curb and gutter on Oakhill Drive. Shane Sorensen said the City had an ordinance that required curb and gutter if a person came in to build a home on a lot that was buildable but not located in a regular subdivision. However, the ordinance did not require curb and gutter for existing homes that were being remodeled. It was only required for new construction.

Mr. Rothermel next talked about internal quality control issues. She said the home would be in compliance with building codes, fire codes and health codes in addition to the state licensing requirements which were even stricter. The facility would be loosely monitored and controlled. Residents would have to satisfy certain criteria before they could be enrolled. Drug testing would be required two to three times a week. Staff would be required to have significant training.

Ms. Rothermel said there was a need for a residential treatment facility in the area of Alpine. She had spoken with the principal at Lone Peak high school and was told there was a significant drug problem. She cited recent incidents of death and suicides relative to drug use. She said many people started out addicted to Oxycontin, which was an \$80 a day habit, then turned to heroin which was a \$10 a day habit. She said the users were not punk kids. They were returned missionaries and mothers.

Kimberly Bryant agreed that there were drug issues in Alpine. She asked how often people went to a drug rehab facility within a mile of their home. She said people she knew never put them in a place close to home because they wanted them far away from their dealers.

Amy Rothermel said she had spoken with someone in a Sandy facility who said most of their residents came from Alpine. She said their facility would not be a youth facility. It was for people 18 years old and up. They would have a family visitation day.

Troy Stout asked if they would be marketing outside of Utah and she said they would. He noted that if that was the case, the argument for a facility in Alpine because of Lone Peak did not hold water. If they were marketing outside Utah, they were not solving Alpine's problem; they were bringing the problem here.

Ms. Rothermel said that prescription drug overdose killed more Utahns than car crashes. She said she had provided the Council and City with enough information for them to act. She said they had received opinions from David Church and Jody Burnett. Both attorneys had clearly defined the City's obligation. She said she hoped they would adhere to federal law based on the information she had given them. She said she hoped they could work together to make this a positive experience for Alpine. She said they were not the enemy. The drug problem was the enemy. Rather than trying to marginalize their efforts, she hoped the Council would see it as a solution to a problem that already existed in Alpine. She said they would be offering eight hours of group therapy a day. The facility was occupied all day. There would be alarms on the doors that would sound if residents left. It was not a prison, but they would contract their family.

Mayor Willoughby asked Ms. Rothermel what her experience was in running a drug rehab facility. She said she didn't have any experience in running one. She had a business background and had two companies she had run successfully. She said they were hiring people (they'd just hired a clinical director that day with a masters degree) including a doctor and a nurse. The doctor was consulting only. He would not be on staff all the time.

Mel Clement asked Jody Burnett if the facility could be located in a commercial zone. Mr. Burnett said it could if they chose to locate it there.

Ms. Rothermel reminded the Council that these people were humans. They were not prisoners. They had a right to live in a neighborhood.

Troy Stout said that she had mentioned earlier that they had strict guidelines. He asked if there was a plan of action if someone broke a rule. Mr. Rothermel said it depended on the situation. They had a clearly defined process for behavior management that was pages long and addressed many situations that might arise. Mr. Stout said he would like a copy of it. She said she could provide it Monday morning or have it emailed.

Bradley Reneer asked if would reduce costs if the facility had only men or women so they didn't have to have two different counseling groups. Mrs. Rothermel said treating both men and women was their business model.

Troy Stout said the City's current ordinance stated that four non-related individuals could reside together in a house. The applicants were asking for reasonable accommodation and he suggested the key term was reasonable. He asked if increasing the occupancy by 400 percent so they could realize a profit was considered reasonable.

Ms. Rothermel said if occupancy was limited to four, no one would be in business. Therapy was an intensive and expensive process. She said 18 was a very reasonable number considering the size of the home. They could have asked for 22, but they wanted to have just enough to do the job that needed to be done.

Cindy Millar said the state licensing agency required the facility to be financially viable. She said it was a 90-day rehabilitation program. The cost to the client was \$10,000 for the first 30 days, \$8,000 for the next 30 days, and \$6,000 for the last 30 days. Not everyone made it the full 90 days and they had given the weight to the first month. The residents would be at different stages in their therapy because they were not all enrolled at the same time. That was why the occupancy rate generally fluctuated around 75%. Ms. Millar said their fees were somewhat below average. They were hopeful to raise that and make more profit.

