

April 13, 2010

Minutes of the City Council Meeting held on Tuesday, April 13, 2010 at Alpine City Hall, 20 North Main, Alpine, Utah 84004 at 7:00 pm.

The following members were present and constituted a quorum:

Hunt Willoughby (Mayor), Troy Stout, Kimberly Bryant, Bradley Reneer, Kent Hastings, and Jim Tracy.

Staff: Ted Stillman, Shane Sorensen, Jay Healey, David Church, and Chief Botkin.

Others: Larry Brown, Paul Thompson, Curtis Hutchinson, H. Kelly Hutchinson, Chris Culver, Gabi Butler, Emily Gooch, Linda Roberds, Stuart Nash, Randy Stucki, Teresa Cosper, Gaylen Haag, Phyllis Fillmore, E. Lyn Jensen, Katrina Kennedy, Jannicke Brewer, Bob Hemingway, Ula Hemingway, Julie Yarbrough, Aubrey Davis, Kayla Swenson, Shirley Davis, Chad Sorensen, Joan Norton, Blaine Hudson, Laura Snyder, Jeff Snyder, Tracy Wallace, Jacqueline Wallace, Ann Gord, Jody Good, Billy Musselman, Kent Romney, Tate Arnold, Jake Bentley, Jacob Yamada, David Ballif, Madison Ballif, Michael Edwards, Don Watkins, Ann Power, Trevor Johnson, Matt Grimmer, Anne Jennings, Bryce Craig, Elaine Eppich, Alisha Ferrell, Cassidy Ferrell, Bruce McKay, Julia Frazier, Amy Lundquist, David Warner, Kristen Fillmore, Ted York, Paul Skousen

PUBLIC HEARING—Alpine Performing Arts Center at 264 S. Main Street

Mayor Willoughby introduced the purpose of the public hearing to receive public comment on the request from the Alpine Performing Arts Center applicant for a conditional use permit for the height of the proposed Alpine Performing Arts Center. Ted Stillman reviewed the ordinance as found in Section 3.21.8.1 of the Alpine City Development Code which states, "Notwithstanding the provisions above, buildings which exceed the maximum height of thirty-four (34) feet may be approved by the issuance of a conditional use permit upon findings of no significant loss of light, air, and views of surrounding properties, or where by reason of topography one side of the dwelling may exceed thirty-four (34) feet."

Ted Stillman explained that the Planning Commission reviewed the request for the height variance at its meeting on March 16, 2010. Ted Stillman read from the Planning Commission minutes that Jannicke Brewer explained that exceptions to the ordinances had to be approved by the City Council and that the City Council does not always follow the recommendation of the Planning Commission; and that even though the Planning Commission had not made a recommendation on the height, the information could be taken to City Council and they could possibly give an indication whether or not the Council was inclined to approve the exception. Ted Stillman explained to the Council that the Planning Commission was asking them tonight to consider the exception.

City Engineer Shane Sorensen showed before and after photos from several locations. The before pictures show the property as it is today and the after pictures show what the building would be like if built. Shane Sorensen gave more detail on the retaining wall that was being shown. Jim Tracy pointed out that the retaining wall was still at the Planning Commission stage and that the Council was only looking at the building height.

Mayor Willoughby explained again that the hearing tonight was only about the form of the building and the height exception and not the function of the building and then opened the public hearing for public comment.

Katrina Kennedy asked if there were any images that showed the building without the height variance. She stated that if she lived behind the building she would be furious and if we are only going on form tonight that she is opposed to the form.

Troy Stout asked Shane Sorensen if he could show the west to east view and show where the approximate height standard would be. Shane Sorensen explained there were infinite views they could have chosen, but had to choose just a few and they could estimate where the 34 foot height limit would be.

Bruce McKay, the architect for the project, explained that because of the function of the proposed building they could not use a typical gabled type roof and that many of the surrounding buildings are taller than 34 feet because the height is measured to the midpoint and not the top of the roof. Mayor Willoughby clarified that on gabled roofs the height is measured from the average finished grade to the midpoint and that on a flat roof it is measured from the average finished grade to the top of the roof.

Larry Brown stated that he also cannot separate form and function, but urged the Council to waive the height limit. Larry Brown stated that he thinks having a performing arts center would be a jewel to the city and would be like a

commitment to the legacy of the love that Alpine has had for the performing arts throughout its history. Larry Brown stated that he sees this as possibly a one-time opportunity where we have the generosity of private donors to fund the project, especially in troubled economic times. Larry Brown also explained that he is not unsympathetic to the feelings of the land owners whose views are affected and possibly property values impacted. Larry Brown stated he thinks that the common good this project would bring to the community outweighs the objections against it.

Stuart Nash asked why the applicant could not excavate more to lower the height of the building. Mayor Willoughby that the architect will address that question when the arts center comes up as a regular action item on the agenda tonight.

