

**City of Alpine
Regular City Council Meeting
Tuesday, February 18th, 2014
6:00 P.M.
Minutes**

- 1. Call to Order, Invocation and Pledge of allegiance to the flag – Mayor Rangra called the City Council meeting to order. Lana Covington, with First Presbyterian Church, gave the invocation.**
- 2. Determination of a quorum and proof of notice of the meeting – There was a quorum present. Mayor Rangra, Councilors Bermudez, Davidson, Fitzgerald, Gonzales and Castelli were present. The City Secretary said the notice had been posted at 5:00 P.M. on February 14th, 2014. City Manager Zimmer, City Attorney William “Mick” McKamie and City Secretary Taylor were also present.**
- 3. Presentations, recognitions and proclamations – Councilor Bermudez presented an Award of Leadership to Mayor Rangra for the City of Alpine for recognizing the importance of continuing education for the advancement of local governments by investing in the training of our elected leaders to the Texas Municipal League Institute for 2013.**
- 4. Reports –**

City Mayor’s Report - Mayor Rangra said last week he went to Fort Stockton to the U.S. Department of Geological surveyors. He said in the presentation they talked about the water and it was pretty interesting. He said they finally figured out the water model, and the chemical aspect of that which is that the contents of the water are not complete. He said what they were told was that most of the water that goes to Pecos County, including Cohanosa comes from the Glass Mountains. He said it was reassuring that Brewster County was supporting people living east of us. He said quite a few Council Members went to San Antonio to attend the Texas Municipal League workshops. He said Councilor Bermudez got a plaque, Councilor Gonzales got a plaque and Councilor Fitzgerald got a plaque. He said he wanted to congratulate all of them on behalf of the council. He said he was sure that all of the council got letters from our school kids about our water. He said he was very excited to read those. He said it took him back to when he was in high school. He said it is always good to see our kids getting involved in civic affairs. He said he is sure that Erik will respond to each one of them.

City Attorney Report – The City Attorney, Mick McKamie said he did not

have much to report. He said he had been given a number of tasks by the staff and they are making some progress on that. He said the legal opinions regarding the Municipal Court, should be done for the council by the next meeting. He said tentatively he plans on attending the next meeting in person, a month from today, on March 18th. He said everything is moving along and we have good communication set up with the staff and we will report as we complete items to the council.

City Manager Report – The City Manager said we do have a few items on the agenda this evening that are fruits of the labor of Mick McKamie and his team. He said we have been able to bring a couple of items to the Council this evening based on their work.

City Manager Zimmer said he wanted to talk a little bit about dark sky initiative. He said he has been reviewing the application process primarily led by our Keep Alpine Beautiful Coordinator, Martha Latta. He said he believed it was a year or two ago that as a City we declared that we wanted to be Dark Sky compliant. He said there is a certain application process that we do have to go through. He said Martha has been reviewing that application process for us. He said one of the first steps for that is the City of Alpine must conform. He said Robert Polanco, our building official is going through all of our various building sites and property of the City and validating that we conform. He said if not we will have to work through the retrofit process. He said the other big item is addressing the commercial non-conforming. He said Martha has a couple of volunteers who she terms “walkers” that are going through town and visiting with some of the businesses that may be out of compliance. He said we are not making an absolute judgment on it. He said she is taking photos and we are sharing that with McDonald’s observatory and getting guidance from their staff. He said from a State of Texas perspective as it relates to dark sky we are within 58 miles of McDonald’s Observatory. He said that is a critical number to understand. He said so to help them with the work that they are trying to do at McDonald’s Observatory, it is extremely critical that we get in compliance as well. He said as we discover people who may be out of compliance, what we are really trying to do is offer up solutions to help the residents and the businesses move back into compliance. He said this is probably the toughest part of the whole initiative here. He said we have been researching some fund monies that are out there. He said McDonald’s observatory has some and our local astronomy club has a minimal budget too that could be used to help abate some of these costs. He said the reason why he is sharing it today with the council and residents is so that there is a heightened awareness that we are really going after this now and he knows that this is something that our council had discussed heavily a year or two ago but we do need to go through the entire application process to get certified. He said we are in motion on that. Councilor Davidson said just by looking it seems like there are some city street lights that could also be out of compliance. He asked if there would be a plan to

bring those into compliance. City Manager Zimmer said yes, and the City has to conform. He said we are working back with AEP on that. He said right now Martha and Robert specifically have had some of those initial conversations with AEP and a lot of that has to do not just with the bulbs that they are using but the shielding that is required to refract the light down instead of out and up. He said the other piece that happens is lighting on the commercial buildings. He said businesses may light up the back of their buildings for graffiti interference and sometimes the lighting is actually non-dark sky compliant. He said right now it is just a matter of moving through the list and having the volunteers talk with the people and most of the solutions can be fairly simple. He said we have got to get compliant first on the city side. Councilor Gonzales said on the street lights that we are talking about, the city is paying for it but the lights are owned by AEP. He asked if that was correct. The City Manager said yes, when we ask for them to put up a light, we pay for the electricity on that but they would put up the light. He said for the ones that are not in compliance, we are working back with them on getting those back into compliance. Councilor Gonzales asked if we would be changing the light to one that would be compliant. The City Manager said sometimes it is just the shielding on it that is required. He said obviously we want to look at the height of the light and see if the height is correct and making those adjustments at that time. Mayor Rangra asked if we paid for the cost of the poles or the lines for AEP or just the electricity. The City Manager said we just pay for the electricity. He said we do not pay a per pole usage fee like Big Bend Telephone or AT&T would pay. He said we actually charge the utility a franchise fee and they pay the city. He said that becomes an offset as we negotiate their easement right of way. He said water conservation, as the Mayor alluded, he personally received three letters on Friday from local Alpine High School students discussing water conservation needs in Alpine. He said he thought it was really neat to see some of the youth expressing their concerns and their vantage points. He said he shared them with our utilities director this morning, Virgil Clark. He said our tentative plan is to offer up an opportunity to speak with the students at the class here in Alpine and talk a little bit about water consumption, what we are doing with affluent water and what we are doing with conservation and hopefully we will be invited to come in. He said all three of the students who wrote him letters asked him to reply. He said the Mayor has graciously replied as well that he would be willing to go to the class. He said he thinks it is neat to see some of our late teens and early adults in the community thinking about this very important topic. He said concerning Keep Alpine Beautiful, Martha brought up to him that last year we had what was called a trash off where each ward basically had a level of contests where they tried to gather trash, debris and clean up their yards. He said we have previously put roll offs in each ward. He said we are looking at potentially doing that again this year. He said the date we are targeting is April 5th. He said part of the significance of that day is that