Troy Stout suggested they could raise their rates and have fewer clients. He asked if it was the City's obligation to support their future profitability.

Ms. Millar said the City would want them to be financially viable. She said one of the things they planned to do was partner with Wellsville and send the residents on a four-day retreat to work on problems. They wanted it to be a very good facility.

Jody Burnett said that financial necessity was what would carry the day. In response to a question about who would pay if police action was necessary at the group home, Mr. Burnett said it would be handled in the same way as any other residence that required the services of the police department. There was no mechanism to impose the cost on the group home.

Troy Stout said it struck him that this was not a normal residence. It was generating profit and had a higher occupancy than any other home in Alpine. He asked Ms. Millar why they'd chosen to locate the home so far from their own.

Ms. Rothermel said her mother had a facility three blocks from her home. She said they loved Alpine and thought it was beautiful, just like he did.

Mel Clement asked Jody Burnett if it was usual to talk about guaranteed profitability and how was that a factor. Was it protected by law?

Jody Burnett said profit was not guaranteed but in order to make a facility available to those who needed the service, it had to be a certain minimum size to have it remain viable and open. It had to be analyzed from the vantage point of the disabled person.

Mel Clement said he'd heard that such residences in the state ranged from 8 to 25 residents. Mr. Burnett said the number of residents was an individualized determination.

Ms. Rothermel said that if he was referring to Ryan Salter's facility in Highland which was licensed for 8 residents, the type of facility was changed because he realized he could not run a barebones program with only eight residents. It was changed to an outpatient facility. Some residents did sleep there but it was more like a sober living or halfway house.

Mayor Willoughby asked if going from 16 residents to 18 put them in a different licensing category in the state. Ms. Rothermel said it did not change the state licensing.

Shane Sorensen explained that the building code and fire code requirements changed when the occupancy exceeded 16.

Ms. Rothermel said they planned to adhere to all the codes.

Will Jones said he would like to hear from the accounting people. Alpine City had hired a financial advisory firm to evaluate the costs of the proposed recovery center.

Mark Edminster said he was from the financial advisory firm of Lewis, Young, Robertson and Burningham. He said they primarily worked on bond issues and did consulting work for cities and other governmental entities. Working with private businesses was not their area of expertise. However, when Rich Nelson contacted them they said they would be willing to look at the information provided by the Alpine Recovery Lodge, evaluate the revenue and expense assumptions supplied by them, and determine

as far as possible the comparative cost and revenue for facilities of similar size. He distributed his written findings to the Council and to the owners of the Alpine Recovery Lodge.

Mr. Edminster said he had contacted other facilities and found that since this was an industry that was privately owned, they did not readily disclose financial information. Some of them wouldn't talk to him at all. Some were more open. The number of beds was a public record so that wasn't an issue. They were more open about staffing costs, and most were willing to give him their fee structure. The first facility he contacted was the Cirque Lodge at Sundance and their average fee was between thirty thousand to fifty thousand a month so that was thrown out as a comparable.

He said he had reviewed state and licensing requirements, requirements for staff levels, space allotted to residents. He said the data was hard to come by because it was not public. There were transparency issues because, unlike the government institutions where everything is discoverable, information was fragmented and difficult to get. He said he tried to look at marketing factors. It seemed reasonable that there would be a feasibility study but none were performed. He said they did get some anecdotal evidence about how things were done. There were no statistics on marketing practices and how patients were solicited.

Mr. Edminster said his conclusions, given the limitation and time constraints, were that they didn't find anything that jumped out at them. The costs for staffing appeared to be consistent with both state requirements and similarly sized facilities. The compensation for fulltime and hourly workers appeared reasonable. He said there was some question about the monthly lease payment of \$4,500 per month, which seemed like a lot for a facility of that size. There was also a question about the length of the amortization of the intended improvements. They anticipated \$120,000 of improvements which were to be paid for over a two year period. He said the improvements would have a life vastly beyond two years. Once that was paid their cash flow would improve considerably. The revenues were on the low end compared to similar sized facilities. One place had a somewhat higher fee but they provided horses.

In regard to the lease, Mel Clement said the street talk was that they were owner operators.

Cindy Millar said they went to an investor and asked them to purchase it for them. They would make lease payments to the investor.