Phyllis Fillmore stated she would not care what was in the building and thinks that looking at it, it would be an asset to Main Street and the community. Ms. Gillmore stated she is not a resident that would have her views blocked by this building and that even if it came down to the 34 foot limit it would still block views for the neighboring residents. Ms. Gilmore indicated there have been buildings go up in her neighborhood that have affected the views there and the neighborhood has learned to live with it.

Kelly Hutchinson stated that when he moved into Alpine 10 years ago it was not a real pretty entrance. Mr. Hutchinson said he thinks a building like this would be a great enhancement to the City. Mr. Hutchinson stated he had a background in the dramatic arts and a son that teaches it and that to do it properly, you need to have a building like this as it is being presented.

Julie Yarbrough stated that it is a beautiful building, but does not think it should be in Alpine. Ms. Yarbrough likes the small town feel of Alpine and thinks the proposed art center would bring a lot more traffic into town when there is already too much traffic because of the school on Main Street. Ms. Yarbrough said if she and her family wanted the attractions of a bigger town like a performing arts center, they would have moved to a bigger city like Draper. Ms. Yarbrough asked if the arts council could use Timberline for their plays.

Julia Frazier stated that she lives behind the proposed location for the building and that their view would be impacted. Ms. Frazier stated that ordinances are established for a reason and questioned if the city was prepared to grant an exception for everyone that wanted one who was going to build a beautiful building on Main Street and if the City wants Main Street to become a street with many large buildings. Ms. Frazier also expressed concerns about the traffic that would be generated. Ms. Frazier expressed concern that currently property values are down and questioned if having the arts center would lower them more. Ms. Frazier said she does not think this building fits in with the image of Alpine as a sleepy, bedroom community which is a big reason why many residents moved to Alpine. Ms. Frazier stated that she has been told that if the arts center is not approved that a couple of office buildings will be built on the property and she wondered if this was just bullying tactics or if there was in fact a plan in place. Ms. Frazier also added a concern about a proposed amphitheater on the arts center property and people hanging out there late at night.

Curtis Hutchinson stated he is in favor of the building and that Alpine needs something like this. Mr. Hutchinson stated that Timberline is a great school and has a great theater, but it is not always easy to reserve space and is quite expensive to reserve. Having the arts center would provide the arts council with their own place to practice and perform whenever they needed and would not have to work around the school. Mr. Hutchinson thought Main Street was an appropriate location as Main Street is supposed to be the main street and the heart of the community

Amy Lundquist stated she is in support of the City giving a variance for the proposed arts center. Ms. Lundquist said she has directed plays at Timberline before and is grateful for having that opportunity, but outlined several reasons why Timberline is not the best place for the arts council to have productions. The cost is extremely high which makes it nearly impossible for smaller groups to use Timberline for productions. There is also limited availability and Timberline does not really seem to like having the community coming in and having events there. Not having a fly system at Timberline also greatly limits what you can do there. Ms. Lundquist stated she thinks that the architects have tried to be sensitive to the surrounding properties and have only made the building high where it absolutely needs to be high for the fly-system, which is what is requiring the height but also makes the facility exceptional.

Matthew Grimmer stated that he has a neighbor that teaches dance and/or singing and that many of their neighbors have complained about the traffic associated with that and thinks that if there was a building in the community where these types of lessons could be held it would alleviate some of the stress on the neighborhoods in the community. Mr. Grimmer stated he understands that concerns of those who would live near the building as view scapes are very important to all residents, but he also likes what a building like this says about the community and that we value education and the arts. Mr. Grimmer said it would be wonderful to keep it in Alpine and not have to travel to other communities where many of the people he sees there are his neighbors. Mr. Grimmer said if his two choices were the arts center or another office building, he would choose the arts center.

David Warner stated that there were comments made about kids hanging out around the theater and noise and that as a 16 year old kid, he would not want to hang around a theater for fun so it probably would not be a problem like some think it might be.

Shirley Davis stated that she has only lived here for about a year and that before moving here she met Kimberly Bryant and was asked why she was moving to Alpine. Ms. Davis said she has lived in big cities and small cities and the reason she came to Alpine was the quietness and the community feel. Ms. Davis expressed concern about the traffic and the impact it will have on the roundabout and questioned if there would have to be a stop light at a future date or if the road would have to be widened. Ms. Davis said she has not seen a theater in a school like the one at Timberline and that should be taken advantage of instead. Ms. Davis said if the community wanted to build an art center that maybe we could do it on a smaller scale.

