

ALPINE CITY COUNCIL MEETING
Alpine City Hall, 20 N. Main, Alpine, UT
September 25, 2018

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 pm by Mayor Troy Stout. Mayor Stout explained that they were lacking in Councilmembers that evening. Carla Merrill and Jason Thelin were out of the country. Kimberly Bryant was out of state but would be participating by phone near the beginning of the meeting. For that reason, he was reordering the agenda to have the more urgent action items near the beginning of the meeting when Ms. Bryant was available.

Mayor Stout said they would first hold the Public Hearing on the Urban Deer Control Plan then take action. Next, they would consider the Consent Calendar. The audit report was postponed to the next meeting. They would then consider Item B under Action/Discussion Items which was a request for a height variance by Tim Clark for his property at 95. N. Preston Drive. The general Public Hearing and Financial Report would be held at the end of the meeting. The remaining items on the agenda would be addressed at a future meeting.

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

Mayor Troy Stout

Council Members: Ramon Beck, Lon Lott. Kimberly Bryant participated by phone for a portion of the meeting.

Council Members not present: Jason Thelin and Carla Merrill were excused.

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

Others: Paul Bennett, Ed Bush, Sam Pehrson, Wes Alexander – DWR, Rod Nielson – DWR, Mrs. Tim Clark, Tim Clark's builder, Mike Pierce, Darrin Bell, Gordon Willis, Dennis Madsen, Will Jones, Dave Fotheringham

B. Prayer: Lon Lott
C. Pledge of Allegiance: Ramon Beck

II. ACTION/DISCUSSION ITEMS

A. PUBLIC HEARING – Urban Deer Control Plan

Mayor Stout said the Council had been working on deer control for some time. Two of the three steps had been completed. Holding a public hearing and approving the Urban Deer Control Plan was the third step. The first two steps included trying to establish habitat that was attractive to deer on the hillsides instead of in town. That included planting vegetation and adding water sources for the deer. He thanked the Mule Deer Foundation and other volunteers for their assistance with those things. At this stage, they were about to begin trapping the deer and relocating them to other areas.

The Council had begun the Deer Control process by creating a committee to study the deer problem and make a recommendation to the Council. The committee created a survey which was provided to residents, giving them an opportunity to have input on the problem and possible solutions. The Council then discussed the survey and the options and decided on the nonlethal trapping and relocating of the resident deer.

Wes Alexander and Rod Nielson from the Division of Wildlife Resources (DWR) were present. Mayor Stout opened the public hearing.

Paul Bennett – Fort Canyon Road. Mr. Bennett said he had been on the Deer Committee and he wanted to know who decided to trap the deer rather than using lethal means.

Councilman Lott said there had been several discussions on the issue. The response from the community was almost equally divided between lethal and nonlethal solutions. After discussing the feedback, the Council decided to use a controlled nonlethal method to reduce the number of resident deer in Alpine.

Troy Stout said no more than 100 deer would be removed per year. That number was a maximum, not a goal.

Regarding the cost, the representatives from DWR said the cost to trap and relocate the deer was \$225 per deer. Shane said the traps were about \$900 a piece and they were planning to have two or three. The City had budgeted \$20,000 for the deer removal program.

Paul Bennett said there was a resident herd on Fort Creek that had been there 25 years. He said he would like to be involved in the placement of the traps.

Ed Bush – Box Elder Drive. He commended the City Council for choosing a nonlethal path. He asked that they concentrate on those areas of nonmigrating deer and leave the fringe areas where the deer migrated alone.

There were no more comments and Mayor Stout closed the Public Hearing. He opened the meeting to Council discussion.

B. Urban Deer Removal Plan

Kimberly Bryant joined the meeting via telephone.

Ramon Beck said they were originally looking for bow hunters to kill the deer and decided to go this route even though it was more expensive. They felt this was what the citizens wanted. Others felt the trapping didn't go far enough.

Lon Lott said they had received a letter from a citizen that felt it was inhumane to trap the deer but many citizens had concerns that needed to be addressed.

Kimberly Bryant said she would prefer to do nothing. Other cities like Midway embraced their wildlife and laughed at Alpine for trying to reduce the deer herds. They said their property values went up because of the deer. She said the people had moved into the deer's territory.

Troy Stout said the debate was over whether some of the deer were wildlife. Many deer had become part of a domestic neighborhood and were a nuisance because of their destructive eating. He said the City would commit trapping deer only in areas where people wanted them trapped.

