

**City of Alpine
Regular City Council Meeting
Tuesday, January 20th, 2015
5:30 P.M.
Minutes**

- 1. Call to Order, Invocation and Pledge of allegiance to the flag – Mayor Rangra called the meeting to order. Lana Covington, with First Christian Church, gave the invocation and Mayor Rangra led the pledge of allegiance to the flags.**
- 2. Determination of a quorum and proof of notice of the meeting – Mayor Rangra, Councilors Bermudez, Fitzgerald, Gonzales and Stephens were present. Councilor Salas was absent due to jury duty. The meeting notice had been posted on January 16th, 2015 at 1:45 P.M.**
- 3. Presentations, recognitions and proclamations – None**

4. Reports –

City Mayor's Report - Mayor Rangra said he received a letter from Carlos Uresti and State Representative Pancho Nevarez informing the city that Tuesday, March 10th, 2015 is Brewster County Day in Austin. He said also there is a TML meeting in San Marcos next month and it is at the same day as the Region IV Meeting in Balmorhea. He said Doug Lively, former City Manager of Alpine, passed away. He asked that everyone keep Mr. Lively's family in mind and was saddened to hear about the loss.

City Manager Report – City Manager Zimmer said we were informed by the City Attorney to beef up the agenda this year with more information and more detail.

- **TCEQ – Notice of Enforcement Action, City of Alpine; RH103114690 and RN101176261, TPDES Permit No. WQ001439001 and PWS Registration No. 0220001, Docket No. 2014-0519-MLM-E, Enforcement Case No. 48535** – City Manager Zimmer said that he and Barbara Quirk, Mary Carmen and Lawrence, the utilities director sat in on a phone call with TCEQ concerning the Enforcement Action. City Manager Zimmer said there were two investigations, previous to the employment of Lawrence Cutrone and Virgil Clark. He send the call on January 13, 2015 provided favorable results. He said TCEQ was going to rewrite the case and the documentation was sent back to TCEQ. He said the City will have 30 days to respond. He said we would work through the SEP

recommendation to the City Council in February. He said we should receive the new order documentation to come out in February or March. He said the investigation was in July of 2012.

- **180-Day Plan Update – July 2014 – December 2014** – The City Manager said there was good progress on the key items as identified in the chart presented in the packet. He said there was additional work for the Public Works team and they were also challenged with the weather through the second half of the year. He said the staff was working on the personnel policy draft in 2015 and also working with personnel development with continuous training. He said there had been a very small turnover in staff. He said the Planning and Zoning Commission was focusing on Ordinances at the present instead of the single view of a Historic Preservation District. He said we are in the process of new software deployment which will help bridge the billing with our Enterprise units.
- **2015 Strategic Planning Discussion to supplement/replace the 180 Day format** – City Manager Zimmer said he is planning on migrating from action item planning to more strategic planning. He said items to consider are 1) Economic Development within the City/ Region 2) Interlocal Agreement opportunities/expectations with the other governmental entities in the Region (He said we have new leadership in the County and at the School) 3) Services offered by the City today and if their visions of changing/modifying/supplementing those in the future 4) Debt levels of the City today and goals/targets for those levels in the future 5) Asset levels and goals to increase/decrease those over the next 3-5 years and 6) Federal/State elected officials role and impact on key initiatives for our community/region. How we tie in to this plan of execution
- **Bi-Annual Updates from Boards and Commissions** – The City Manager said these Bi-Annual updates give opportunities for the Chairman of each group (board or commission) to report on the progress of the Board/Commission to the Council and to the public. He said the sequence of these reports would be 1) Parks 2) Planning and Zoning 3) Airport Advisory and 4) Animal Control.
- **Water wells levels for City of Alpine Wells. Water Well Pumping Capacity for City of Alpine Wells.** – City Manager Zimmer said there was a study done in 1998 by LBG Guyton

and Associates and a Master Plan by the city followed up on 6 years later with similar information. He said the Director of Utilities was tracking well levels and pumping output on a monthly basis currently. He said we have identified the primary strategies for water development if needed in the future and identified ideas around water conservation as well.

- **Limb, Tree and Brush Clean-Up efforts post January 1-2 Ice Storm.** – City Manager Zimmer said that all material was moved from behind City Hall to the Ag Barn field adjacent to the Middle School. He said we are also remediating the brush at Kokernot Park to the Recycling Center. He said we will work with the School District on a bonfire for the brush remaining. He said an announcement will be on the radio that brush be taken to the Recycling Center (free for sanitation customers of City) or to the Landfill (pay appropriate fee)