Joan Norton stated when she moved to Alpine quite awhile ago she was really excited about a gathering place for residents, especially senior citizens and now she is a senior citizen. Ms. Norton explained that she was roommates with Sally Hale in college and has found the growth of the Hale Center Theater interesting and would hate to think of the community without it. Ms. Norton stated that it seems most of the people that move to Alpine want to shut the door behind them, but they want to have something uplifting for their children to do, that is positive, that will give them something to remember Alpine for. Ms. Norton said there is so much talent in Alpine, but getting parts in plays in other communities is hard. Ms. Norton explained the importance of a fly-away system is that you do not have to redo sets over and over, but you can keep them.

Kristen Fillmore stated she grew up in a bedroom community, but it had a small area they called the "Village" with small shops and this was all there was in town. For years, Ms. Fillmore has wished that Alpine had something like this which could actually be utilized rather than more offices.

Jannicke Brewer said one of the reasons Planning Commission had concerns over the height was the General Plan stated that commercial buildings should be developed at an appropriate scale and density to be compatible with adjacent land uses. Mrs. Brewer said one of the concerns she had was she understood that to have the fly-away system the building needed to be 53'10" at that area, but questioned why did the rest of the building have to exceed the height limit.

Ted York stated he liked the idea of the theater, but said that the materials being shown for the outside of the building look like it is something that belongs in a big mall. Shane Sorensen explained that to help keep the costs down for the renderings the landscape architect tried to match the architect's rendering as best as they could, but the applicants actually have submitted proposed building materials went before the architectural review committee which were approved.

Katrina Kennedy stated that it seemed that everyone supports the arts and the proposed use of this building, but what would happen if the City granted the variance for this and then another application came in that was not a popular use and that applicant requested a variance – would there be a precedent.

Linda Roberds stated she is not against the arts and she knows Alpine is going to grow, but she is frustrated that all this money is being spent on a building in a location where so many people do not want it to be and it should be in a location where there is more room and less of an impact on traffic and on neighboring residents.

Paul Skousen stated he moved to Alpine from South Jordan and watched South Jordan change from a small community into a commercial oriented city. Mr. Skousen said he would have loved to have seen something like this arts center come into South Jordan instead of what did come. Mr. Skousen said he thinks this would become a jewel and the heartbeat of the community and can have an impact of what comes after.

Bryce Craig asked if there are any drawings available that show the actual scale of the proposed building relative to the Stucki dental office (clock tower) because the renderings being shown seem that the scale is slightly smaller when the proposed building is actually quite a bit taller than the clock tower.

Julie Yarbrough asked about the retaining wall on the rendering and if it was possible to dig down and lower the building that way and also design it so architecturally it blends in better.

Mayor Willoughby explained that those petitioning for the variance will be able to speak later during the meeting and answer several questions including excavating down and the design of the building.

Mayor Willoughby closed the public hearing.

I. CALL TO ORDER. Mayor Hunt Willoughby called the City Council meeting to order at 8:00 pm and welcomed those in attendance. The Council Members and staff were introduced.

II. PRAYER/OPENING COMMENTS – Troy Stout offered an opening prayer.

III. PLEDGE OF ALLEGIANCE. Teresa Cosper led the audience in the Pledge of Allegiance.

IV. PUBLIC COMMENT

Katrina Kennedy expressed concern that there is graffiti on the slide at Legacy Park. Kimberly Bryant stated that they have similar problems in other parks. Mayor Willoughby said the police department works with a group called TAG (Teens Against Graffiti) within the County and teens that have community service hours to do spend time removing graffiti so call the city or the police when you see this. Shane Sorensen said he knows that the Public Works Department have cleaned up some graffiti in the last couple of weeks at Smooth Canyon, but they do not make it to the top of the slide very often.

V. CONSENT CALENDAR

Business Licenses:

Marcus Nielson – Applewood Enterprises, Inc. 760 East 100 North

Bond Release

Alpine Apple Creek Acres Subdivision – Steve Christensen - release #3 - \$12,387.72

MOTION: Kent Hastings moved to approve the Consent Calendar. Kimberly Bryant seconded. Ayes: 5 Nays: 0. Troy Stout, Kimberly Bryant, Bradley Reneer, Kent Hastings, Jim Tracy voted aye. Motion passed.

VI. ACTION ITEMS

A. 100 SOUTH PARK - PERIMETER FENCING

Ted Stillman said this was approved as part of the 100 South Park and this was to buy the fence. Shane Sorensen presented the bid from Northwest Fence in the amount of \$26,146.00 for the fence for the 100 South Park and asked the Council if they wanted to see items such as this that had already been approved as part of the original bid. The original cost was \$54,000.00 and the average was about \$35,000.00. Troy Stout asked what material the fence will be. Shane Sorensen said it will black vinyl coated chain link with privacy slats and this will be installed anywhere the park borders a residential lot so that there is a common type of fence everywhere. We will install the fence on our side of the property line and homeowners could still install a different type of fence if they wish on their side of the property line.