it would be prior to the bulky trash pickup. He said he thought that would get people really thinking about cleaning their yards and spring time. He said we are working with TDS to have roll offs situated across the various wards based on us settling on that day. He said Martha said it was also a good chance last year for council members to try to get out and get in their wards and see what is going on there as far as illegal dumping and some of those issues. He said it is a general overall clean up, especially at the beginning of spring.

He said concerning the Law Enforcement, we have 12 new body cams that are being purchased. He said we are using seizure money out of our asset forfeiture fund. He said it is not a straight line item from our normal budget. He said this is an area where we can re-spend some of this money. He said it gives added visibility most importantly to the officers. He said right now we have video on the patrol cars so if they come up to a traffic stop it gives a greater visibility back for the courts, back for Chief Scown, if we have any questions about that traffic stop. He said now we are taking that and with the body cam making that an extension as the officer gets out of the vehicle. He said it is extremely helpful in domestic violence cases where you might get a call where an officer has to respond to or any on property situation. He said it is important to know that we are using the money out of the asset forfeiture fund to really focus on visibility. He said they talked with Jim Street with the Alpine Avalanche last week about it and he said the Avalanche seems to be interested in writing something about the technology and how we are using technology in law enforcement. He said also in the Avalanche last week you probably read or heard that there is a software conversion with the Sheriff's Department. He said that stone garden grant will also apply to us so it is kind of a \$50,000 for the county and \$50,000 for the city. He said he wanted to make everyone aware that he and Chief Scown talked through this at the staff meeting this morning. He said this is one of those where the county is in somewhat control of the grant and they have made a decision to move forward with this methodology. He said primarily reasoning is from a reporting function so we will end up following suit with that. Councilor Davidson asked if this was part of the cop sync program. He said it kind of ties in to all of their systems. He said when they went with Hill Country, Hill Country has done a nice job in county financial reporting and city financial reporting but the software as it relates to the Sheriff's Office and the PD and some of the extension that they needed on reporting was not as robust as what the county was looking for. He said the tie in with the other software with cop sync, for example.

The City Manager said concerning the Airport, we continue to have what he would call a taxiway repair issue out there. He said we have some rather large cracks that need to be remedied. He said Sandra Braden from TxDot is our main point of contact. He said we have been going through a series of diagrams with her to try to understand the cracks and the fix and the square footage. He said we are also looking at some level of tarmac

expansion. He said it is the extension of the runway close to our facility out there where planes that are not from this area and are just visiting here and parked. He said we are starting to get some of the larger aircraft here and in the summer months they actually have a certain level of sinkage on the asphalt when it gets hot. He said what we are really doing is working back with Sandra to look at costing for us to build more of a concrete tarmac area for the short term parking. He said once the costing for that is achieved we would work back and look at the grant opportunities. He said if it is a 90/10% funded or if it is a 100% funded and then present that to the council as to the necessity of it and the cost of it. He said he just wanted to make the council aware that we are working through that right now. He said also we also had a sublease issue that has come to his attention. He said how we are subleasing property has come to his attention. He said working with Mick McKamie we will be able to report something back to the council potentially with some action items in the next meeting or two. He said Code Enforcement reported 16 code violations and 7 investigations initiated this past week. He said we are now up to 11 court cases pending. He said we had 2 building permits issued and 1 plumbing permit and 1 electrical permit issued. He said the biggest bullet point on this slide is our enforcement of Section 54.204 and 54.214 regarding high weeds and nuisance material on 8 separate properties this past week. He said we have properties in town and we are sending them notices. He said we go through the process and if they do not abate the high weeds, nuisance material such as mattresses which fall under that, the city will go and abate that for them and bill them. He said he wanted to let people know because that seems to be a large issue that comes into city hall. He said we are working on abatement. He said concerning the finance department we continue to field questions. He said he thinks Megan had 10 new ones this morning in regards to our audit. He said we are working diligently to complete these final lists so that we can actually do the read out at the next council meeting. He said that will be March 4th or 5th depending on the vote this evening. He said income statements and budget variance reports were submitted this past week and when we come to that agenda item he will go through the highlights there. He said the first sequence in putting the budget variance reports together took a lot of work from staff. He said it took several hours but it also gave us a real good visibility on some of our cost control needs. He said we continue to work on enhancing our processing controls and accountabilities across the city. He said more of that will come out in this year's audit. He said if he could quote Mike Perry from last week, not the best city in all of western Texas but the best city in Texas.

City Staff Updates – The City Manager said we were able to cover everything. He said our finance director will report when we come to the income statement budget variance. He said at that point she will be part of the discussion.

5. Citizens Comments (on agenda items) –

Sheila Ness - said she wanted to comment on item 10, concerning political campaigning at city parks or city property. She suggested letting them do it, but charge them for it.

