

**ALPINE CITY COUNCIL PUBLIC HEARING & MEETING**  
**Alpine City Hall, 20 N. Main, Alpine, UT**  
**May 26, 2015**

**I. CALL MEETING TO ORDER:** The meeting was called to order at 7:00 pm by Mayor Don Watkins.

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

Mayor Don Watkins

Council Members: Will Jones, Roger Bennett, Kimberly Bryant, Lon Lott

Council Members not present: Troy Stout was excused

Staff: Rich Nelson, David Church, Shane Sorensen, Jason Bond, Marla Fox, Jane Griener and David Fotheringham from Planning Commission

Others: Loraine Lott, Paul Kroff, Annette Scott, Chris Paulson, Greg Zippi, Tricia Zippi, Sam Larson, Brian Thorp, Emily Thorp, Teri Jerman, Clayton Johnson, Tom Karren, Brian Burr, Cameron Burr, Eli Faust

**B. Prayer:** Roger Bennett  
**C. Pledge:** Chief Brian Gwilliam

Mayor Don Watkins said Lynn Higgins was in charge the Memorial Day program was it very successful. He thanked Chief Warrant Officer Higgins for the tremendous job he did.

**II. PUBLIC COMMENT:** No Comment

**III. CONSENT CALENDAR**

**A. Approve the minutes of May 12, 2015**

**MOTION:** Will Jones moved to approve the Consent Calendar with the minutes of May 12, 2015 as corrected. Lon Lott seconded. Ayes: 3 Nays: 0. Will Jones, Roger Bennett, Lon Lott voted aye. Kimberly Bryant abstained because she said she didn't get them. Motion passed.

**IV. REPORTS AND PRESENTATIONS:** None

**V. ACTIONS/DISCUSSION ITEMS**

**A. Food Truck Rally Pilot Program Discussion:** Mayor Watkins said the staff had a recommendation regarding the food trucks. Rich Nelson said the food truck rally was a pilot program. They were going to let them operate for about another month and make whatever adjustments needed to be made.

Clayton Johnson owned the Pyromaniac Pizza truck. He said that last night (Monday) they had two separate groups that patronized the food trucks. The first group was primarily young families who were there until about 7 pm. The music was scheduled for 8 pm. The second group that came later in the evening was made up of young adults, teens, families with older kids. He said it was very successful night.

Brian Burr introduced two Alpine residents who owned food trucks, Cameron Burr and Eli Faust. He said there were other food truck owners who were residents of Alpine and were being left out of the Rally and he asked the Council to expand the number of allowed trucks or open up another night.

Tom Karen said he was a resident of Alpine who sold shaved ice. He had multiple requests to have his truck at sell shaved ice at group events in Alpine, City ordinances did not allow it. Mayor Watkins asked staff if they could speak to that.

David Church said Alpine City ordinances did not allow food trucks and concessions beyond what the City had already allowed. Using city roads and city parks for private commercial business was not allowed. Trucks and concessions would be allowed for private parties on private property.

Mayor Watkins asked if there had been any negative feedback about the food trucks from neighbors or others. Rich Nelson said no one had complained to him. Shane Sorensen said the park was left very clean after all three events held thus far.

Clayton Johnson said they policed the park and dumped the trash as agreed.

Mayor Watkins asked Mr. Johnson if he would have a problem with introducing more food trucks to the event or opening up another night or location.

Mr. Johnson said the challenge was determining the right number of trucks for an event. He chose to locate five trucks by Legacy Park in Alpine so the street wouldn't have to be closed. He'd found that it needed to be a huge event with lot of customers to make more than six trucks successful. They didn't want to make it so big that no one made any money. He said there were as many as forty other truck owners on a waiting list that would like to be in Alpine. Regarding additional nights, he said larger cities like Provo had opened a food truck rally up for more than one night a week then went back to one night because there wasn't enough business to justify additional nights.

Jason Bond said the Rally was located by Legacy Park in the Business Commercial Zone so it made sense to keep it at Legacy Park instead of Creekside Park. One of the issues was sales tax revenue. Marla Fox said she called the state and was told that Alpine would get a small portion of the sales tax revenue but most would go to the city where the truck was licensed.

Mr. Johnson said they listed Alpine as a secondary location, but Alpine wouldn't receive any revenue until the vendors filed their quarterly sales tax and listed Alpine's zip code and the revenue acquired in Alpine.

Brian Burr suggested they consider increasing the licensing fees for food truck to make up the difference if the vendors neglected to include Alpine in their quarterly tax report. He said he would like to see more variety in the food trucks that came to Alpine, and possibly have trucks on Friday or Saturday.