MOTION: Jim Tracy moved to approve payment in the amount of \$26,146.00 to Northwest Fence Supply and that also we instruct staff not to bring individual invoices back to City Council on this park that has already been approved. Kimberly Bryant seconded. Vote: 5 ayes, 0 nays. Jim Tracy, Bradley Reneer, Kent Hastings, Kimberly Bryant, and Troy Stout voted aye. Motion passed.

B. QUALTRICS PRESENTATION.

Mayor Willoughby introduced Dan Watkins who represents Qualtrics which is the system the City Council chose to obtain citizen opinions on city issues. Mr. Watkins explained that he is helping the city build a master panel that the City can use to obtain citizen input on various issues. Mr. Watkins said that currently approximately 255 households have signed up to be a part of this panel and explained that to get a true representative sample we need about another 80 households.

Kent Hastings said he went to sign up and saw that it asks people their annual income and wondered if people were not finishing because they did not want to give that information. Kimberly Bryant asked if it would be better to have a completely random sample rather than having the same people signing up every time who have specific agendas. Dan Watkins said that for the last 6 months we have been trying to get anyone and everyone who cares about what happens in the city to sign up rather than having people sign up for specific surveys. Dan Watkins reviewed the demographics of the current master panel.

Jim Tracy asked what happens when we add another 80 households – if we would no longer need to advertise or would we keep going. Dan Watkins said the more that sign up the better, but the additional 80 will get us to the minimum amount to start surveying and get a true representation (95%).

Troy Stout asked if the first year was free. Dan Watkins said once we get the sample built he likes to give the City at least 6 months to test the program. After 6 months, the City can choose which package it wants and that because he grew up in Alpine, the City will always get half off what local governments are paying.

Emily Gooch asked if their name was linked with the responses or if they will remain anonymous. Dan Watkins said it can be set up either way. There could be a comments section where people could put their name if they wanted to and surveys can also be set to remain anonymous. The City Council generally concluded that anonymous would be better.

C. ALPINE PERFORMING ARTS CENTER HEIGHT VARIANCE.

Paul Thompson, representing the Alpine Arts Center, did a power point presentation of the proposed Alpine Performing Arts Center. Paul Thompson stated that this would be funded privately by donations and they are not asking for any tax money to fund the project. The building would also serve as a performing arts education center - promoting such things as dance, drama, and plays/musicals in which children and adults can participate. There would also be recital rooms, a costume shop, teaching visual arts, rooms to rent for teaching art classes, after school classes. The Arts Council is committed to putting on four major productions a year and these involve 100% volunteer help. Paul Thompson said that the building is more than an auditorium and explained the layout of the theater that include a flyaway and a trap door and these items make this theater unique. Having these items makes this a true theater and the Arts Council is asking for the height variance in order to keep these features in the building. Paul Thompson stated that the Arts Council was negotiating a cross easement with reciprocal parking with an adjacent property owner that would provide some ambient parking for the arts center.

Kimberly Bryant stated that a lot of people have commented on the arts center and asked if it can be done on a smaller scale. Kimberly Bryant asked the applicants if there was a compromise and could this be done on a smaller scale. Jeff Snyder, also representing the Alpine Arts Center, described the layout and use of space in the building and stated that it cannot be made smaller. Kimberly Bryant asked if the height variance was not granted would the building be built. Jeff Snyder said it would not. Troy Stout asked if that meant this particular plan or any theater. Jeff Snyder said there really would not be any point because without the flyaway and trap it would not really be a theater. Kimberly Bryant asked if doing something similar to the Hale Theater in Orem was an option. Jeff Snyder explained that that is theater in the round which is a different type of theater and that is not the intent of the Arts Council to do that type of theater. Mr. Snyder added that the Hale Theater in West Valley does have a flyaway. Kimberly Bryant said she has had a lot of people ask her this and she wanted to have that answered. Paul Thompson said that the proposed layout opens up the theater for other kinds of events than just plays.

Jeff Snyder stated that the architect has designed the building to use the space as effectively as possible to keep the footprint down in size. The Arts Council wants to be good neighbors and plans to keep the landscaping nice and have it planned by a professional landscaper. They will have to do some retaining because of the nature of the property, but they have the intent to do it as nice as possible and make it beautiful.

Jim Tracy said that people have asked when they had the balloon raising why there were two office buildings there and why they were chosen. Jim Tracy explained that there were previous applications on that property for office buildings so they used those as an example of what else could be there. Mayor Willoughby pointed out that there was no current application for the property other than the arts center. Jim Tracy said that property owners throughout the city can build on their property and at some point this property will be built on.

Jim Tracy also pointed out that a question came up during the public hearing about the landscaping in front of Mountainville Academy. Jim Tracy explained that the vacant area in front of Mountainville Academy is a separate parcel that is not owned by the school and that is why it is not landscaped. Jim Tracy said Alpine is still a growing community and there is still vacant property and the city will grow whether we want it to or not.