6. Public Hearings – None

7. Consent Agenda – (Minutes, Financial reports, Department Written Reports, board appointments, etc.) –

A. Approve accounts payable. (E. Zimmer, CM)

B. Approve Council Minutes of December 10, 2013. (A. Rangra)

C. Change Council meeting date from March 4th to March 5th due to County Election in Council Chambers. (E. Zimmer, CM)

Councilor Davidson asked to move item C to the Action items. Mayor Rangra asked that item A also be moved to the Action Items. Motion was made by Councilor Gonzales, by Resolution 2014-02-11 to approve item 7B. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

8. Information or Discussion items –

A. Cinco de Mayo 2014 Budget (E. Zimmer, CM) – The City Manager said he included this in our discussion items because there are two main celebrations, Cinco de Mayo and Fourth of July that we moved out of the hotel fund into the general fund this year. He said both had larger expenditure line items. He said he thought it was important that because of the importance of these events that council had visibility to what was projected to spend out of each of these events. He said a large cost is the DJ/Entertainment which is \$5,000. He said he did ask the board that is putting on the Cinco De Mayor since the City is funding the majority of the expenditure for the celebration, he would feel more comfortable in signing that agreement for the city since the city will be paying it individually. He said that will come in the meeting as well. He said we have reviewed the budget with them. He said it looks like it is going to be another good celebration this year. Councilor Gonzales asked if we were going to have a problem with the Cinco de Mayo Board submitting the bill to the City. The City Manager said no, we do not have any problem at all. He said that is part of the whole transition that we made with the entities, not only in the hotel fund but any of these that come out of the general fund, that we are not writing blanket checks anymore. He said the individual expenses need to come in to the city and we request a budget. He said he gives the Cinco De

Mayo Board a lot of credit. He said they put together the budget and it seemed logical when they reviewed it with us so we are very pleased with that interaction. Councilor Davidson asked if there was any revenue recovery in this. He said he noticed that there are meals. He asked if this was all free to the public. The City Manager said he believed there would be elements out there for the public to buy, things like t-shirts. Councilor Davidson asked if there was a charge for the dance. The City Manager said to his understanding there is no charge for the dance. Councilor Fitzgerald said the budget that was organized was very good. Councilor Davidson said for instance there are 150 t-shirts to be sold. He asked if that money could come back to the city or go back to the organization. The City Manager said there are credits down at the bottom of the budget and this is used as an offset to the overall costs. He said we may not spend the \$10,000 this year according to the budget. He said we could spend less than that. He said we are still a couple of months away and they may still come to us and ask us to look at some additional add-ons. He said they may do some additional advertising and maybe some additional events but for right now they budgeted below the \$10,000. The City Manager said they are charging for the dance. Councilor Gonzales said that is to offset whatever they are spending. Councilor Davidson said that credit would go back to the organization and not to the city. Councilor Davidson said we have listed here the t-shirts, car show and the taco dinner as a credit. He said the assumption is that the credit goes back into the general fund of the city of Alpine or do the credits go back to somewhere else. The City Manager said we have committed up to \$10,000 for them. He said on their credits, that is a good question. He asked the City finance director if the city was anticipating that would come back to us. The Finance Director said what they are trying to do is that we allowed them \$10,000 for this fiscal year and they are trying to build their own reserves for their event and get on their feet. Councilor Davidson said this would be kind of like seed money where they can reap the benefits and can be self sustaining from now on. Councilor Davidson said the band was a really good band. Councilor Gonzales asked about part of the budget which was for vendors. He said maybe they are going to try to fund the next event themselves. Councilor Bermudez asked if they still gave scholarships. The Finance Director said she was not aware of that. Councilor Davidson asked if this organization had an official name and tax exempt status. The City Manager said they have an official name but he did not check on the 501 (c) (3) status. He said they have an elected board but he is not sure if they are 501 (c) (3).

B. Income Statements and Budget Variance Review for period of October 2013 through January 2014. (E. Zimmer, CM) – The City Manager said he is going to address our income statements and Megan is going to

address our budget variance piece of this. He said we are one third of the way through our fiscal year and what he would like to state is that we have requested an amendment to the budget and we are going through the budget process and a public hearing on that. He said we do anticipate that will be voted on and approved so when we look at our budget variance we are really looking at what the proposed amended budget is. He said we want to be clear on that. He said everyone has the cover sheet which really broke down the main components of how we are operating and it really is a very good news story for us from a city perspective. He said on fund one, our General Fund, our total revenue is at 1.584 million and our total expenses are 1.039 for a net income out of that fund of \$544,000 year to date. He said our water, sewer and sanitation is 1.346 million in revenue and our expenses are at \$751,000, so our net income is almost \$595,000. He said our airport is at \$183,000 in total revenue and expenses are \$159,000 so net income is almost \$24,000 there. He said in our gas department, total revenues at \$731,604 and total expenses are \$397,000 and our net income is at \$334,000. He said he would address some of the changes and as we dig into the gas company, we talked about it at the February 4th meeting, one of the reasons we are not wanting to present the income statements until the second meeting is we are not really realizing our revenues from the gas company until about the 10th and the 12th of the following month. He said because of that, once you hit the 10th or 12th of the month, then we show our revenues for the gas company and from a system perspective. He said this is part of what we are trying to share and as he and the finance director are digging a little deeper and trying to provide more clarity to the council and community, they are really formalizing the structure and the visibility and so as they are getting through this and finding the right methodology to report out on, they feel more comfortable actually reporting those revenues in the period that they were earned. He said in funds one, four, five and eight net income for the city for the first 4 months is \$1.498 million which he would categorize as a significant improvement. He said our hotel occupancy tax is \$178,000 in revenue and our total expenses are \$123,000 and our net income is \$54,000 in the black. He said we do have to remember the debt service in the amount of \$593,000 plus is due at the first of March. He said it has been very important that we have been extremely diligent with our cost controls. He said that is has been in the forefront of our minds. He said we are very comfortable with where we are at with cash flow right now. He said also, on the gas department, we do not buy gas every month. He said we buy it as we need it. He said our invoices do not sit on top of us every month. He said we got out of January and we issued some checks that were approved February 4th that are paying for additional gas purchases. He said we had some large ticket items that came right at the beginning of February and so when he says our net income for the first four months is \$1.497, please understand that over the next several

weeks we are spending a lot of money. He said some of the other highlights that he would like to talk about is the tax collected from our ad valorem taxes. He said we are at 76.5% of our fiscal year budget through January 31st which is \$1.12 million. He said he feels like we are on track. He said our code enforcement revenue is at 49.1% of our fiscal year budget through 33 % of the year so we are holding the line on violations. He said city sales tax revenue is at 34.6% of our fiscal year budget at \$497,000. He said that is important to know that we are trending ahead on that sales tax revenue. He said that is very important to our merchants here in town. He said one other key item he wanted to discuss is the hotel occupancy tax revenues which reflect 46.9% of the fiscal year budget through 1/3 of the year. He said that is a great indicator. He said even with the heavy ice storms around art walk we really are trending nicely. He said he have Cowboy Poetry Gathering and a lot of signature events still in the works.