Will Jones said he also had made calls and found that so much of it was arbitrary. He noted that \$4,500 a month was a good rate. He owned a number of rentals and rented a house that was larger than this one and didn't get that much. He said he didn't see a problem with their staff but questioned the \$51,000 fee to the doctor who only showed up occasionally. He said he was frustrated that they were being pushed down the road so fast because he still had questions and wanted more information.

Jody Burnett said the ordinance stated that if the Council needed more information in order to make a decision, they may request additional information from the application. The 30 day period was staid until the information was provided.

Will Jones said he would like to evaluate the 75% occupancy rate and would like the applicant to provide some proof on those numbers. He would like to know actual numbers from someone that had been operating one of these facilities for five or ten years. He said he appreciated the research Mark Edminster had done, but would like some additional information from the applicants in order to make a decision about the reasonable accommodation request.

Will Jones said he also had a question about fire sprinklers. He said at the Planning Commission meeting he thought he heard Ms. Millar state there would be 16 residents but now they were saying 18. He said he'd like information from the building inspector about regulations for those numbers.

Amy Rothermel said her mother had stated from the beginning that they wanted 18 residents. Ms. Rothermel said they wouldn't know the exact cost of things until they had been in business for a while. She said their numbers were not out of line, just as Mr. Edminster had said.

Will Jones said that if she could give him the names of five people in the industry right now, he would call them.

Kimberly Bryant asked what the actual square footage was of the living space in the home. Ms. Millar said she was not really sure. It was listed at 7,600 square feet. The bedrooms were all measured by people from the state and they were told that the bedrooms qualified for at least two occupants.

Mel Clement said it was his personal opinion that disabled people with drug problems were their grandsons and granddaughters. He was not speaking against them. But he questioned siting the facility in the middle of a neighborhood.

Kimberly Bryant asked if the two employees that were there at night were counted in the number of bedrooms. Amy Rothermel said they would be counted if they were allowed to sleep but they would be awake.

Mayor Willoughby said he had asked Police Chief Brian Gwilliam to make a report on the facility in Highland.

Chief Gwilliam said there had been a facility in Highland for about five years. They had a total of 12 calls on it since they started keeping track in 2005. Two calls were from previous residents. One call was from an individual who is in the vicinity but not related to the facility. The two calls that were related were regarding an officer who was parked in front of the home and snowballs were thrown at his car. The individual had warrants for his arrest and went to jail. He said there was an incident last month when two of the residents got in an argument and one left the house. He said he'd attended a luncheon with other chiefs in other counties. All the facilities in Utah County said they'd had minimal issues with the facilities. He said Sheriff Tracy said it all depended on the training and the staff.

Bradley Reneer asked what people in the neighborhoods where the facilities were located could do to protect themselves and their children.

Chief Gwilliam said it was the same as what they told people generally. Lock the doors in your house and car, get a motion detector light. He said that most crimes were crimes of opportunity. They walked down the street until they found an unlocked door. Regarding children, he recommended being a vigilant parent. Ask questions.

Mayor Willoughby said the state ordinance talked about having to meet the requirements for zoning, building codes, fire safety, and health code. He asked Jody Burnett about a business license requirement.

Mr. Burnett said Alpine's ordinance was not structured such that it was a business. The reason it was that way was because it also covered a sober living facility. After someone left rehab, they would go to a transitional facility. They didn't operate as a business. He said the bottom line was that it didn't make any difference whether it was handled as a business license because group homes for the disabled were a permitted use in residential zones. The only relevant thing was the number of occupants.

Mayor Willoughby asked Ms. Millar if the home would be a detox facility or post. She said it would be post.

Troy Stout said that at the Planning Commission meeting last week Ms. Millar had said no one in the facility would be there under court order. He said he'd known of some who went to rehab as an alternative to jail.

Ms. Millar said this was not in lieu of jail, but someone may come who was on probation. Everyone was there voluntarily. Regarding Mr. Stout's question about whether someone might be there who was violent, she said that they looked at their applicant's history and decided if they wanted to accept them. Mr. Stout asked Ms. Millar if she was making a commitment that they wouldn't have violent offenders in the facility. She said she was not committing to that. He asked about second-time offenders. She replied that it was the nature of the program. It was common for people with addictions to fall off the wagon and come back for more treatment.

Kimberly Bryant asked about drug testing and said he heard of people who'd gotten drugs while they were in the facility. Ms. Millar said they would have random drug testing three times a week, more if they were suspicious.