Jim Tracy and Troy Stout raised some issues about parking. Mayor Willoughby stated that traffic was not an issue tonight and the only item to be addressed tonight is the height of the building. Troy Stout said he understands that parking is not the issue tonight, but asked if there is going to be reciprocal agreements for parking does the Council want to hear from those other property owners. Kimberly Bryant said her understanding was that parking was being taken care of and was almost resolved.

Bradley Reneer said there are related issues such as traffic and noise and wondered if maybe some of the opposition to the height might disappear if some of those other issues were resolved. Perhaps if there were some restrictions in place, for example a limit on the hours of operation on the proposed outdoor theater, if some people might not be as opposed to the height.

Troy Stout said he thought that they may be putting the cart before the horse with the parking because in the last meeting the council indicated if the parking was resolved the application would move forward, but there was at least one party who would be involved in the reciprocal agreements saying that likely will not happen now.

Troy Stout said in the last meeting the Council was told that digging down deeper was cost prohibitive and the water table created some issues there and wanted to verify that that was based on fact. Shane Sorensen said he can tell his opinion, but has not seen a geotech report. The groundwater level is a lot deeper than what the building would ever be and the only concern would be when Dry Creek ran high would the water would migrate over. Shane Sorensen said he thinks they did a geotech report, but he has not seen it and this is something that could be addressed in the geotech report.

Jeff Snyder said the last time this was discussed they went back and talked to their soil engineer and were told they could probably go about another foot down, but it didn't make sense to from a cost perspective. Jannicke Brewer explained that the Planning Commission was looking for guidance from the City Council on the height question. There was no sense in moving forward with the application if the City Council would not support an exception on the height. Jannicke Brewer explained that a full application has not come to the Planning Commission yet because the applicant wanted to know if these exceptions would be given before submitting a complete application. Planning Commission has given the applicant a list of items that must be addressed before a recommendation on the full site plan can be made to City Council.

Troy Stout said he is confused on the ADA issue for digging down because he sees various other buildings that have been dug down and meet ADA requirements and he wants to get at the heart of why this building has to be so high. Bradley Reneer asked if you go below grade can you lower the grade. Jannicke Brewer said those items have not come to Planning Commission yet. Bruce McKay, the architect for the applicant, stated he talked to the civil engineer and where the building sits in relation to the road it is about a 4% grade. Mr. McKay gave some brief scenarios of changing the grade and how much that would affect the ability to lower the building. Mr. McKay also explained the affect on ADA requirements and that many of the building you see that are dug down also occupy a much greater space and they have more room to work with to make it accessible.

Shane Sorensen asked if Northern Engineering is looking at the slope being the limiting factor because there are other things that can be done to drop the building down and still maintain accessibility such as a ramp that still meets ADA requirements such as a longer, curved ramp rather than a straight shot. ADA standards are based on slope.

Troy Stout said he understands that the applicant is concerned about cost and feasibility, but there are also residents nearby that could lose property value and that has to be balanced with the applicant's concerns and that the City Council has a job to protect residents who live here. Troy Stout said this is a really easy project to support and he would hate to vote against it, but there are issues involved that would really cause him to evaluate it and consider the wants of the community and the needs of the community. Troy Stout stated this is a really big exception and that this building will dwarf anything around it and the residents will have to live with it and was concerned about what kind of precedent will this set if other applicants come in and want a similar sized exception.

Jeff Snyder said he thinks that an assumption is being made that surrounding property values would decrease and he thinks that the opposite would occur and property values would probably increase similar to when homes are near schools and parks as opposed to when they are near commercial buildings. Troy Stout said that in its rawest form this is a commercial building because it is not residential and he would have a hard time believing that the homes that would lose their view would increase in value. Troy Stout stated he did love the idea of the arts center, but cannot ignore that it will have a negative impact on some people.

Jeff Snyder said the clock tower building is designed to be looked at and draw attention. Mountainville Academy was also designed to be looked at. The fly system in the arts center is designed to blend in. Jeff Snyder said they have been considering on top of the scene shop to install a water system and plant trees to break up a big white wall. Kimberly Bryant said that the mountain views have still been taken away and if it was okay to take away views we would not have a height ordinance and would just tell people to put up buildings for good causes. Kimberly Bryant said she comes from a family that supports the arts and her mother performs at Hale Theater, but has a hard time as a council member telling a resident that a theater with a fly system is more important than preserving mountain views and property values. Kimberly Bryant also indicated that she had randomly called citizens throughout the community and even people that live away from Main Street felt the proposed building was too big.

Jeff Snyder said they want to do whatever they can to make the project palatable and they do not do this because it is a money maker, but because they love it. Kimberly Bryant said that she understands why the arts council does what they do, but asking for a 20 foot exception is huge. Jeff Snyder said they cannot do anything about the height required for a fly away system and they have asked their engineers about digging down and the most they have come up with is just a few feet.