He said we are going to continue to orchestrate and illustrate the budget Transfer items as we hit that April 1st date we will be at that marking point where we are going to move everything into its separate checking account. He said he believes we will be in a strong position to execute on April 1st. Councilor Fitzgerald asked about the date of March 15th for debt service. City Manager Zimmer said the bulk of what we have to pay is due on March 1st. He said we received the majority of the big ticket invoices and they are all March 1st. He said we want to have them all buttoned down with no late fees. Mayor Rangra said it looks pretty healthy now. The City Manager said the team is doing a very nice job at managing expenses. He said the revenues at a whole from a city perspective are coming in line with what we expected. He said we are challenging every expense. He said we do not want to run the city poorly so it is the balance of invest where you can but we also have to be in a position where we build some reserves. He said so when we do come up with projects we can fund them without having to take out any further debt service. He said we are working very diligently to be able to get that type of result. He said with a ten and one half million dollar budget there is a lot coming though our finance department on a weekly basis. Mayor Rangra said we are five months into the year and our revenue is about 3.85 million dollars. The City Manager said we are trending ahead. He said he is always cautiously optimistic. Mayor Rangra said it is good to let the public know. He said the gas department billing is a month behind and the public may now know that. City Manager Zimmer said as we move into the warmer months that question will come from residents and we will have to be prepared to answer them.

Megan Antrim, Finance Director, said this will be the first time that we have done a budget variance and she wanted to thank all the department heads and supervisors. She said they did well and provided us with explanations and a plan of action . She said what we did was to

print out a budget analysis report that shows them their budget, what they spent and what is left in the budget. She said it also provides percentages of what they have used. She said since we are one-third through the fiscal year, we looked at anything over 38%. She said we wanted to give them a five percent give or take. She said things do come up that are additional expenses. She said it might be a one time a year expense which causes them to go higher than the 33%. She said we provided every department a copy of their budget analysis and then provided a cover sheet asking for an explanation for the highlighted items. She said we highlighted the areas of concern. She said what she did, after we had given all the department heads their copy and they had questions on some of those, we printed out a specific list of what had been spent under that line item. She said some of them were things that were put into the wrong account so we went back and corrected that and decreased that percentage. She said some of the areas of concern were telephone and insurance. Councilor Fitzgerald said in the past the department heads did not get their budget reports and it was hard to track their budgets responsibly. He said he was glad that we were finally doing that. Mayor Rangra said he likes this. He said the department heads have a chance to look at their budget and also explain to the finance department why certain areas are costing more. He said he noticed one of the memos from the gas company director who is surprised about having spent too much money on Xerox. He said in this way we have transparency. He said the council knows what is going on, the employees know what is going on and the finance department and City Manager know what is going on. He said from this information is how the council will make their decisions. He said he wanted to commend Megan and the City Manager on this presentation. The City Manager said Megan has done a tremendous job with our finance team in helping us structure some of this. He said overall when we talk about commitment and accountability from our city staff, giving them the visibility leads them to feel a greater level of accountability and commitment to the City of Alpine as a whole. He said we are very happy with the first run of this and we will continue to get better each month. Councilor Fitzgerald said some of us have been criticized for not finding problems in the past but if you do not get accurate and clean information, how do you know it is a problem in the first place? He said now we have accurate information.

- C. Municipal Court of Record. (A. Bermudez) – Councilor Bermudez said she felt that we just needed to delay this since we will be discussing this in item 13 of the action items.

Action Items to be accompanied by a brief statement of facts, including where funds are coming from, if applicable. (Action items limited to 15 per meeting.) –

7C - Discuss and Consider changing Council Meeting date from March 4th to March 5th due to County Election in Council Chambers. (E. Zimmer, CM) – Councilor Davidson said early in his career as a City Councilmember there was a certain amount of flexibility if people had conflicts we would change the date so that we would have a quorum. He said he actually has a real job and the job requires him to travel. He said he thinks we have gone through a few months of this flexibility and the public could not tell when the meetings would really be. He said we resolved to go back and ever since then we have had a strict compliance with our charter which says we will meet the first and third Tuesdays of each month. He said that being the case, he had an opportunity to go on a mission with the Texas Department of Tourism on a medium mission to meet with people from about 60 different publications as a freelancer and was specifically invited from Texas Tourism. He said he has made his arrangements to leave early on the morning of the 5th and there is no way those can be changed. He said when we have had elections before we just met next door at the Civic Center. The City Manager said the City Secretary and he had discussed that but they were scheduled to do the counting next door and short of finding an alternate location, we looked through the rooms and we do not have a front conference room in our facility up front here. Councilor Zimmer said the 4th is a Regular Scheduled Council Meeting. Mayor Rangra said if we have the meeting on the 11th Councilor Davidson will not miss the meeting. The City Manager said the only down side of that is we were planning on our audit read out at that first meeting. He said they have stated that they can come on the 4th or the 5th but he does not know if they can come on the eleventh. He said we have a special meeting next week on Monday to finish the budget amendment. Councilor Davidson asked if the County could hold their voting in the Civic Center and count in the Civic Center and then the Council could hold their meeting in the Council Chambers. The City Secretary said she could ask the County if they could set up in the Civic Center. The City Manager said we would ask them and see if we can come up with some alternate solution for them for the 4th and then we will set up a special meeting for the 24th . Councilor Fitzgerald said we do have certain legal ramifications and we may not have a choice. Councilor Davidson said the County just changed their early voting location which was also one of their polling places on election day and it is now at the old library. The City Manager said the thought of changing the date was predicated on the thought of the county having two separate rooms, one to vote in and one to count in. He said we will ask them if there is a way, because of the square footage size of the civic center, if there is a way to partition that off to meet their requirements. The City Secretary said she thought the best idea was to do the voting and counting in the Civic

