

ALPINE CITY COUNCIL MEETING
Alpine City Hall, 20 North Main, Alpine, UT
March 12, 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 were present and constituted a quorum:

Mayor Hunt Willoughby

Council Members: Troy Stout, Will Jones, Bradley Reneer

Council Member not present: Kimberly Bryant, Mel Clement

Staff: Rich Nelson, Charmayne Warnock, David Church, Jason Bond, Jannicke Brewer

Others: Jessica Cormier, Lark Barney, Bethany Owen, Patricia Barney, Austin Thurmond, Ryan Nield, Bill Sidwell, Steve Larsen, Roger Bergeson, Jacob Warner, Hilary McKinnon, Emma Reneer, Marielle Hulme.

B. Prayer: Jannicke Brewer

C. Pledge: Boy Scout

II. PUBLIC COMMENT: None

III. CONSENT CALENDAR

A. Approve Minutes of February 26, 2013

MOTION: Will Jones moved to approve the minutes of February 26, 2013 as corrected. Bradley Reneer seconded.
 Ayes: 3 Nays: 0. Motion passed.

IV. REPORTS AND PRESENTATIONS

A. Financial Report for February 2013: Rich Nelson said the City was down about \$10,000 from last year on property tax revenue but he anticipated it would not be a problem as the year progressed. Sale tax revenue was ahead of last year by about \$11,000. Revenue from motor vehicles and franchise fees took a dip. There were no major changes in other items.

B. County Commissioner Anderson - County Update: This item was postponed at the request of Commissioner Anderson.

V. ACTION/DISCUSSION ITEMS

A. Ordinance No. 2013-02, Bennett Farms Annexation and Annexation Agreement: Will Jones declared a conflict of interest on this item and was not going to vote since he may have a financial interest in the project. Since there were only three Council members present, this item was postponed.

B. Bennett Farms Subdivision, Plat A, B and C - Final Approval - Roger Bennett: Will Jones declared a conflict of interest on this item and was not going to vote since he may have a financial interest in the project. The item was postponed because there would not be enough Council members to vote.

David Church explained that state law required a council member to declare a conflict of interest if there was one, but there was no law requiring a member to recuse himself from a vote. If there was a financial conflict where a profit could be made, it would be better not to participate. However, it was the councilman's choice whether or not to vote.

C. Barney Acres Minor Subdivision, Plat C -Final Approval - 132 South 700 East - Keith & Patricia Barney: Jason Bond said the proposed subdivision consisted of two lots. They were splitting one large lot to create two smaller lots, each of which would be over 20,000 square feet and would have adequate frontage. The Planning Commission had reviewed it and recommended approval.

Shane Sorensen said the owners had previously planned to split that lot when they created the first subdivision. The water requirement was on credit and the utilities were already stubbed in.

Trish Barney said there was some grass just across the property line on the new lot and they would be moving the sprinklers. It did not create an issue for approval.

MOTION: Will Jones moved to approve Barney Acre Plat C with the conditions that the red lines on the plat would be corrected and a mylar be provided for recording. Troy Stout seconded. Ayes: 3 Nays: 0. Motion passed unanimously.

Rich Nelson said he felt it was a waste of time for the City Council and Planning Commission to look at minor subdivisions and suggested it be delegated to the Development Review Committee. He asked Jason Bond to look at amending the ordinance.

D. Canyonbrook Estates PRD - 1520 Fort Canyon Road - Steve Larsen: The proposed PRD consisted of three lots with 27.85 acres of open space and 14.18 acres of private open space, all of which would be undeveloped. Areas in the 100 year flood plain would be included in the open space.

Jason Bond explained that the proposed PRD had previously been approved by the Council several years earlier but was never recorded. The new submittal was basically the same except for a difference in open space. Some open space that was previously designated as private would be public under the new plan. Open space on the east side and a large section on the west side would contain trails. Mr. Bond said that because much of the work was done previously, they anticipated preliminary and final plats would go to the Planning Commission at the same time.

Troy Stout asked if there was anything the City could do with the open space. Jannicke Brewer said that it would remain natural. In the old plan the open space was shown as all private. The new plan would give the City a wider area of open space for the trails. In response to a question about an odd lot line, Mrs. Brewer said it followed the terrain.

Mrs. Brewer said that Steve Larsen had turned in the required geological and geotechnical reports with his original application, along with a plan on how to handle the flood plain and creek. That information would stay the same. Shane Sorensen said the conservation easement along the creek would be recorded on the plat.

This item was for information only and no action was taken.

E. Lon Nield PRD – 750 N. Quail Hollow Drive – Lon Nield: At their meeting of February 12, 2013, Developer Lon Nield requested that the City Council give him direction on his proposed PRD, specifically if they would accept it was a gated community with a private street and private open space. The Council stated by motion that they would not accept a gated subdivision but the open space could be private and density could be transferred between to the two zones.