Bradley Reneer said he was excited about the project and thinks it would be a wonderful thing for the community and the arts council has done a lot of good for the community, but he also realizes that there are some very important concerns involved. Bradley Reneer said when the height ordinance was passed he does not know what types of buildings the city considered and wondered if the ordinance was up to date on this issue. Bradley Reneer said seeing the pictures the building appears to be much bigger than what he thought it would be based on the balloons and asked what the effect would be if they went lower. Jeff Snyder said they have asked their engineers and have been told the most they could go down was only a few feet.

Kimberly Bryant asked if they could make a motion to table the item until the parking is resolved because if that does not get resolved the height may not make a difference. Jim Tracy said there is a vacant lot north of the location on the other side of the bridge that could maybe be bought and used for parking.

Jim Tracy said he thinks that an asset to the community like the arts center would probably add value to property values community wide. Jim Tracy said that if this is not built the property owner could eventually build something else that would block views just as much or even more. Jim Tracy asked the architect if the front of the building could be lowered. Bruce McKay said that yes some of the front is just there for looks and stepped to help the fly away not totally stick out, but lowering it could probably reduce some of the impact at street level.

Troy Stout said he liked moving in this direction more trying to compromise rather than having an applicant say this is our plan and it is this or nothing. Kent Hastings said he did some research on variances for other buildings in the city and it turned out that all of them conform to the ordinance. Some are higher than 34 feet, but many of those have a gabled roof. Kent Hastings stated he is concerned about precedent and thought that maybe they could approve a smaller exception, but is having a hard time with a 20 foot exception.

Jim Tracy asked City Attorney David Church if the city were to approve this exception what impact it would have on setting a future precedent. David Church said if an applicant can in with something that is substantially similar, meaning similar location, similar size lot, it would be difficult to say yes to the one and no to the other. Kimberly Bryant asked about the bed and breakfast that was approved for across the street from this location and could they come back and ask for an exception would there be a precedent. David Church said not automatically, but if they made the same kinds of arguments there could be some precedent. The key is you have to treat similar people in a similar manner and you do not get to be arbitrary and capricious in the decision making process.

Jeff Snyder said the arts council is asking for this exception because of a need. They need the fly away system to make the theater work and the building needs to be this height to make the fly away possible and not because they want the building to be this high. David Church explained that the building is being built with a purpose and the purpose may not always be there, but the building will be. There are arguments for the height exception and on the other side you have what the purpose of the ordinance is and what is the rational basis for the limitation itself.

Jim Tracy asked if a motion should be direction to Planning Commission or approving an exception. Ted Stillman said it should be direction to Planning Commission.

MOTION: Jim Tracy moved that City Council instructs Planning Commission to continue working on the Alpine Community Theater with changes to the plan that was presented to City Council and that the front of the building be no higher than 42 feet and the rear of the building be no higher than 50 feet measured from top back of sidewalk elevation. Bradley Reneer seconded.

Discussion on the motion followed. Jody Good from Spectrum Engineering designed the theater and discussed how the fly worked and that to reduce the fly would reduce the functionality of the theater. Mr. Good said if the building is adjusted too much it will affect the acoustics of the theater or the driveway access for trucks making deliveries for such things as scenery. Larry Brown asked if the fly is used only for storage of scenery or if it is also used for scene changes. Chris Culver said it is used for both and that part of the trap could help with scene storage. Jeff Snyder said the height of the fly allows scenery to be moved out of the sight line.

Vote: 2 ayes, 3 nays. Jim Tracy and Bradley Reneer voted aye. Troy Stout, Kimberly Bryant, and Kent Hastings voted nay. Motion failed.

Bradley Reneer asked if there was a height level that would be acceptable. Kent Hastings said 20 feet is 59% above the ordinance, 10 feet is 29%, 6 feet is around 18-20%. Kent Hastings said he really wants this project to work, but does not want to grant a 20 foot exception. Troy Stout said he was more comfortable with 10 feet than 20 feet and he hates voting against the project, but the ordinance is there for a reason and the Council cannot ignore the precedent issue. Kimberly Bryant asked if the theater was reduced to 400 seats if the fly away would still have to be the same height. Chris Culver said that the ordinance requires the height measurement on this building to be measured to the top because it is a flat roof, but that gabled roofs are measured differently and gabled roofs can be quite a bit higher than 34 feet when measured to the top and that in the end the arts center may not be much taller than some houses in town which also have an impact.

MOTION: Troy Stout moved that the City Council gives direction to the Planning Commission to reduce the height from 53'10" from street level down to 43'10" from top back of sidewalk. Jim Tracy seconded.