Center. The City Secretary said she would talk to the County Clerk tomorrow about this. Councilor Davidson said he would make a motion, by Resolution 2014-02-09, to have the regular city council meeting here in the council chambers at its regularly scheduled time and place and ask the County to hold the election in the Civic Center. Motion was seconded by Councilor Bermudez. Motion unanimously carried.

- 7A. Approve Accounts Payable (E. Zimmer, CM) - Mayor Rangra said there are various places where funds have been transferred to Bank of Texas, Wells Fargo, Regents Trust and so on. He asked if those were monies that were used to make payments. The City Manager said that was correct. He said that adds up to the \$593,000. Mayor Rangra said the money is available so we should not have any problem making the payments. The City Manager said correct. Motion was made by Councilor Bermudez, by Resolution 2014-02-10, to approve the Accounts Payable, item 7A. Motion was seconded by Councilor Gonzales. Motion unanimously carried.
9. Discuss and Consider approving Order of Election for May 10, 2014 City of Alpine General Election. (E. Zimmer, CM) – The City Manager said this is our Order establishing Election for our May Election for the Mayor and two council members, one in ward 2 and one in ward 4. He said we provided a resolution to the council in the packet. He said we did provide a quick update today because the dates on the second page showed 2013 instead of 2014. He said we needed to update those dates for this resolution to be correct. Motion was made by Councilor Davidson, by Resolution 2014-02-08, to approve the Order of Election for the May 10, 2014, City of Alpine General Election. Motion was seconded by Councilor Bermudez. Motion unanimously carried.
10. Discuss and Consider political campaigning at City Parks and on City property and procedures. (E. Zimmer, CM) – The City Manager said since we have posted the agenda, he has continued to work with Mick McKamie on for some clarity. He said since the county elections have started we have had some requests coming into our office. He said one was for a road closure in downtown Alpine. He said he asked the question to staff about anything in the charter that indicated what sort of stance we had made on closing streets. He said the reason he asked the question was with this last weekend being Valentine’s weekend, the hotels, Holland and Maverick were at 100% capacity and next weekend is Cowboy Poetry Gathering and we will have a full town for that. He said as we start closing streets, that impacts traffic flow. He said obviously as a newer city manager to Alpine, he did not want to feel like he was making a decision that would favor or not favor any candidates. He said the one suggestion that was made to go to city parks and he got some clarity from the City Attorney. He said Mick said there is no state or federal law that prohibits a candidate from

politicking or campaigning at a city park as long as they follow the rules and the regulations that the city sets forth at the park. He said for example at the City of Alpine you cannot have alcoholic beverages on a city park. He said if a candidate for an election went to a city park and served alcohol, we would have to notify Chief Scown and they would have to go and stop that event from happening. He said they also have to honor the hours. He said we do have one particular piece of property in town, at Kokernot Park we do have the pavilion that people rent out. He said if folks want to use it they have to rent it. He said they cannot just come up and create an event without scheduling it and renting it. He said the reason he put this on the agenda was to talk a little more in detail about the road closure. He did not find any expectations from the City Council or from our ordinances or permitting as it related to this and he certainly did not want to provide any favoritism. He said we have looked at the section that discusses our parades. He said people can petition to have a parade and of course we have many of those in Alpine. He said he does not know if you could categorize a political campaign or shutting down a road as a parade. The City Attorney said as we discussed that just because it is a political speech or a campaign it does not necessarily mean we can treat it differently from others or citizens who might wish to do the same thing. He said we should look at, when there is a temporary street closure for an event or a parade, making sure that there is a permit in place, the fees for which will help recoup costs of security, police overtime, barricades and whatever else the city needs to do to allow that to happen. He said you can place a limitation of the number that can occur per year for those that occur in a particular location but again just because a political campaign may be the applicant for that kind of permit, we really cannot treat them differently from other groups. The City Manager said if we had a major event that was going to drive traffic to a particular part of town and somebody came in and requested to have a parade or campaign and requested to close that street, from an authority perspective, who has the authority to say yes or no. He asked if that resided in the city manager. The City Attorney said he thought it does reside in the City Manager but it would be advisable for the City Council to have a policy adopted on how those types of requests are to be handled. He said we should have limitations or protections. He said if there is more than one event in town we may not be able to provide enough security so we may only allow one at a time or we may require the posting of a bond to protect us against any type of additional costs. He said those type of policies should be adopted by the council. He said the decision of when it is safe to close the street temporarily or if we provide a public place for an event is really, he thinks, the City Manager and the Chief of Police acting and making sure that they are complying with the policy that the City Council has adopted. The City Manager said because our current ordinance does not get as specific about that, he would propose in his mind to develop some stronger language and then present that to council. He said in the interim, we would take each request on a one by one basis and he