Based on the recommendations from the City Council, the plan for the 10-lot PRD showed a public road with public open space in the center of the cul-de-sac. The rest would be private open space. Because of the transfer of density, the lots would all be of similar size.

Staff recommended that the public open space in the center of the cul-de-sac also be private because the City didn't want the burden of maintaining that little bit of open space.

Troy Stout said it appeared the developer was winning on all sides because he got the benefit of more lots on their land and still got private open space, which benefitted only the people in the subdivision.

Jannicke Brewer said that Mr. Nield had laid out a regular subdivision and got the same number of lots, except it was an awkward arrangement of variously sized lots. The proposed design made a more regular subdivision and preserved the vegetation.

Will Jones pointed out that the community did get some benefit from private open space because it reduced the use on public open space including the tennis courts. Also, the private open space stayed on the tax rolls and the City received tax revenue from it.

Troy Stout said he felt the proposed indoor tennis court would be an eyesore for neighbors outside the subdivision who had to look at it.

Ryan Nield said the indoor court would not be a plastic bubble. It would have the same architecture as the homes in the PRD and be built with stone and timbers. Part of the wall would be built into the hillside and there would be a lot of shrubs.

This item was for information only and no action was taken.

F. Waste Disposal Contract: Rich Nelson said the current contract with ACE would expire soon and the City had advertised for Request For Proposals (RFP). Three companies responded which were ACE, Waste Management, and Republic (previously BFI). Mr. Nelson said Mayor Willoughby and Councilman Mel Clement were present at the bid opening. After reviewing the bid sheets, staff recommended that they award the contract to ACE Disposal. Some of the factors in selecting ACE were: 1) they had the lowest rate for the first trash can; 2) their landfill rate that was significantly lower; 3) there was no fuel surcharge; 4) they offered two free shred days where citizens could bring their personal stuff to shred; 5) they offered a free e-recycling day. ACE's recycling rate for the first and additional cans was slightly higher but staff felt that was offset by the other benefits.

Mr. Nelson said ACE was also offering green waste recycling and he felt they should seriously consider it. They required at least 30% participation for neighborhood green waste pickup. Mr. Nelson also suggested the Council consider an opt-out program for regular recycling rather than opt-in. Currently about half the residents participated in recycling. He said ACE offered profit sharing as well. Once they hit their basic value, they shared the profit.

Mayor Willoughby said ACE came out lower on landfill costs because they were not tied to the Northpoint landfill.

Bradley Reneer said the landfill in Fairfield seems like a long way to go. Rich Nelson said that in the landfill business they had to make it successful and do what they had to do to attract customers.

Mayor Willoughby asked about hazardous waste disposal. Rich Nelson said the Health Department would continue to handle that. Mayor Willoughby noted that the citizens had been happy with the service ACE provided.

MOTION: Will Jones moved to award the Waste Collection Contract to ACE Disposal. Bradley Reneer seconded. Ayes: 3 Nays: 0. Motion passed unanimously.

Rich Nelson said he would run the numbers for green waste collection and come back with the information.

G. Ordinance No. 2013-03 Appeal Authority: Rich Nelson said that for a long time, the applications coming before the Board of Adjustment had become more and more technical. In addition, the state law for approving variances had become more complicated. Because of that, they were looking at appointing a Hearing Officer with legal expertise to act as the Appeal Authority rather than the Board of Adjustment. He said most cities had gone to having a hearing officer.

David Church said that at one time the Board of Adjustment heard only variances. Under the new state law, cities were required to have an in-house appeal authority to hear appeals to land use decisions and interpretations of the ordinances. The appeal authority would also hear cases where an applicant said the city had made a mistake in approving a permit. Those appeals had been handled by the Board of Adjustment but because of the complexity of the issues, the City had to hire an attorney to assist and advise the Board of Adjustment. At times they'd had three-party appeals, each with their own legal counsel, which further complicated the process. One of the solutions that cities had been using was to assign the appeal to an administrative law judge or hearing officer. Highland City had been doing that for ten or fifteen years. Mr. Church said it had been his recommendation for some time that Alpine appoint a hearing officer to deal with everything but the variances. It should not cost them much more than it did now since the City had to hire an attorney for the last few appeal cases to advise the Board of Adjustment. In

addition it would make it better for the landowners and neighbors. He said amending the ordinance would create the position of a hearing officer(s) which would be appointed by the Mayor with the advice and consent of the Council. There would be no term of office so the hearing officer could be terminated at any point or there could be multiple hearing officers.

Troy Stout asked how common it was to have more than one officer at a hearing. David Church said there was only one officer at a hearing, but sometimes that officer might have a conflict of interest or was unavailable, and if there was a panel to choose from it wouldn't be a problem. Mr. Church said he was one of the hearing officers for Herriman City. They'd had five appeals and he'd heard one of them. He noted that sometimes when a city had a lay board, the board felt sorry for an applicant and it was difficult to act objectively, but the job of the hearing officer was to apply the ordinances as written.