Discussion on the motion followed. Jim Tracy stated that one problem with the motion is that we need to move forward and it is not fair to the applicant and thinks we need to draw a line somewhere so the applicant knows whether or not to move forward. Mayor Willoughby said as a geologist he thinks there could be a 6 foot drop made easily. Shane Sorensen said that it is difficult to design a building in a meeting and explained that the applicant's engineer and architect have not sat down with city staff and worked through these issues and suggested that meeting with them might help develop a more palatable site plan. Troy Stout said he thinks if they stated that the goal is to create a 10 foot exception and if that can be achieved that would be more palatable.

Vote: 2 ayes, 3 nays. Troy Stout and Kent Hastings voted aye. Jim Tracy, Bradley Reneer, and Kimberly Bryant voted nay. Motion failed.

MOTION: Bradley Reneer moved that the City Council gives direction to Planning Commission to reduce the height to 47 feet. Jim Tracy seconded.

Discussion on the motion followed. Jim Tracy said he thinks to reduce the height by seven feet they will have to dig it down seven feet which drops the stage down below grade.

Vote: 2 ayes, 3 nays. Jim Tracy and Bradley Reneer voted aye. Kent Hastings, Kimberly Bryant, and Troy Stout voted nay. Motion failed.

Kent Hastings stated that if they do not pass a motion that the height limit for this building will stay at 34 feet and that he would be willing to go with a height reduction of 10 feet. Jim Tracy said if they have to reduce the building by 10 feet he did not think they could have a fly away system like they want. Kent Hastings said what he thought the Council was being asked to do tonight was to give direction regarding what height would be acceptable.

MOTION: Kent Hastings moved that maintaining the same footprint the City Council allow the rear of the building to be a maximum of 44 feet as measured from the top back of sidewalk and that the front of the building would be a maximum of 40 feet as measured from grade. Troy Stout seconded.

Bradley Reneer asked if that would be possible. Bruce McKay said he thinks if the Council was to approve 47 feet that they would find a way and do it, but he would be pessimistic that they could find a way to reduce the height by another 3 feet.

Vote: 2 ayes, 3 nays. Kent Hastings and Troy Stout voted aye. Kimberly Bryant, Bradley Reneer, and Jim Tracy voted nay. Motion failed.

Bruce McKay said he thinks he could probably give away a couple more feet in the front if they could keep it in the rear of the building.

MOTION: Jim Tracy moved that the City Council gives direction to the Planning Commission that measured from top back of curb that the front of the building be 42 feet and the rear of the building be 47 feet. Bradley Reneer seconded. Vote: 2 ayes, 3 nays. Jim Tracy and Bradley Reneer voted aye. Kimberly Bryant, Troy Stout, and Kent Hastings voted nay. Motion failed.

D. COMMUNITY DEVELOPMENT BLOCK GRANT.

Ted Stillman said that this was on the agenda two weeks ago and only three Council members were present. The CDBG funds are federal funds that can be used to benefit moderate and low income people. Utah County is now large enough to be an urban county which means the county can get a direct allocation that we can apply for instead of the cities having to be part of the state's small cities program. In terms of Alpine our income takes us out of the low to moderate income level which makes it tough for us to get grants. In this case, by being a part of the agreement we help other cities who can get grants. An example of a project we could apply for would be something like curb and gutter on 800 South and when that was mentioned at the last meeting there was a misunderstanding that what we were doing was applying for that project, but it was only a possibility. We are not applying for a grant, we are only approving an agreement with Utah County.

Kent Hastings said in reality we probably would not get any of the money, but we are allowing the rest of the county to participate. This funding is done throughout the state, but this agreement would increase the county's ability to allocated funds. Troy Stout asked if there was any remote chance that Alpine would receive money. Ted Stillman said there is a chance and explained that we applied for the downtown project several years ago, but we did not qualify.

Bradley Reneer stated there are a lot of reasons why he is opposed to this. When it is free money people will ask for anything, but if it was coming from their own pocket they would not ask for things. When the funds are kept more local the more carefully the funds will be used for real needs. This is not real money being passed out and our taxes are not going to this, but it is money being printed or borrowed and essentially is robbing future generations. Kent Hastings said that by not signing the agreement we really are not doing anything to prevent feeding at the trough and are thumbing our noses at other councils in the county that want to do this.

Troy Stout said he agrees with Bradley Reneer, but does not know if he agrees enough to be the one city in the county to deny everyone else access to the money that they may feel they need. Alpine has a reputation of having an affluent population and is concerned that if we vote no and hold up other cities that we would draw the ire of our peers around the county and would propose that we vote yes, but that if we do receive any money that we would send that money back to the federal government to be a tiny speck in the bucket to pay back the federal debt. Troy Stout asked David Church if the council could make a motion along those lines.