would discuss that with Chief Scown. Councilor Fitzgerald asked if there was any conflict or ramifications of campaigning on government property that conflicts with the Hatch Act. The City Attorney said it is not proper for any government agency to engage in it, however, if we have a public place like a park or any other public place where events can occur and the public can access, again we cannot deny access to a political campaign on the same basis that we would allow access for another group. He said the Hatch Act is really designed to prohibit the government from pro actively engaging in a campaign or using their own resources for that. He said when we provide parks and other public places, we are providing a venue for people to engage in protected speech and politics is one of those. He said he thinks we do need to think forward a few rudimentary policies for the council to adopt so that the police chief and the city manager are not flying by the seat of their pants on those issues. Ray Hendryx said at one time the Council ruled on street closings but the council got tired of dealing with it and it went back to the City Manager. Councilor Gonzales asked if we wanted procedures to be drawn up on this item or just one event at a time. The City Manager said he did not believe that there was any absolute action that we could take this evening. He said we are kind of talking through it. He said his concern was he did not want to make decisions in a vacuum that may have had past policies or procedures resolution that may already identify this. He said he could not come across anything and that is why he felt it was important for us to have this discussion this evening. He said it sounds like from the comments from Mick that he and the City Manager should work through that language and present it to the council. He said then the council could red line this and make additional suggestions. He said let's come together with a greater level of clarity so that if candidates come together and the Chief and he make a decision it will be following what we stated in that resolution or ordinance. Motion was made by Councilor Bermudez, by Resolution 2014-02-12, to allow the City Manager and City Attorney to work on this and create a policy or policies. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

11. Discuss and Consider agreement with Alpine Public Library. (E. Zimmer, CM) – The City Attorney said this is an easy one. He said the Public Library receives \$40,000 a year from the City of Alpine. He said they do need an agreement with us in order for their grant filings that they use. He said typically it is done at the beginning of the fiscal year, at the end of September or early October. He said Mick McKamie has drawn up the language for us here. He said we have also asked Paige Delaney at the library to prepare for us the library's activities and goals that was included in your packet. He said in order for him to sign the agreement, he requests approval from the council this evening. Motion was made by Councilor Davidson, by Resolution 2014-02-13, to approve the agreement with the Alpine Public Library. Motion was seconded by Councilor Gonzales. Motion unanimously carried.

12. **Discuss and Consider approval of Bill Angelini Enterprises contract for music/entertainment for Cinco de Mayo Celebration. (E. Zimmer, CM)** – The City Manager said as we review the Cinco De Mayo budget, Bill Angelini Enterprises is the entity we would contract with for the entertainment services. He said it is a \$5,000 expense and \$1,000 up front and \$4,000 balance due immediately upon the conclusion of the engagement. He said we are requesting approval this evening for him to execute the contract. Motion was made by Councilor Gonzales, by Resolution 2014-02-14, to approve the Bill Angelini Enterprises contract for music/entertainment for the Cinco de Mayo Celebration. Motion was seconded by Councilor Bermudez. Ray Hendryx asked if that was part of the \$10,000. The City Manager said that was part of it. Motion carried unanimously.
13. **Discuss and Consider abolishing the Municipal Court of Record and reinstating the Municipal Court. (A. Bermudez)** – Councilor Bermudez said Councilor Fitzgerald, Gonzales, Mayor Rangra and herself attended a TML conference in San Antonio about two weeks ago. She said it just so happened that one of the sessions dealt with Municipal Courts. She said she has been thinking that we have been spending quite a bit of money. She said she realized that when we voted for a Municipal Court of Record she thinks that we made a mistake. She said she is saying this because of the money that we have spent so far. She said she realized that the same thing happened to us with our budget and that is why we are having to amend it. She said she is not a numbers person as far as the budget is concerned but even then it took our City Manager here to realize that we needed to amend it. She said she was glad that we did that right after all. She said humans do make errors and that is why they make erasers. She said another tool for this same purpose would be amending something like we have here, which she is trying to do. She said the business of dealing with the Court of Records was handed to us very nicely, like a garden of roses but we were never told that it had thorns in it. She said we were not thoroughly educated in what we were getting into. She said we should have been given the good and the bad also and by that she means the first thing that happened was a new clerk was hired for more money. This clerk would have to have more training and different training. She said we were never told that we would have to bring in an auditor to see what was going on over there and straighten that up for us. She said in fact we have never been given a written report on what she found. She said we have contacted the auditor and have been told that she was too busy with other things to send us the report, but it did cost the taxpayers \$16,000. She said she limited the amounts of applicants who could apply for a Municipal Judge because it has to be a lawyer in the Municipal Court of Record. She said there are a lot of people here in Alpine who are very bright. She said they are not lawyers but maybe we could give them the job if it is just a Municipal Court which they can do. She said she did not think we had a lawyer before Judge Blakeley. She said Judge Blakeley was a lawyer and

Judge Schlosser is a lawyer. She said this will help us cut down the cost. She said all of a sudden we go into the Municipal Court of Records and the Judge has to be the manager of finances and operations. She said she sent the Council a letter and because of all the extra jobs she has to do the Judge needed a raise to compensate for these things. She said she thinks it is time to realize that we did make a mistake but let's correct it. She said let's stop spending and see where we can start saving money. She said this is the reason why we need to abolish the Court of Record and go back to the simple Municipal Court. She said in the meeting we went to, there are many courts out there, in cities of our size, that are just Municipal Courts. She said big cities do need Municipal Courts of Record and you cannot have both. She said let's abolish this one and start saving. She said she included some backup in the packet that shows from 2003 to 2004 and we had revenues of \$20,777 and expenses of \$5,600. She said from what she sees on this list, we are winding up spending more money on this court than we used to. She said in 2012 we had expenditures of \$73,414 and revenues of \$8,011. She said that is the lowest amount of money that we have had coming in. She said in 2013 we had a revenue of \$7,807 and expenditures of \$73,414. Councilor Bermudez made a motion to direct our City Manager to draw up an Ordinance in which we abolish the Municipal Court of Record and re establish the Municipal Court. Motion was seconded by Councilor Gonzales. The City Manager said we have asked the City Attorney for a legal opinion and it is not fully prepared yet. The City Attorney said it is really up to the City Council on whether to continue with a Court of Record or not. He said there are a lot of considerations involved in that. He said the statutes do make it clear that by Ordinance the Council can abolish the Court of Record, if you wish, and adopt an Ordinance to that effect. He said the way the statutes are designed, the change in Courts would occur at the end of the term of the Municipal Court Judge. He said we could certainly prepare an Ordinance to that effect if the council elects to instruct the City Attorney to do that tonight. Councilor Bermudez said the end of Judge Schlosser's term is March 12th. Councilor Davidson said there is a divided opinion on that. The City Manager said Judge Schlosser said her term ended in March. He said the period of time in which she was appointed in March of 2012 technically there should have been an interim appointment until May of 2012 and then a full appointment to occur at that point. He said that did not occur. The City Manager asked the City Attorney about the Judge's absolute term, because the Council approved an appointment for her in March of 2012, with a notion that it was a two year term even though it should have gone through May of 2012. He asked for the City Attorney's opinion, again, on whether her term would end in March of this year or if it ended in May of this year. The City Attorney said all two year terms run through May, concurrent with the Mayor's term. He said no vote of the City Council can change that. He said that is a charter provision that the people adopted. He said there is also a provision in Chapter 29 of the Government Code which is similar and