Ms. Millar said they would have family visitation, usually on Sundays. There were usually three to five families a week. If traffic was too bad, they would limit it.

Mayor Willoughby said he would like to give the residents an opportunity to talk.

Jody Burnett said he would like to hear the motion first. It might be better to get resident's opinion after they heard the motion.

Ms. Millar said they would like to get the motion in writing.

Ms. Rothermel said the City had ample time to make a decision. They got the application to them in December. Will Jones said he had attended the Planning Commission meeting where it was presented and he came away with questions. He had met with multiple mayors and met with the attorney. It took time.

Jody Burnett said the time for additional information was not specific. He suggested they specify the time they needed and put it on the next available agenda.

Will Jones said he would rather hear the public comment before he made a motion.

Katrina Kennedy said she appreciated the research that had gone into the issue. She asked if there was a relationship between the investor and the people running the business such as a spouse, etc. She said she would also like documentation for the lease amount.

Cindy Millar said Mesa Development was a Utah corporation.

Ms. Kennedy said she had researched the state website and it said the law did not preempt state and local law. It said a local government may restrict groups and as long the same restriction was imposed on all groups. She said that as a resident she felt what was proposed was a huge variance to residential use. It did dramatically alter the neighborhood.

Troy Page said he owned property that bordered the subject property. He said reasonable accommodation should include the traffic impact. He said it wasn't really a car every 24 minutes. The bulk of the traffic would be coming and going right when their kids were going to school. Her calculations didn't take into account visitors or people coming to work on the home. It would heavily impact Oakhill Drive and High Bench Road.

Alex Hume said he didn't live in the neighborhood but he lived in Alpine. He asked why this particular business could have so many employees. He had a home occupation but he couldn't have that many people working at his home. The Alpine code limited businesses in neighborhoods but it didn't limit this one.

Rachel Crandell said she was a licensed clinical therapist with an MA from BYU and had worked in various centers. She said that from a therapist's point of view and as a mother of nine, she was very concerned about the proposed facility. It seemed to be a commercial business in a residential area. It was far from police support. She said drug therapy was a revolving door that brought people with problems into an affluent area. Most of the people had suffered some kind of trauma such as sexual abuse and were self-medicating. If that abuse was in their history it could come out and they would perpetuate it. She asked how long it would take for the police to get there and how long it took for an assault to take place. It was a heavily wooded area and not well lit. The door may beep if someone left the facility but they would be gone. She said neighbors would be safer living next to the state pen. She said these were not happy people. They were going through withdrawal. She asked how they would protect the women in the facility from the men. With only two people in the facility at night, how did they know they weren't taking it out to the street. She said that as an employee she would be worried about her own safety. She said they she wasn't saying they were mentally ill but some people never overcame their addictions.

Troy Stout asked Ms. Millar if Nathan Coulter was involved. She said he was Mesa Development. He said he'd heard his license had expired.

Jeff Hartley said he lived on Round Mountain Circle. His children rode their bikes past Oakhill Drive. He said he'd like to commission a real traffic study. He asked Jody Burnett at what point a sex offender had to register if they arrived at the facility.

Mr. Burnett said it was a separate issue and he had no idea. Mr. Hartley asked if the Council determined that only 8 people should be allowed, would that be a violation of the Fair Housing Act. Mr. Burnett said the Council had to have a solid rationale for the number. Mr. Burnett said that in the world of traffic engineering, the traffic a single-family dwelling would generate would be negligible. A traffic study would not be the way to deter it. In response to a question from Mr. Hartley about financial viability, Mr. Burnett said that the applicant was saying they could not be viable at four occupants so they were requesting more than that. It was not a matter of guaranteeing a profit. The business needed to be viable so a disabled person could receive help. When Mr. Hartley asked if the citizens could sue, Mr. Burnett said they had the ability to appeal and challenge the decision in court.