Lon Lott asked if they wanted to consider Tom Karren's suggestion that Alpine allow concessions for group events. Rich Nelson said he didn't want to open Pandora's Box. They would make a decision on food trucks first and move to concession trucks at a later date. Mr. Karren said his was a seasonal business and the season would soon be over.

David Church said most cities had an ordinance that allowed transient merchants. Alpine City allowed special events to bring in their own food. Mr. Karren's question dealt more with baseball tournaments, etc. Mr. Church said the City needed to decide how many shaved ice trucks they were going to allow in the city, or they could decide to allow them all and let them see who succeeded.

Mr. Karren said he did not have a business license in Alpine City because he did not operate out of a fixed location.

The City Council agreed to extend the Food Truck Rally another 30 days and discuss it again. They asked Clayton Johnson to consider letting local trucks participate in the meantime.

**B. Oberee Annexation:** Mayor Watkins said the Council would discuss any additional items from the Planning Commission meeting of May 5, 2015, and set a public hearing on the Oberee annexation petition for June 23, 2015. He asked David Church for comment.

David Church said he thought it was pretty clear at the meeting two weeks ago when the Council voted for a maximum of 31 lots on the Zolman portion of the Oberee annexation. Mr. Church said he had suggested they begin discussion on a development agreement if possible and hold a public hearing. If there was no development agreement, the Council had the option of going forward with the annexation and assigning whatever zoning they wanted to the ground. The petitioner would have the option of withdrawing the annexation application.

Mr. Church said he'd had a conversation with Paul Kroff who told him that 31 lots would not be sufficient to make it financially feasible to go forward with the development in Alpine. It wouldn't cover the cost of bringing water and sewer to the 31 lots. That was without taking into account any other offsite improvements the City would like to

have done. Mr. Kroff had asked him if 31 lots was a hard number and Mr. Church told him that he believed it was. He said that Mr. Kroff indicated that they would be withdrawing their application if the City was unwilling to negotiate on the number of lots.

David Church said that if the Council went forward with scheduling a public hearing and the applicant didn't withdraw their petition, the Council would assign whatever zone they felt suitable without a development agreement. The annexation would be like any other ordinance and would require three votes.

Will Jones said up to that point he had tried to stay out of the discussion on the Oberee annexation, and had not voted. Since that time he had sought legal counsel to see if he had a conflict of interest on this subject. He said he did not have any ownership in the property or legal contracts or other things that would constitute a conflict of interest. Therefore, it did not appear that he had a conflict of interest. Mr. Jones said he felt the annexations were critical. The City could walk away from them, but on this particular one, it would mean the loss of two + million dollars to Alpine City in offsite improvements and taxes if they sent it back to the county. He said he would finalize the determination on whether or not he had a conflict interest and whether or not he could vote.

Kimberly Bryant asked why he previously thought he had a conflict of interest. Mr. Jones said he had talked to the property owners about the possibly selling lots but there was no contract and there may not be a contract in the future.

Lon Lott said that if they were interested in annexing the property, they needed to make it very clear. The City had an existing Annexation Policy Plan that led people to believe they could annex with a certain zoning. He said that the Oberee application would still meet the criteria for the density without using the land in the conservation easement. The benefits the City would receive from bringing it into the City were worthy of serious consideration, but if the motion made two weeks ago was a serious proposal, the Oberee entity would probably just say they weren't interested in annexing.

Kimberly Bryant said she was offended that he said the motion was not made in good faith.

Mr. Lott apologized. He explained that he had looked at what had been on the table for years and it was a one-acre zoning designation. People made plans based on that and when the City came back and said they were going to cut that density in half, they needed to look at the reasoning behind that kind of number. CR-40 was the zoning designation in the Annexation Policy Plan. Not all of it was CR-40. The areas that needed to be protected, such as the hillsides, were designated as CE-5.

Jane Griener said she was a member of the Planning Commission. She was confused about the roads that were going to be built. She thought the builder was going to come to the City to work out issues like that. She wanted to know how that decision was made and how the finances were decided. She said that maybe she didn't understand the process, but she felt like a decision was being made before they had all the information.

David Church explained that the developer's representative told him that if they had only 31 lots, they couldn't afford to do the development because it wouldn't even cover the cost of taking water and sewer to the 31 lots. That was not taking into account any other offsite improvements.

Lon Lott asked what would be the point of holding a public hearing if what was approved by the Council was not feasible. He wondered if the Oberee representatives even wanted it go forward to a public hearing.