Wes Alexander said they needed input from the community in the placement of the traps so they could focus on the deer that were truly urban deer.

Ramon Beck said the deer were a protected species and they had to work with the government on this. They couldn't just go out and move them.

Kimberly Bryant asked how many resident deer there were in Alpine. Mr. Alexander said there was an estimate of 400.

MOTION: Lon Lott moved to approve the Urban Deer Removal Plan as outlined with the significant point that they trapped only in the areas where the presence of urban deer was verified. Ramon Beck seconded.

Kimberly Bryant said she wouldn't support the motion and felt there needed to be more discussion.

The motion was withdrawn.

Kimberly Bryant said one of the reasons she didn't agree with the plan was because the deer would just come back. It would be the same deer they trapped and relocated, but more deer. How would trapping solve the problem?

Wes Alexander said they would never remove all the deer that were in Alpine. They were only trying to reduce the deer to a tolerable number. Herriman and Provo had been doing this for a while and had seen a considerable reduction in the number of deer. He said the deer would be relocated to a place far away.

Mayor Stout said one of the reasons they were trying to reduce the number deer was so people were not hitting them with their cars. It was dangerous for people and the deer.

Kimberly Bryant said the only way she would vote for it was if they were saying exactly why they were doing this. The rumors she was hearing was that people in Alpine felt they lived in a city that was too good for wildlife. That wasn't true but it was the perception. She wanted it to be clear that it was not about that. She said she hunted and had shot deer. She just wanted the citizens to understand that it was to alleviate the problem of deer and traffic. She would like to have a letter written to the public explaining their action and she would vote for it.

MOTION: Lon Lott moved to approve the Urban Deer Removal Plan as outlined with the significant point that they set traps only in the areas where the presence of urban deer was verified, and with a clear statement to the residents that they were only removing urban deer. Ramon Beck seconded. Ayes: 3 Nays: 0. Kimberly Bryant said she voted aye but was not happy about it. Motion passed.

Ayes:

Ramon Beck
Kimberly Bryant
Lon Lott

Nays:

none

III. CONSENT CALENDAR

- A. Minutes of the Alpine City Council meeting held September 11, 2018**
- B. Final Payment to Holbrook Asphalt - \$47,678.67**
- C. Extension Request for 2018 Municipal Recreation Grant Reimbursement**

Shane Sorensen explained that the City had received a recreation grant that was intended for use on the Dry Creek Corridor Trail. Under the requirements of the grant, claims for reimbursement would need to be submitted by October 26, 2018, but the work was not yet completed. Approval of the grant extension would give them until November 30, 2018 to seek reimbursement.

MOTION: Kimberly Bryant moved to approve the Consent Calendar. Ramon Beck seconded. Ayes: 3 Nays: 0. Motion passed.

Ayes:

Ramon Beck
Kimberly Bryant
Lon Lott

Nays:

none

ACTION/DISCUSSION ITEMS (Continued)

C. Willow Canyon Variance Request to the Height Restriction – 75 N. Preston Drive – Tim Clark.

Shane Sorensen said the Council had considered the request at their meeting of August 28, 2018 and denied it. Since that time, Mr. Clark had redesigned his plans and was not asking for a variance of 9 feet. He had talked to the architectural committee of Willow Canyon architectural committee even though he was not technically required to because he was not in the subdivision. Not all the members of the Willow Canyon committee were in agreement. He said Mr. Clark had been issued a building permit, but permission to continue was withheld when they realized the building lot was in the Willow Canyon Annexation Area, which had a height restriction.

David Church said they were calling it a variance but technically that was not what it was. He explained that the height restriction was imposed as part of the Annexation Agreement with Willow Canyon was annexed into Alpine City. The covenant ran with the land and stated that a home could not exceed 25 feet in height as measured from natural grade. Alpine's height restriction throughout the rest of the city was 34 feet high as measured from the average finished grade to the midpoint of the roof. In the past, the Council had approved variances for homes in Willow Canyon which allowed them to be higher than 25 feet from natural grade.

Mr. Church said it was important to remember that what the Council was being asked to do was to determine whether or not the City would enforce its rights under the Annexation Agreement. The City could not control whether or not the landowners in Willow Canyon could enforce their rights. Mr. Clark was requesting that the Council not enforce the height section of the Annexation Agreement for his particular home as long as the height was not more than 9 feet above the 25-foot height spelled out in the Annexation Agreement. He said that was all the Council could do. They were not getting rid of the Agreement. He said that, as they had heard from the attorney of other landowners in the Willow Canyon area, the property owners in Willow Canyon could enforce the terms of the Annexation Agreement themselves. Regarding the issuance of the building permit, it was issued because the person in the building department did not know about his restriction. It was stopped when staff realized what had been done.