Jim Phelps said he had lived in Alpine for 11 years. He'd been a police officer for 30 years and oversaw the violent crimes taskforce. He said that 90% of the violent crimes resulted from drugs and drug activity. He said he couldn't believe that it wouldn't be viable with four people if they were charging \$10,000 a month. He said the median income in Alpine was \$75,000 a year and they raised their families on that. He said they had a drug problem in the country but these programs were not the answer. If someone at a halfway house knew they were going back to prison and couldn't stop using, how likely was it someone at their facility wouldn't be looking for drugs. Ms. Millar said she didn't care if they had violent residents. He said he was concerned that they had no security in place. People could come and go. He said he had stood up for drug offenders. He knew a kid that was drug free for a year. He had told him to get an

education. That was the way you helped those kids. He asked that they not put the community in jeopardy. Drug users went out and committed new crimes to support their habit. He had worked on a homicide case where two kids had needed money for their drug habit so they killed an elderly couple. He said they should stick by their ordinance and only allow four.

Sherry Arnold said she lived in a house directly behind the house they were discussing. She said she'd had a conversation with Ms. Millar who said she would like to be as profitably as possible to offer scholarships to people who couldn't afford to be there. She said she appreciated Councilman Jones' proposal to look at the numbers. The lower number would make a difference in the risk they were taking on. She said she didn't know what "fundamentally change the neighborhood" meant, but to her it did fundamentally change the neighborhood. She said viability was not the same thing as profitability.

April Slade said the request did not take into account the feelings of the neighborhood. They said the house had plenty of foliage and the view was blocked but that wasn't true. It sat high up. She said Mr. Clement had mentioned doing it in a commercial zone rather than a residential. It was a small, lovely, rural community. It seemed like the neighbors were making all the compromises and the applicants none. She said she wouldn't let her children play near there.

Nick Zurcher said he lived to the west of the Recovery Lodge. He'd met Cindy and her daughter. They were very kind and understood that we have concerns because of the proximity of the lodge to our home. He asked Cindy if she had an answer about putting a wall around the home.

Cindy Millar said she'd listened to the everyone's concerns and she was very aware of their feelings. That said, she was not going away. She said she didn't believe addicts were throwaway people because they stumbled again. They were real people that needed their help. She wanted to make a difference.

Mayor Willoughby said that as he had listened, he heard considerable support for people struggling with drug addictions. The only time they were referred to negatively was when Amy called them "these people." He said he didn't think she was hearing the support. This was not a pitchfork crowd. They were looking for security in their neighborhood and a preservation of the things that brought them to Alpine. He said that Mr. Zurcher's question about the fence was a good one.

Cindy Millar said she had talked to Mr. Zurcher for some time and they were willing to accommodate the request for a wall.

Mr. Zurcher said he was trying to point out to the Council that Ms. Millar was making an effort.

Sabrina Zurcher said that last week in the Planning Commission meeting Ms. Millar had said they were working with a landscaper. She asked if there would be a wall or trees.

Amy Rothermel said there would be both. The side by Zurchers would be their first priority. They'd like to do as much as they could and enclose most of the yard. They wanted to protect their residents just as the City wanted to protect the neighbors.

Erica Hartshorn said she had known the Millar family for a long time and knew that Cindy was trying to do something that was very close to her heart. She said the reason she moved to Alpine was because she watched someone pass out and drive across the road and into a yard. If they'd not been walking they would have been killed. She said they moved to Alpine because of safety. Their children were their main concern. She said the main objective of the meeting was to arrive at a number of residents. She said Alpine had won an award for the number of kids who walked to school because it was safe community. They wanted to accept people. She said that it would be a neighborly kindness to look into their hearts

and lower the number of people to make it more appropriate for the community. She said 20 plus children walked up and down that road or rode their bikes. She would be escorting them when they went past the facility. She said the neighbors would be more comfortable if there was a high wall placed all the way around with a gate that opened and closed when they left. She said that once a resident left the facility, they were not your concern. They became the neighborhood's concern. She said she had known people who recovered after therapy. She also knew of people who had gone to therapy and gotten drugs from the people who worked there.

Troy Stout said he was going to speak for many people in the audience when he said Alpine was a giving, goodhearted community. Reasonable accommodation was what they were discussing that evening. He said he was the son of an addict and he knew what happened. He also knew it was self-inflicted. He said as council members he would encourage them to take a more candid look at the people around them and what they were asking for.

Jared Pinegar said his neighbor had a four-foot retaining wall with a eight foot fence on top of it. He said he would also like to mention that the people in the area would probably give more help that they would expect. They were giving people. He worried a little about the street because it was steep and he'd slid down it before. Delivery trucks on a winter day could be tough. He asked if there was a need for handicap access. If it was for everyone they should allow everyone. He asked if there would be an outdoor area for the residents. They couldn't make them stay inside all the time.