Councilor Bermudez said it was nice that the County helped us with our cleanup efforts. Mayor Rangra said it was wonderful that the County Judge offered to help us. He said there was a meeting with the County Judge in 2 days concerning Emergency Management. Councilor Stephens brought up the TCEQ old Marathon lift station (notice of enforcement action) and the concern about having a backup generator for the lift station. City Manager Zimmer said very little had been done since 2012 to remediate the situation. He said in July of 2012 TCEQ was on site for the inspections and they heard the violations. He said even 13 months later no action was taken. He said our permit requires a licensed B or wastewater operator and they have to be present five days a week. He said there was no impact at the wastewater treatment plant. He said there was a transition period from Virgil to Lawrence. Councilor Stephens said he was happy that the enforcement action was being worked on. Councilor Stephens said he felt we should have a workshop concerning the 180 day plan. Councilor Gonzales asked about the water wells and said compared to today, what was the trend, if it was going up or going down or staying the same. City Manager Zimmer said the Utilities Director said since 2005 the water wells have remained level. He said Johnny Marquez, with the water department, is becoming proficient at looking at the levels of the wells. City Manager Zimmer said we are migrating more to SCADA. He said some of the wells take a manual trigger to turn them on.

City Staff Updates –

Municipal Court – Judge Trook

- **Policy and practice on fines and fees** – Judge Trook said there was a need for a strategic approach and workshop for enforcement. She talked about contempt of court and prosecution in court. She said prosecution must do justice rather than just raising money from fines. She said they work with statutory framework. She said Municipal Court deals with misdemeanors punishable with fines only. She said the Municipal Court is part of the fabric of the community. She said fines and fees are a deterrent. She said plea bargains are important in the process of doing justice. She said the prosecution offers a solution to the court which the court may approve. She said with violations in City Ordinances, plea bargains can be useful and serve the community. She said City Prosecutor Bart Medley would not be effective if he applied “big city” prosecution to our citizens. She said she would like to have a workshop to get a community consensus.
- **Court Case Management** – Judge Trook said a complaint is filed with respect to City Ordinances on traffic violations. She said we end up after ten days with a plea. She said if they are pleading guilty, they pay a fine.
- **Revenue Sources** - She said the fees are set up by the legislature. She said if citizens do not have sufficient funds to pay, non-profit organizations can utilize these citizens for community service. She said if the defendant pleads not guilty, a bench trial or jury trial will occur. She said at that time the prosecutor will decide whether or not to dismiss the case. She said it takes a lot of labor to find someone guilty or not-guilty and they are not charged for having a jury trial or a bench trial. She said community service is considered as an alternative revenue. She said some would rather pay the money if at all possible.
- **Court Enforcement Mechanisms** – Judge Trook said court judgments are mechanisms that result in fines and fees. She said the major problem with court judgments is that people do not follow them. She asked what the Council should value most, the police going out and arresting people when they disobey court rules, stricter use of fines or some other enforcement mechanism. She said if there is a complaint and it is not responded to, there is a two year statute of limitations. She said OMNIBASE has been helpful with Drivers License Review and non-payment of fines. She said for a person who does not have a judgment, you cannot enforcement anything except getting them to court. She talked about submitting

uncollected fees to the collection process. She said it is a lot of paper and some people are not being treated very nicely. She said we need to have a workshop so we can come up with some policies and strategies.

Councilor Stephens said he would like to have 1) the number of offenses, 2) the number of repeat offenders, 3) the number of compliance actions, 4) who failed to comply, 5) the number of respondents and 6) the number of respondents who failed to comply from Judge Trook.

Councilor Gonzales said it sounded like do we want to have a speed trap or do we want leniency for our small town.

Councilor Bermudez said she believed a workshop would help to determine what we wanted.

5. Citizens Comments (on agenda items) – (limited to 3 minutes) – None

6. Public Hearings – None

7. Consent Agenda – (Minutes, Financial reports, Department written reports, board appointments, etc.) – (Notice to the Public – The following items are of a routine and administrative nature. The Council has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Council Member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.)

A. Approve Accounts Payable. (E. Zimmer, CM)

B. Approve Council Minutes of January 6th, 2015. (A. Rangra, Mayor) –

C. Approve appointment of Ward 5 Planning and Zoning Commission Board Member – Curt Lilly. (R. Stephens)

D. Approve appointment of Ward 2 Planning and Zoning Commission Board Member – Kara Gerbert. (C. Salas)

Motion was made by Councilor Bermudez, by Resolution 2015-01-03, to approve the Consent Agenda in full. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

8. Information or Discussion items – (Citizens are allowed to comment –

limited to 3 minutes – after being called upon by Mayor.) –

A. Parks Board Presentation by Parks Board Chair concerning current projects and needs. (E. Zimmer, CM) -

- **2014 updates and changes to parks** – Chair Martin Benevich talked about the improvements to American Legion Park, Pueblo Nuevo Park, completion of the Dog Park at Kokernot Park and the play set at Kokernot Park.
- **2015 goals** – At Pueblo Nuevo Park there will be more trees planted and a star shaped monument installed. Tom Lancaster is creating the centerpiece monument to the park. Martin said we need to clean up the grass burrs at all the parks and do something about the Gopher holes at Kokernot Park.
- **Friends of Big Bend Parks** - He said Dr. Escovar helped to create the organization Friends of the Park and raised \$9,500 for an ADA compliant swing set for Kokernot and a swing set for Baines Park. He said the plan is to also upgrade the basketball court at Baines Park and redesign the plants. Friends of the Park obtained a \$40,000 Abell Hangar grant to create a play area for children 0-2 years old.
- **Needs from Council for Board** – Chair Benevich said we need to redesign Baines Park and in American Legion park change the sand box area or horseshoe pit. He asked the Council for continued funding and to be able to use the city crew whenever possible for improvements and maintenance of the parks.