Mr. Church summarized by saying that the Council would be choosing whether or not to enforce that section of the Annexation Agreement for this particular home. The neighbors could still hire an attorney and sue to enforce it.

Ramon Beck asked what the City's liability was if they approved it. David Church said there was no liability. The City would issue the permit and the neighbors could choose to enforce it or not. Any lot owner could sue another lot owner. He said that in his years with Alpine City, he had not seen a variance denied. However, this was the largest variance request so far.

Shane Sorensen said he'd heard there had been variances of nine feet, but Austin Roy had looked through the City's files and the highest exception he'd found was 7 feet 5 inches.

MOTION: Lon Lott moved that, as had been done in the past, the Council not enforce the height restriction in the Willow Canyon Annexation Agreement for the property at 75 N. Preston Drive for Tim Clark as long as it didn't exceed 9 feet above 25 feet for a total height of 34 feet. Ramon Beck seconded. Ayes: 2 Nays: 1. Motion failed.

Ayes:	Nays:
Ramon Beck	Kimberly Bryant
Lon Lott	

After the motion, Kimberly Bryant, who was participating by phone, left the meeting.

Mayor Stout said they had lost the third vote and no longer had a quorum so there would be no more action items that evening. However, they would take public comment and deal with other agenda items that did not require a vote.

IV. REPORTS AND PRESENTATIONS

A. Financial Report: Shane Sorensen reported that they were three months into the budget year. Everything was where they expected it to be at the time and the city was financially stable. There were some items that would be coming up as a result of the lawsuit. The final oral arguments were scheduled for November 19, 2018 and they should have more information after that, including the future of the road in Lambert Park.

V. PUBLIC COMMENT

Sam Pehrson said that he had appeared before the Council at a previous meeting to talk about illegal search and seizure and treatment of the mentally ill. He was given David Church's phone number, whom he called. He said David Church would not talk to him. Sam Pehrson said he had told Mr. Church that if he wouldn't talk to him, there would be consequences, and David Church told him to go for it. Mr. Pehrson said he was not planning on any violence. He was looking at a Rosa Parks type protest. He was talking about fair treatment for the mentally ill. He was talking about events that took place in Alpine City limits.

David Church said Sam Pehrson did call him and he asked him what his complaints were, but Mr. Pehrson would not identify his complaints and wanted Mr. Church to meet with him rather than discuss it over the phone. Mr.

Church said he asked for details and told Mr. Pehrson he would not meet with him unless he gave him some facts over the phone.

Mayor Stout told Mr. Pehrson that there were people willing to listen to him if he was willing to provide some information upfront.

David Church said that if he knew what the complaint was, he would know how to direct it. If the complaint was about city staff, it would be a different process than if it was about the police. He said the police department was a separate entity from Alpine City and complaints about the police would be dealt with by the Lone Peak Public Safety District.

Sam Pehrson said his grievance was with the cops and he would like to start that process.

Chief Brian Gwilliam was present and invited Mr. Pehrson to meet with him the next day at 9:30 AM in his office at the police station and told him where it was located.

Mike Pierce – Bald Mountain Drive: Mr. Pierce commented regarding height variances in Willow Canyon. He said that when the Agreement was first put in place, height wasn't an issue until people started building and found it difficult to comply with the restraints. Some variances were approved but only because of the geographical constraints of the lots. People wanting to build houses that didn't comply were asked to come back to the architectural committee with multiple plan changes until they were as close as they could be to compliance. Variances were not granted because of the plan they wanted or the orientation of the building. He said Mr. Clark's home sat across the lot rather than parallel to the mountains. Mr. Clark's request had nothing to do with the lot. Plenty of home designs could be built on the lot and comply with the agreement.

Mr. Pierce said the committee had been very consistent with the variances. They were not handed out wily nily. The homeowners all had to meet with the architectural committee, even those who did not have to. It was not just two-story homes that met with the committee. Everyone built within the constraints. He said he had to go through design changes two or three times for his home. That was done with the HOA before they came to the City for a variance request. He said the lot the Clarks were building on was not steep. Lots of neighbors had gone through the time and expense to comply with the height requirement. He said he would hate to go to the attorneys but they would not have an option if the City was looking at it from only one perspective. The City had fought hard not to have a development in that area and a compromise was reached. It was the City's responsibility to make sure the beauty of the mountains was maintained.