There was more discussion about what a fundamental change in the neighborhood meant. Jody Burnett said it had to do with land use and zoning and building regulations. If a building could be a certain size and they were not changing the outside of the home, it was not changing the fundamental nature of the neighborhood. It was not a subjective perception of what the character of your neighborhood was. It had to be an objective analysis.

Bradley Reneer said that if there was an MTC in this home, it would fundamentally change the nature of the neighborhood because it would become an apartment building. He said he didn't see how it wasn't changed.

Jody Burnett said it was not a function of how many bodies were in a home. Draper City paid a \$650,000 settlement because they believed their 4 person limit was going to stand up, but they lost in federal court. They were playing high stakes poker here. Mr. Burnett said that based on 20 years of doing this, the Council couldn't just say they made a policy call for four people. There had to be a number that was logically tied to their viability.

MOTION: Will Jones moved that due to the Council's inability to determine the actual numbers to be correct, they ask the applicant to provide additional information on the following:

1. The doctor's salary.
2. House lease payment for review
3. See if the amount spent on miscellaneous items from food to liability and bonding insurance to determine if it is a reasonable amount.
4. Gross average occupancy and vacancy.
5. Substantiate referral and marketing fees.
6. The two-year amortization of improvements.

This information would be verifiable from a source they could call with names and phone numbers that the Council may personally call. Troy Stout seconded. Ayes: 5 Nays: 0. Troy Stout, Will Jones, Bradley Reneer, Kimberly Bryant, Mel Clement voted aye. Motion passed unanimously.

There was a discussion about when the information would be given to the City and when it would be on the agenda again. Jody Burnett said he was unavailable in February. Ms. Millar said she would have the information to the City by Tuesday - January 22, 2013. It would be on the agenda for January 29th.

Bradley Reneer said he would like to see what the costs would be for all male or all female. Ms. Rothermel said she understood that the City could not dictate their business model.

Ms. Rothermel asked the Council to please have their request for information complete so she didn't get to the next meeting and have the Council asking for more info. Kimberly Bryant said she couldn't guarantee that and asked if they could email other questions before then. Ms. Rothermel said she was in constant email communication with Rich Nelson.

Jody Burnett reviewed what he understood to be in the motion's request for more information which were: 1) verification of the lease agreement payment; 2) cost with respect to the doctor; 3) amortization of tentative improvements; 4) average occupancy rate; 5) marketing fees; 6) miscellaneous fees from food to bonding.

Jim Phelps said he felt the burden should be on them to demonstrate that they needed 18 residents. Mr. Burnett said that was what the exercise was about.

The Council meeting was paused for a two minute break and resumed at 10:26 pm.

B. Ordinance No. 2013-01 Amending the Alpine City Development Code, Section 4.7.4 Streets and Street Requirements: Mayor Willoughby said they were looking at an amendment to the requirement for stub streets which would clarify the process.

Will Jones stated he had a conflict of interest and was recusing himself from the discussion and the vote. He left his seat and went to sit in the audience.

Jason Bond said the proposed amendment had been reviewed by the Planning Commission. A public hearing was held on November 20, 2012 and the Planning Commission made a recommendation to adopt the amendment with a couple of changes.

David Church said the current City ordinance had a section that required a developer to extend one or more stub streets to the property line so adjacent properties were not landlocked. It also required the street to be improved. He said that over the years it had been pointed out that in some cases it could be unfair if the first developer had to build a street that benefited only the second developer because it didn't generate any more lots in subsequent developments and didn't do anything for the first development. Because of the complaints and specific issues that arose on the Three Falls development, and because of state law and federal case law regarding exactions, Mr. Church said he thought it would be wise to put some standards in the ordinance that laid out the factors that would be considered for building a fully improved street to an adjacent property. The burden would be on the developer of the first subdivision to show that the need for a fully improved street did not have an essential link to a government interest or that the requirement for the stub street was not proportionate to the impact of the stub streets. A deeded right-of-way to the property line would still be required.

Mr. Church reviewed the factors that were to be considered which were: 1) the estimated cost to improve the stub street; 2) whether or not the stub street would be essential to provide reasonable access to the undeveloped parcel; 3) the number of lots in the proposed subdivision that would be accessed from the

improved stub street; 4) the estimated number of lots that could be developed in the future on the adjacent undeveloped parcel through the use of the stub street.