Will Jones said the purpose of a public hearing was to gather information from the public about what was important to them. Was there a reason to revisit the number of 31 lots?

Roger Bennett said that Troy Stout talked to him after the vote and he said 31 was not a hard number. However, Troy Stout was not present at the meeting to say one way or another.

David Church said that regardless of what was said, the vote was for 31 lots. He reminded the Council that they had asked the developer for his best proposal and that was what Mr. Kroff had delivered.

Paul Kroff said it was difficult to come forward with the best and the final proposal when they did not know what the City was expecting in terms of offsite improvements. He had come forward with a plan for 60 lots, which would cover the cost of the offsite water line, which would be very expensive. Mr. Kroff said the developer was interested in working with the City if there was movement in the number of 31 lots. If there was no movement, there was no use in setting a public hearing and moving forward.

Don Watkins said he was confused. How did they address the offsite improvement costs and the concerns the Planning Commission had about roads in terms of both cost and location.

David Church said that if this was like any other subdivision in the City, the applicant would come forward with a proposal that met the zoning requirement and go through the process. One of the differences in this development was the offsite road (Grove Drive.) It was not on their property. A subdivision in the City would not be required to do any improvements on an offsite road.

Paul Kroff said they offered to do a pro rata share of the Grove Drive improvement. If the Council scheduled a public hearing, they could use the intervening time to negotiate details. But if the City was unwilling to allow no more than 31 lots, there was no point in a public hearing. If the City was willing to consider a higher density, they could talk.

Mayor Watkins he would like Mr. Kroff to show him that that it wouldn't pencil out at 31 lots. He wanted to see the figures. He didn't believe they couldn't make money off 31 lots. He said the City had a right to designate a zone on a piece of property and the developer had to meet the zoning.

There was further discussion about what the possible cost might be to bring water and sewer to the development and other offsite improvements. Mayor Watkins pointed out that it was not the responsibility of the City to worry about whether or not the developer made money.

Will Jones reviewed the history of the property known as the Oberee annexation. He said it was actually the City who changed and said they would not accept what they had previously allowed.

Kimberly Bryant said it was confusing. Mr. Kroff said that perhaps it would be more clear if the City just assigned a zone and they developed a plan according to that zoning.

Mayor Watkins said the Planning Commission didn't get a chance to make a recommendation on the roads. They should have been involved in the process. Paul Kroff said the petitioner made a proposal on the roads and the Planning Commission included that in their recommendation. Jason Bond read the motion from the Planning Commission recommending a maximum of 60 lots.

Jane Griener said the Planning Commission had wanted to have two more week to study the annexation because they were unclear on whether or not they were supposed to list the improvements that needed to be made. But a motion was made and passed leaving some members of the Planning Commission unsure on what they were sending on.

Roger Bennett asked if the Oberee annexation could come back to the City if it went to the county and the county denied it.

David Church said they could return and submit another petition to annex. He said the City got painted into a corner on this annexation because of the county time line. The City usually took a long time on annexations and he sympathized with the Planning Commission for feeling rushed. This was different from other annexations the City had dealt with in the past because on previous annexations the county was not as amenable to development as they were on this one. He said the county would probably give the petitioners the density and zoning they desired. The question for the Council was how much did they care about having this development in the City? The one thing the City had to offer was a better water system, which would probably save the developer time and trouble.

Paul Kroff said that if the City moved forward to set a public hearing, they could work with the city in the meantime. In response to a question from Kimberly Bryant about the open space, he said all points of the

development agreement would be open to discussion, but if 31 lots was the ceiling, there was no use in going forward.

David Church explained that according to Alpine City ordinance, in order to reconsider a motion, it had to be brought back to the table by someone who voted in the affirmative for it.

**MOTION:** Roger Bennett moved to set a public hearing on the Oberee annexation petition for June 23, 2015. Lon Lott seconded. Ayes: 3 Nays: 0. Lon Lott, Kimberly Bryant, and Roger Bennett voted aye. Will Jones abstained. Motion passed.

#### **D. Tentative Budget Discussion**

Rich Nelson handed out a copy of the updated budget. A new fulltime employee was included in it. He would be meeting with Shane Sorensen to discuss the part-time employee.

#### **PUBLIC HEARING ON THE TENTATIVE BUDGET FOR FY 2015-2016**

**MOTION:** Kimberly Bryant moved to open the public hearing on the tentative budget. Lon Lott seconded. Ayes: 4 Nays: 0. Kimberly Bryant, Lon Lott, Roger Bennett, Will Jones voted aye. Motion passed.