almost identical language to the Alpine Charter. He said as far as when the terms start and stop, he has been asked to do a legal opinion on that but the official two year terms for the Municipal Court Judge in Alpine are from May of even numbered year to May of the next even numbered year. He said there are no terms for any court that are for a date certain. He said from two years to the day after an appointment is not true for any elected or appointed office in Texas. He said we are going to provide the Council with that information and some of that suggestion would be a way to even out that term so that it would not conflict with the City Charter, but that is a separate issue from tonight. He said what ties it together is the language of the state law which says that you declare the judgeship vacant at the end of the term and the new court can begin according to the appropriate jurisdiction which would be a non-record court. He said we will provide you that opinion which will be available for your next meeting to show how it would work. He said he thinks it will ultimately come down to an interim appointment of someone to be judge or an interim appointment of Judge Schlosser to be Judge until the date the charter says the term ends which is when the mayor's term begins. He said it is kind of confusing but no vote of the city council or anyone else can change what the charter says. He said that is a vote of the people and that is your organic law. He said that is all he can tell us right now. He said we will have some solutions at the next council meeting. The City Manager said if we have that on the March 4th meeting, in the interim we could look at language around, if it was the request of the council, to change from the court of record to the plain municipal court, we could start crafting the language for what that ordinance would look like. Councilor Fitzgerald said if he recalled correctly at the end of the City Attorney's status report he said they were working on issues of the Municipal Court. He asked why didn't we wait until the Attorney presents a formal opinion instead of just a thought on this until the final proposal. Councilor Bermudez said the reason she brought it up was because Judge Schlosser had said that March was the end of her term. She said she agreed with him because they told us that our Municipal Judge had been appointed as an interim. She said if no one appoints her she just keeps going. The City Manager said the City Attorney's statement was there that beyond a legal opinion he said the council could appoint a Municipal Judge to get back in line with what the charter states. He said it sounds like that will be one of the short orders of business that will have to come up, the appointment and the approval of an interim Municipal Judge, whether it is Judge Schlosser or someone else. Councilor Fitzgerald said if we are going to do it, let's do it right. Councilor Bermudez asked the City Attorney if he advised her to table this until another time. The City Attorney said he heard her motion to craft an ordinance to accomplish that and if the council votes to craft the ordinance it will be presented later for the council's consideration. He said we can get the ordinance ready if the council tells him to tonight. Councilor Davidson said his inclination would be to vote for the motion to draft the first reading of the ordinance and that

would be the appropriate time for us to have more information and could more knowledgeably debate this. He said he does want to point out that from all the evidence that we have had, we have been a court of record for less than a year. He said the audit and the need for an audit was dire, regardless of whether we were a court of record or a regular municipal court. He said you can look at a pattern here. He said from about 2005 or 2006, the expenditures stayed the same for five or six years while the revenue steadily dropped. He said he is pointing out these things. He said his impression that he got from speaking to the auditor that came in was that it was a mess and it had been poorly managed for years. He said he does not think we really wasted money by spending that on the audit. He said we are looking at the pluses and minuses and he commends Councilor Bermudez for her homework in this. He said he also noticed that our revenue to date for Municipal Court is \$11,000 this year. He said once again if you project that it drastically increased our revenue. He said we have a backlog of many cases that we are trying to run through. He said maybe actually going for a Court of Record may have been a stretch. He said he does not know how often this practice takes place and it might be something to look into in the past. He said that would be something to weigh. He said as we think about this while we draft this ordinance to see if it is something that we would really like to do. He said having the attorney, with having some legal training is actually helpful for a judge. Councilor Bermudez said the County Judge does not have to be a lawyer and look at the Justice of the Peace. Councilor Davidson said 90% of the County Judge is administrative and 90% of the Municipal Judge is legal. Councilor Gonzales said at the beginning of these action items it says "including where the funds are coming from". He said from what he heard our Judge is asking for \$45,000 as payment because she is a lawyer and we need to hire a lawyer. He said he does not really feel that is fair that we are going to have to pay this. He said in order to have a person for a Court of Record we would have to hire someone to do a transcript. He said we were told at one time that just a tape machine would be required. He said all of these are expenditures that we are having to spend and they are a lot more than what the budget called for. He said he agrees with Councilor Bermudez that we do need to reduce the costs and this is one way to do it. He said he does not see anything wrong with the suggestion that we get the ordinance drawn up and that is what he is looking for. He said he does not think a person can say that they are not getting paid enough to do this job. He said she said that in front of all of the department heads. Councilor Davidson asked if Councilor Gonzales was talking about a person or an institution. Councilor Gonzales said he was talking about an institution. Councilor Davidson said then do not bring up a person. He said if we have a contract issue with our Municipal Judge that is separate from whether or not we should have a court of record. He said he would oppose that. Councilor Bermudez said the reason she thought of that was to show there was something extra, not that she has anything against her. Mayor Rangra said