Mr. Church said the amendment was an attempt to balance competing interests while still accomplishing the same purpose of the ordinance which was that no one was landlocked.

Troy Stout clarified that the amendment basically left the ordinance the way it was but left the burden on the developer show that he didn't have to build an improved stub street.

Bradley Reneer asked if the amendment would still provide for someone to do a half street or a portion of the road. He also asked how it would apply if one large piece of property was landlocked by four parcels. Who would have to build the road?

David Church said the City had a Master Road Plan that designated where a road should be built. Typically development occurred from the center out. If someone developed from the outside, they would pay more to build the necessary roads than if they waited for the road to get to them. Regarding half streets, David Church said they hadn't generally worked out, but there was room for analysis in the amended ordinance. They weren't restricted.

David Church said he knew Bruce Parker had submitted some information to the Council that they had hopefully all studied.

Jannicke Brewer pointed out the changes in the proposed ordinance that the Planning Commission had recommended. In item 3 of Section 4.7.4 they changed "shall include" to "may include but not be limited to." In Item 4, "lot" was changed to "lots." In regard to the public hearing held by the Planning Commission, Jannicke Brewer said it had been a very short hearing. There was only a statement from Bruce Parker which he read. That statement had been emailed to the City Council by Rich Nelson.

Bradley Reneer said he had a question about one of the items in Bruce Parker's statement. It was regarding notice of a new subdivision and the proposed roads.

David Church explained that when a subdivision application came in to the City, it should be noticed so people could attend the public hearing and give their comments. They might say there should be a road here or there should be one there. Jannicke Brewer said the public hearing was held before concept approval was granted.

Mr. Reneer asked if the public comment could change the Master Road Plan. Mr. Church said it could. Generally the City located stub streets where they wanted or in the approximate location. Mr. Parker's statement talked about not only where the street went but who paid for it.

Shane Sorensen said that when Lon Nield came in to develop his property he had to work with Bennetts and do some property swaps. The Bennetts had to work with Patterson on their development.

David Church said the thing that motivated amending the ordinance was the potential for conflict among the property owners in Three Falls and adjacent property. It was a very difficult piece. There had to be some rules laid out before it came back since the property owners would likely be talking to the City about where the road should go and who should pay for it.

MOTION: Troy Stout moved to adopt Ordinance No. 2013-01 amending Section 4.7.4, Streets and Street Requirements, in the Alpine City Development Code with the additional change that the "shall

include" in Item 3 be changed to "may include but not be limited to." Mel Clement seconded. Ayes: 4 Nays: 0. Motion passed. Will Jones abstained from the discussion and from voting.

C. 2013-2014 Budget Discussion: This item was postponed.

VI. STAFF REPORTS

Rich Nelson said the City would be going out to bid for solid waste pickup. It would not include green waste pickup because in order to do so, the City would have to raise rates.

Police Chief Brian Gwilliam reported that at around 8 pm on Friday, January 11, 2013, the Junction was robbed at gunpoint. The police received the call and got there in a minute and a half. They locked down the area and were able to track the individual's footprints through the gully in the snow until they came up into a subdivision where it appeared they were picked up by a vehicle. The police later arrested three local juveniles at their homes in Alpine. All three were involved in the robbery. One drove the car and the other provided the gun. It appeared they had been planning it for about a month and a half. Chief Gwilliam said that when things like that happened, kids liked to talk about what they did. They were overheard and it was reported. He said the person behind the counter in the Junction was the same age. It was his last night of work. He had remained calm and did everything he should have done. Chief Gwilliam said it was recorded on the video surveillance and took about 23 seconds. They got \$500 in cash. He said he wanted to commend the officers for their work. Officer Steve Swensen was promoted. He said the District had recently adopted a policy of hiring quality officers rather than lots of officers. He said Lone Peak Public Safety District had a good reputation as the place to work.

COUNCIL COMMUNICATION: This item was postponed.

EXECUTIVE SESSION

MOTION: Troy Stout moved to adjourn to executives session for the purpose of discussing litigation. Bradley Reneer seconded. Ayes: 5 Nays: 0. Motion passed unanimously.

The Council adjourned to executive session at 11:00 pm

MOTION: Will Jones moved to return to open meeting and adjourn. Kimberly Bryant seconded. Ayes: 5 Nays: 0. Motion passed.

The meeting was adjourned at 11:25 pm.