No public comment was made. The public hearing was closed.

**MOTION:** Will Jones moved to set a public hearing on the final budget for June 9, 2015. Roger Bennett seconded. Ayes: 4 Nays: 0. Will Jones, Roger Bennett, Kimberly Bryant, Lon Lott voted aye. Motion passed.

**E. Ordinance No. 2015-06, Amendments to Section 3.216 (Fencing) of the Alpine City Development Code:** Jason Bond explained that the proposed amendment which change the allowed fence height from six feet to eight feet. There had been a lot of requests from residents for eight-foot fences to keep deer from coming into their property and eating their flowers and gardens. There were also requests for higher fences for sport courts and other things.

In regard to Section 3.21.6.9 which stated that a conditionally approved interior fence could not exceed twelve feet in height and had to be open style, Lon Lott asked about people who wanted netting on an extra tall fence for privacy or for a sunscreen. Would that be permitted? Jason Bond said a fence over eight feet would need a conditional use permit from the Development Review Committee and they would evaluate it at that time.

Will Jones said one of his concerns was that all the deer would be driven to the homes that had only six-foot fences. There were areas that didn't allow fencing because they were in a wildlife area. Were they helping the problem or creating more of a problem. Lon Lott said he didn't think the eight-foot fences would change the deer pathway.

**MOTION:** Will Jones moved to approve Ordinance No. 2015-06 amending the fence regulations. Kimberly Bryant seconded. Ayes: 4 Nays: Kimberly Bryant, Lon Lott, Roger Bennett, Will Jones voted aye. Motion passed

#### **F. Lot Line Adjustment at 721 W. Lakeview Drive which involves Alpine City property**

##### **PUBLIC HEARING - Lot line adjustment on 721 W. Lakeview Drive**

Shane Sorensen introduced the issue. He said it was discovered a couple of years ago that when the building lot located at 721 W. Lakeview Drive in Falcon Ridge subdivision was approved, it did not have adequate frontage. He was unsure how it happened. A lot in that zone was supposed to have 90 feet of frontage at the 30-foot setback and it didn't have that. The proposal was to draw a new line and adjust the boundary into the adjoining open space. He said if Lakeview Drive was extended for a future subdivision such as Eagle Pointe, the road would take up a portion of the subdivision. He pointed out that the Falcon Ridge subdivision consisted of approximately 17 acres, but about 13 acres was open space. The owners later deeded the City two more parcels so the City actually received 19.69 acres of open space in a subdivision of a little over 17 acres.

He said there was another consideration regarding the storm drain. There was no easement for the open ditch or the pipe so the City had gone in minimal expense and rechanneled it. If the road was extended, they would have to deal with connecting to the storm drain pipe.

Mayor Watkins opened the public hearing to public comment.

**MOTION:** Will Jones moved to open the public hearing on the lot line adjustment. Lon Lott seconded. Ayes: 4 Nays: 0. Will Jones, Lon Lott, Kimberly Bryant, Roger Bennett voted aye. Motion passed.

There was no public comment.

**MOTION:** Will moved to close the public hearing. Lon Lott seconded the motion Ayes: 4 Nays: 0. Lon Lott, Kimberly Bryant, Roger Bennett voted aye. Motion passed.

Shane Sorensen recommended that since the frontage insufficiency was a mistake made by Alpine City, they shouldn't ask for compensation to correct it.

Roger Bennett asked if the property owner would have to buy the strip of ground when the road when through?

Shane Sorensen said there was an easement shown on the recorded plat, and recommended they overlay the easement on the Eagle Pointe plat so it matched the one shown on the Falcon Ridge plat. David Church said that when the developer recorded the plat, they anticipated the road going through.

Teri Jerman was the agent representing the seller and the buyer of this property. They were concerned that the frontage would not meet the ordinance and a home could not be built.

Will Jones said Ms. Jerman worked with him so he would recuse himself from the vote.

**MOTION:** Kimberly Bryant moved to approve the 721 W Lakeview Drive lot line adjustment involving Alpine City property as proposed. Lon Lott seconded the motion. Ayes: 3 Nays: 0. Kimberly Bryant, Lon Lott, and Roger Bennett all voted aye. Will Jones abstained. Motion passed. Roger Bennett stated that he wanted to make sure it was all legal and it didn't hold up the other subdivision.