he did not believe any one of the Council was speaking against an individual. Mayor Rangra said he would not allow it. Councilor Gonzales said this would be a lawyer and if we had to pay more money, we would need to take that into consideration. Councilor Fitzgerald said he would like to wait and hear what the attorney has to say. Councilor Gonzales said we are not lawyers. Mayor Rangra said he would like to point out that three years after he got elected, as Mayor, the Charter says that it is the prerogative of the Mayor to nominate and then present the nomination to the Council for the Council to approve. He said he talked with the Municipal Judge and told her that was what he was going to have to do. He said he did not pursue it because there was nothing wrong with letting the Judge keep the job. He said his concern now is, since the appointment was March 12, 2012, we are going to have an election and when the new Mayor comes in, whoever it will be, will have a problem. He said right now between March and May the appointment is an interim appointment but the new Mayor has the right to nominate but you cannot keep the right away from the new Mayor. He said that is another issue. He said maybe we ought to have the City Attorney bring us some information in writing and talk about it at the next meeting. Councilor Bermudez said according to the Attorney, he said she could go ahead with her motion and she wanted to add one more thing. She said her amended motion, by Resolution 2014-02-15, is to direct our City Manager and our City Attorney to draw up an Ordinance to abolish our Municipal Court of Record and reestablish a Municipal Court in its place. Motion was seconded by Councilor Gonzales. Councilor Fitzgerald asked what we would do if the City Attorney's legal opinion is contrary to what we want to do here. Councilor Bermudez said the City Attorney told her she could move ahead with her motion. Councilor Fitzgerald said what if the City Attorney comes back and says we should not do this for some reason. Mayor Rangra asked how many hours we usually pay the City Attorney for. The City Manager said we normally do ten hours but right now, catching up with our legal backlog, we are utilizing more than ten hours a month, but we have gone several months without any legal fees. Mayor Rangra asked if we had the money to pay our City Attorney and where is it going to come from. The City Manager said we did have the money to pay him and it would come from the City Council line of the General Fund. He said there is \$60,000 that is budgeted for legal expenses this year. He said we have spent a little over \$1,000 for the first three months. Councilor Bermudez said she is looking at Section 30.00004, Abolition of Court. She said it states that the governing body of the City finds that the Municipal Court of Record is unnecessary, the governing body by Ordinance shall declare the office of the Municipal Judge vacant at the end of the term for which the judge was selected. She said it is telling you right there that we are allowed to do this. Councilors Bermudez and Gonzales voted in favor. Councilors Davidson, Fitzgerald and Castelli voted against. Motion failed.

14. Discuss and Consider approval for City Attorney to negotiate lease with Verizon for tower build. (E. Zimmer, CM) – The City Manager said this is another housekeeping issue. He said Barbara Quirk on Mick McKamie’s staff was reviewing the proposed lease from Verizon with him, her first question was if we had approval from Council to negotiate the lease. He said we went back through the series of meetings that discussed the city wanting additional cell capacity and additional cell coverage but there was never a motion and second or vote to allow the City Attorney to negotiate a lease with Verizon for this particular cell site. She said without that motion and approval we would be negotiating with them, not in good faith. He said this is a simple request to allow City Attorney McKamie’s team to negotiate the lease with Verizon for this tower. He said he did provide the backup documentation. He said it is probably more data and research than you need, but it is important to understand that. He said we need approval from the Council so we can go ahead and negotiate the lease. Motion was made by Councilor Davidson, by Resolution 2014-02-16, to approve the City Attorney to negotiate the lease with Verizon for the tower build. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

15. Discuss and Consider lowering disconnect fees and reconnection fees for utilities. (J. Gonzales) – Councilor Gonzales made a motion to table this item for the next couple of meetings to further study it and get more information. Motion was seconded by Councilor Davidson. Councilor Davidson said he thought it would be nice to have Randy and Virgil’s opinion on this. Motion unanimously carried.

16. Citizens Comments (limit 3 minutes). This is the opportunity for visitors and guests to address the City Council on any issue. City Council may not discuss any presented issue, nor may any action be taken on any issue at this time. (Texas Attorney General Opinion JC-0169) –

Ray Hendryx – said last Friday night, on Valentine’s night, about 8 or 10 members of the sewer department with the City were chasing a loose tree root down the city water main which stopped up back sewage into the radio station and back sewage into a number of homes. He said those guys were really working their butts off. He said he would appreciate anything good you could pass along to them. He said they were doing this in the dark and he is sure they would have rather have been doing something else.

17. Council Member’s Comments –

Councilor Castelli – passed on making a comment.

Councilor Gonzales – also passed.

Councilor Fitzgerald – said this was another good meeting.

Councilor Davidson – said he would like to commend the folks that have gone out and gotten additional training and that is always a good thing. He said he did not attend that meeting but chose to attend the water law conference in San Antonio that will be like the latest case law and education of legislative changes. He said if he was an attorney he would get 15 hours of continuing education for this.

Councilor Bermudez – said for Mike to give his hours to our City Attorney.

Mayor Rangra – thanked the City Manager for presenting the report as it should have been done for a long, long time. He said he thinks we finally have a professional City Manager and he does not have any qualms about saying that. He said keep up the good work and keep us on our toes. He said he is sure that one reason he gives so many details is to see if the Council reads their material.

18. **Executive Session** – none

19. **Action – Executive Session** – none

20. **Adjournment** – Motion was made by Councilor Fitzgerald and seconded by Councilor Davidson to adjourn. Motion unanimously carried. Meeting was adjourned.

I certify that this notice was posted at 5:00 P.M. on February 14th, 2014, pursuant to Texas Open Meetings Act. (Texas Vernon's Annotated Civil statutes, section 551.043 Texas Government Code.) This facility is wheelchair accessible and accessible parking space is available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please Contact the city secretary's office at (432) 837-3301 or fax (432) 837-2044 for further information.

Dr. Avinash Rangra, Mayor

Attest:

Margaret "Molly" Taylor, City Secretary

I, Margaret "Molly" Taylor, City Secretary, do certify that this notice was posted at 5:00 P.M on February 14th, 2014, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Margaret "Molly" Taylor, City Secretary