David Church said all that they are being asked to do tonight is to enter into an interlocal cooperative agreement that would allow Utah County to be the body that administers the CDBG program for this county rather than being administered at the state level. This does not mean you ever have to apply for a grant or that you would ever receive money. If you are opposed to this the easiest thing would be to not apply for a grant and not receive the money rather than receive money and mail it back. When you apply for a grant you describe a program and it will be reviewed and if it is approved then you receive the money and why would you go through all of that to get a check to send back.

Jim Tracy asked if the City has ever received CDBG funding in the past. Shane Sorensen said it was before his time with the City, but he thinks that CDBG funds helped build the City's water system and possibly some of the street improvements years ago. Jim Tracy asked if this agreement required 100% participation of all cities in the County. Ted Stillman read a letter stating that to become an urban county all cities would need to approve the agreement.

Paul Skousen said it is tough to stand on principle and the way to start turning the country around is to say no. If we cannot do that in our own backyard we cannot expect it to happen at the national level. We should not look at ourselves as the bad guy if we say no to this agreement, but as the person that took a stand.

Mayor Willoughby said in Council of Governments meetings he has spoken against using stimulus money and grants.

MOTION: Troy Stout moved that the City Council approve the CDBG Agreement with Utah County and stipulate that we will not be asking for any grants of federal money for the foreseeable future. Motion failed for lack of a second.

MOTION: Bradley Reneer moved that the City Council not sign the Interlocal Cooperation Agreement. Kent Hastings seconded. Vote: 3 ayes, 2 nays. Jim Tracy, Kent Hastings, and Bradley Reneer voted aye. Troy Stout voted nay. Kimberly Bryant abstained. Motion passed.

E. 2010-2011 BUDGET.

Ted Stillman suggested that the Council table this item and put it at the top of the agenda at their next meeting. Ted Stillman told the City Council if they have specific questions on the budget to email him their questions. Jim Tracy said he had a lot of questions and passed out a list of his questions to the Council members and said he will email

them to Ted.

VII. REPORTS

VIII. COMMUNICATION

Jim Tracy stated that there was a lot of talking among the City Council during the meeting tonight and thought that it was disrespectful to the audience and presenters. Kent Hastings stated that the Council needs to follow decorum and thinks that it could help shorten their meetings.

Jim Tracy said he has been talking with Ron Devey about ways to get the community involved in the 100 South Park and have come up with a couple of ideas. There are many benches already bid and we could write an article and ask people to adopt a bench and pay for it and also residents could buy trees, even prepay for a tree and then we could have a tree planting ceremony. Kent Hastings reminded the Council that he obtained a couple of donations for the park from the Hughes Foundation and all they wanted were a couple of benches with some names on it and he thinks the donations totaled about \$40,000.

Kent Hastings asked if the Council was going to have an executive session because he had a couple of items that he wanted to discuss. Kent Hastings said one of his items he could talk about in public and explained they are trying to work on the budget for the PSD and wanted to get a feel for how we can cut expenses because we have 9 firefighters that were hired with a grant and that grant has tapered off and we cannot layoff any of them. Kent Hastings asked if we needed to cut some of the PSD budget so that Alpine City stays afloat. Ted Stillman said he had a session on Monday with both fire and police to grind through the budget and two versions will be presented to the board at their next meeting.

Kent Hastings said his other question is he would like to advertise for a city recorder whether we hire from within or outside. Mayor Willoughby said that would fall under Ted Stillman. Ted Stillman said it is too late for that as we have anticipated changes coming so we have been training within so we have replacements when these changes come. Ted Stillman walked through the organizational chart from the proposed budget and explained to the Council the reorganization plans for staff. Ted Stillman explained that the recorder position is a part time position and the statutory duties are taking the minutes and keeping the records and the other statutory duties are financial and Ted Stillman said he has always done those and the recorder has never done those. Ted Stillman met with staff and since our recorder left, those duties have been divided three ways and assigned to different people. Charmayne Warnock has been assigned to take the minutes and maintain the official city records. We are still short one position, but we will wait a month or two to see how duties balance out.

Bradley Reneer said when it is not too late it would be interesting to discuss what council members learned at the recent Utah League of Cities and Towns conference.

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

MOTION: Kimberly Bryant moved to go into Executive Session for personnel. Bradley Reneer seconded. Vote: 5 ayes, 0 nays. Jim Tracy, Kent Hastings, Bradley Reneer, Kimberly Bryant, and Troy Stout voted aye. Motion passed.

X. APPROVAL OF MINUTES OF MARCH 30, 2010

MOTION: Kent Hastings moved to approve the minutes of the City Council meeting of March 30, 2010 and adjourn. Kimberly Bryant seconded. Vote: 5 ayes, 0 nays. Jim Tracy, Kent Hastings, Bradley Reneer, Kimberly Bryant, and Troy Stout voted aye. Motion passed.

The meeting adjourned at 12:20 am.