Darrin Bell – Bald Mountain Drive. Mr. Bell said that when they designed their home, they chose a hip roof to lessen the gable ends to reduce the height. They had dug into the hillside. That was how they accomplished a home design that complied. They were nestled into the hillside. The spirit of the Annexation Agreement was to preserve the view of the hillside from all over. It was what many people came here to enjoy. He said the lot at 95. N. Preston Drive was a five-acre lot. It was five times the size of his and other lots. There were opportunities for the owner to comply with both the letter and spirit of the agreement. The request for a variance needed to be based on some kind of argument. He said the Clark home was planned to sit perpendicularly to slope contours which caused the west end of the house to be elevated above natural grade. Orienting it so it was parallel would help. Besides being obtrusive to the view of the neighbors, it would tower above the oak brush on the west end. It would devalue other homes because it was an eyesore. He did not believe any variance should be considered when it was possible to design the home to be in harmony with the contours.

Gordon Willis – Bald Mountain Drive. Mr. Willis said, in reference to the proposed Clark home, they had been moments from having a home built 48 feet above natural grade. He said there should be some conditions or logic applied in this situation. When he built his home, he went through a process where they consulted the neighbors and met with the architectural committee. They submitted calculations on the slopes and driveway. He said he wanted the Clarks to have the home they wanted, but the neighbors wanted to have the homes they wanted, too. They hadn't jumped to the highest variance possible. He received a variance of 2 feet 9 inches. The proposed home was located between his home and Joel Kester's. He was trying to see what the variance was based on. The neighbors were asking for the City to be considerate of the neighbors that were already there and what they had gone through. He was fearful of a quick decision that resulted in a lifelong view for the everyone else.

Ed Bush – Box Elder Drive. Mr. Bush said he was wondering if the motor vehicle restriction in Lambert Park was still in effect. He asked when the signs would be posted. He had spent the summer putting signs back up in the park. Troy Stout said there were a number of things they were trying to determine before the snow flies. There were things the Council had decided on that needed to be executed. Mr. Bush said the police were hesitant to cite people in the park unless the signage was there.

Dennis Madsen – Bald Mountain Drive. Mr. Madsen said he was granted a height variance 20 years ago and he vividly recalled having to justify it. He had to modify his design; he felt those who sought variances should also have to do that. Shane Sorensen asked what his reason had been since his lot was relatively flat. Mr. Madsen said his original design had a steeper pitch on the roof. He flattened it considerably.

VI. STAFF REPORTS

Shane Sorensen said he reported on the following.

- He would send out a reminder about the lawsuit hearing on November 19th.
- He talked to Paul Anderson about no parking in front of his house during school drop-off and pick-up hours. If that didn't work, they would put up signs.
- Cedar Hills had voted to leave the Lone Peak PSD which would create some changes for the remaining two cities. If they kept everything the same, Alpine's assessment would go up. They were working on a buyout for Cedar Hills.
- The basketball court at Burgess Park was essentially done.
- They had installed 600 or 700 new PI meters so far. He was currently working with Caselle to get the software to integrate the meters into our system. The meters were collecting information, but it wasn't yet transferred.
- The audit for 2017-2018 would be presented at the next meeting.
- So far, they had filled two of the three positions that were approved by the Council. Jenny Wallace was selected as the part-time building department secretary. Ted Stillman was the code enforcement officer.

VII. COUNCIL COMMUNICATION

Lon Lott said he felt that as a Council they were between a rock and a hard place on the height issue in Willow Canyon. When they talked about precedence, it was 20 years ago that Mr. Madsen set a precedent when his variance was given. It should have been the people back then that held to the rule.

Shane Sorensen said that the restriction was put in place, not for the subdivision, but for the people that complained.

Mayor Stout said he was excited to have code enforcement officer. He had taken pictures of dumpsters and dirt piles on public open space. There were some gross abuses and he was anxious to see the encroachments on open space addressed.

Mayor Stout said he'd had a productive meeting with the city of Draper. The letter the Council sent over was well-received. He said Blue Bison was off the Draper Council agenda again because he was not ready.

VIII. EXECUTIVE SESSION. None held.

The discussions ended at 9:00 pm. No motion was made due to lack of a quorum.