Bill Sidwell asked if the attorney or hearing office would be on retainer or paid by the job. David Church said it depended on how the City wanted to do it. Highland paid by the hour.

Mayor Willoughby said April Naidu had discussed changing the appeal authority to a hearing officer about a year ago but the Board was doing a great job and they'd held off on making a change, but recently they had needed outside help.

Bradley Reneer asked if it was possible have both a board of adjustment and a hearing officer. David Church said anything was possible. The state law allowed cities to have a different appeal authority for every type of land use decision. However, someone could not sit as the appeal authority over a decision they had made.

Bradley Reneer said he liked having the citizens involved. Troy Stout said he agreed except in cases of litigation. Will Jones suggested they keep the Board of Adjustment for variances and have a Hearing Officer for more complex cases.

MOTION: Will Jones moved to adopt Ordinance No. 2013-03 amending Section 2.3 Appeal Authority, but not eliminate the Board of Adjustment and add a Hearing Officer that would hear cases brought to the appeal board. Troy Stout seconded. Ayes: 3 Nays: 0. Motion passed unanimously.

David Church reviewed the language changes in the ordinance necessary to keep the Board of Adjustment and appoint a Hearing Officer to hear appeals.

H. Ordinance No. 2013-04 Home Occupations: Jason Bond said the purpose of the proposed ordinance was to expedite the home occupation process. Currently, the Planning Commission reviewed every home occupation application. There were several applications that came in toward the end of last year and had to wait until the new year to be approved because the Planning Commission didn't have a meeting in December. Since the Planning Commission typically met only once a month, it unnecessarily prolonged the time when someone could get their business license.

Jannicke Brewer said the Planning Commission had recommended the proposed ordinance but at the same time they were a little sad because it kept them knowledgeable about what was going on.

Bradley Reneer said he felt having the Planning Commission review home occupations had been useful because they brought certain things to light such as the need for fire inspections for dance studios, etc.

Rich Nelson said that if anything came to the DRC that might be controversial, it would go to the Planning Commission.

MOTION: Will Jones moved to approve Ordinance No. 2013-04 allowing home occupations to be reviewed and approved by staff and the Development Review Committee. Bradley Reneer seconded. Ayes: 3 Nays: 0. Motion passed unanimously.

I. Budget Items: Rich Nelson said that 70 to 80 percent of the home occupations in Alpine that had state tax licenses did not have a business license with Alpine City. If all those businesses that were operating in the City

had a business license, it would create some additional revenue. Plus businesses were required by law to have a business license but there may be some who were not aware. Jason Bond planned to run an article in the Newline reminding people that they needed to have a license if they were operating a business.

Mr. Nelson reviewed some of the information in the proposed budget which included an overall increase of 2%. He anticipated increased property tax revenue because of the growth. They could increase the franchise fee on cell phones, raise home occupation fees, charge park rental fees, and use some of the Class C Road Fund money for current projects so they didn't have to use funds from the General Fund.

Since the proposed budget had not been included in the packet, Mr. Nelson said they would discuss it in more in depth at a future meeting. He reminded the Council to schedule an individual meeting with him to review the budget.

VI. STAFF REPORTS

Rich Nelson thanked Shane Sorensen who had installed a security system in the offices.

David Church said the Alpine Recovery Lodge had hired an attorney, Stephen Quesenberry, who was a well-known litigation expert. He had talked to Jody Burnett who said it was his feeling that they may be considering skipping the appeal process and going straight to district court. Under the federal Fair Housing Act they had a right to go straight to federal district court or they could go through a state administered process.

VII. COUNCIL COMMUNICATION

Troy Stout said he had visited the area in Lambert Park that was under consideration for a land swap. He said he felt the piece had value to the City, and whether or not they were willing to trade it, it should be at a fairly high cost. It could be developed into a nice corner of Lambert Park as a place of seclusion. He said his initial take was that they should hold on to it. He recommended it be an agenda item.

Will Jones said he had been thinking about the request for an RC racetrack in Lambert Park. He thought a better place for it might be some place on 300 North across from the park. Bradley Reneer pointed out that it would put the track closer to homes.

Will Jones said he would be meeting with the Moyle Park Committee the next day.

Bradley Reneer said he was eager to hear the Alpine Days report and wondered when it would be presented. Rich Nelson said it would be on the next agenda.

Hunt Willoughby said he had spoken with Tami Hamilton who was moving sooner than expected. They needed to fill her seat on the Planning Commission. He was considering either Chuck Castleton or Mark Wilkinson.

VIII. EXECUTIVE SESSION

MOTION; Will Jones moved to go to executive session to discuss pending litigation. Bradley Reneer seconded. Ayes: 3 Nay: 0. Motion passed unanimously.

The Council went to executive session at 9:04 pm and returned to open session at 9:36 pm.

MOTION: Will Jones moved to adjourn. Troy Stout seconded. Ayes: 3 Nays: 0. Motion passed unanimously.

The meeting was adjourned at 9:36 pm.