**G. Paul Anderson Residence at 255 S. Main - Setback Exception Request:** Jason Bond said Paul Anderson wanted to put a pergola over his front driveway and was asking for an exception of 7 feet to the 30-ft front yard setback requirement. It was a residential home with a home occupation but it was in the Gateway Historic District in the Business Commercial zone.

Mr. Anderson said he felt the pergola would help dress up Main Street.

David Church said the property was in the Gateway Historic District in the Business Commercial zone and the Council had the discretion to grant an exception on setbacks in the Business Commercial zone.

**MOTION:** Kimberly Bryant moved to approve the Paul Anderson setback request at 255 S. Main as it was located in the Gateway Historic district and to beautify Main Street. Will Jones seconded. Ayes: 4 Nays: 0. Will Jones, Roger Bennett, Kim Bryant, Lon Lott voted aye. Motion passed.

**H. Ordinance No. 2015-07 Adopting Article 3.32, Retaining Walls:** Jason Bond said the City Engineer, Jed Muhlstein had been working with Alan Taylor, a geotechnical engineer, on drafting an ordinance for retaining walls. The Planning Commission had reviewed the ordinance and made a recommendation to approve it. When a developer came in with plans for a retaining wall, the City would have Alan Taylor review it. The cost of the review would be covered by the developer.

Shane Sorensen said Draper City charged a flat fee of \$250 for the review of retaining walls. He said he had been asked about the 18 ft walls. He explained that if the walls were terraced up the side of the mountain, a nine-foot wall

could be built, then a second nine-foot wall could be built behind the first wall to achieve a maximum height of 18 feet.

Will Jones said there were retaining walls that existed in Alpine that would not meet the ordinance. David Church said that the Code required all retaining walls in excess of four feet to obtain a building permit and be structurally engineered. The problem was, how many walls were out there that didn't have a permit?

The Council further discussed the design of retaining walls and ramifications of the proposed ordinance, and made a motion to table it until the next meeting.

**MOTION:** Kimberly Bryant moved to table Ordinance No. 2015-07 on retaining walls until the next meeting. Will Jones seconded. Ayes: 4 Nays: 0. Kimberly Bryant, Will Jones, Roger Bennett, Lon Lott voted aye. Motion passed.

**I. Box Elder South Water Tank and Sewer Approval Letter:** David Church said that when the county approved the Box Elder South subdivision, they included conditions that required water and sewer and street improvements to meet Alpine City standards. Patterson was getting close to completing improvements for the Box Elder South subdivision, which had to be done before it was recorded. The County had drafted a letter for Alpine City officials to sign certifying the installation of improvements.

Shane Sorensen said Patterson had deeded to Alpine City the water rights necessary to supply the development. The water system included water lines, which would be maintained by Alpine City. The water tank was constructed but they still needed to build a fence on top of the tank and reseed the area. Patterson was about to make the final payments to the contractors. Once they did that, they could deed the tank to the Alpine City and provide as-builts.

David Church reminded the Council that Alpine City would end up owning and maintaining the tank and other improvements so they should not sign the letter until they were very sure they were built according to their expectations.

Shane Sorensen said everything looked good with the sewer. Some of the sidewalks and laterals were not completed. The emergency road had been constructed and graded. Will Jones questioned the language pertaining to the emergency access road. It said it was "complete, operational and conforms to the pertinent regulations including those of Alpine City." He asked what that meant? What were they agreeing to in signing the letter?

Shane Sorensen said there were still some items that needed to be addressed and recommended the letter be on a later agenda. The Council agreed.

## **VI. STAFF REPORTS**

Shane Sorensen reported that Dana Beck was requesting to shut down a section of Canyon Crest Road so he could stub water and sewer laterals into his lot. He'd like to do it before Questar came through. The Council said it would need to be done in the middle of the night and signs would need to be posted so the neighbors were aware that the road would be closed. Lon Lott wondered if the City could pay to put the two or three affected families in a hotel for a couple of nights. Rich Nelson said the City could pay for the hotel and have Dana Beck reimburse the City. Another option would be to wait until Questar was done. Possibly they could close one lane at a time. Shane Sorensen said he had invited Dana Beck to a meeting to discuss the options.

Kimberly Bryant asked why Red Robinson's garage wasn't taken down with the rest of the home. Rich Nelson said the homeowner thought the garage was still good and rebuildable.

**VII. COUNCIL COMMUNICATION:** None

**VIII. EXECUTIVE SESSION:** None held.

**MOTION:** Will Jones moved to adjourn. Roger Bennett seconded. Ayes: 4 Nays: 0. Motion passed.

The meeting was adjourned at 9:50 pm.