B. West Texas Ambulance Service (EMS – Scudder) quarterly readout as per city operating agreement. (E. Zimmer, CM) –

He said the total number of runs from 10-1-2014 to 12-31-2014 was 146. Total city calls were 98, total no transport calls were 36, total county calls were 9, and total Marathon calls were 3.

He said in October there were 42 calls, November 49 calls, and December 55 calls total, for a grand total of 146. He said the collection rate was approximately 41%. Mr. Scudder said the problem with Obamacare is the greater deductibles. He said a lot does not get reimbursed by self-pay. Councilor Bermudez said when Medicare does not pay do they send a bill out for self-pay. Mr. Scudder said about 1% pay for self-pay. He said it is an uncollected debt. Councilor Gonzales said Air Ambulance charges an annual fee and if you need them they will provide service for you. Mr. Scudder said Air Ambulance is \$59.00 per year and they take that as payment in full. Mr. Scudder said for a private service it is hard to

get the ball rolling or something like that. He said everybody needs ambulance service at some time. He said it is an in depth process. Putting a fee on the water bill was discussed. Councilor Gonzales thanked Mr. Scudder for their service.

C. Presentation on Texas Municipal League Water and Gas Conference as attended by Councilor Stephens. (R. Stephens) – Councilor Stephens said the TML Gas/Oil and Water Conference in Austin was attended by 200 attendees. He said the Agenda consisted of:

- 1) Traditional and Emerging Conservation Technologies and tactics to balance the convergence between supply, increased demand and conservation
- 2) Innovative programs for landscape management
- 3) Managing water use through efficient water systems: Best practices with aging infrastructure and metering systems
- 4) Update on desalination
- 5) Update on emerging water supplies and
- 6) Rate setting and budgeting in a conservation environment.

Councilor Stephens said key points from the Water Conference were:

- 1) In some cases, 70% of water usage goes to irrigation
- 2) Landscape Literacy = water savings
 - a) Direct marketing of conservation approaches to high users
 - b) Texas A & M AgriLife Services available in all 254 Texas Counties in cooperation with USDA
- 3) Conservation approaches are evolving:
 - a) From rate management, consumer education, water barrel rebates
 - b) To NOW include leak detection, full system AMI, main replacements treatment optimization
- 4) Education and committees that include city employees and citizens key to successful water conservation and management
- 5) State water implementation Funds for Texas (SWIFT) Loan Program funded at the State level to fund projects in the state water plan. The next Far West Texas (Region E) Regional Water Planning Group scheduled for 1:30 P.M. Thursday, February 12th in Alpine (exact location to be determined)).

Other agenda items were:

- 1) How Oil and Gas affects the Texas economy.
- 2) Where oil and gas comes from and how it is extracted
- 3) The State regulation and permit process for oil and gas extraction
- 4) Perspectives of mineral owners
- 5) Innovations in public/private partnerships
- 6) How cities are regulating Oil and Gas
- 7) The Legal Challenges cities can expect if they exceed their regulatory authority

8) Industry perspective on City Regulation and Legal challenges

Councilor Stephens said the following were Key points from the TML Oil and Gas Conference. He said many of the presentations and focus of the discussions was on how cities are regulating oil and gas. He said key Municipal regulation vehicles are as follows:

- 1) Zoning: Classification as land use in table of uses: regulation of Aesthetic**
- 2) Subdivision Ordinance: Subdivision Plan; Development Plat**
- 3) Technical “Health and Safety” Ordinance: Drilling Ordinance containing permit requirement**
- 4) Nuisance Ordinances: Noise, Odor, etc.**
- 5) Watershed Protection: Regulation in ETJ (Buffer area outside of the city limits)**
- 6) Moratorium: Suspend the acceptance of drilling applications**

Councilor Stephens said the Primary Legal Points were:

- 1) Article XI, Section 5 of the Texas Constitution provides that “no...ordinance...shall contain any provision inconsistent with the Constitution of this State, or of the general laws enacted by the Legislature of the State.”**
- 2) The Texas State Legislature has given the RRC authority to regulate gas and oil extraction and the TCEQ authority over water regulation.**
- 3) Texas Natural Resource Code 92.007 provides that “this chapter does not affect the authority of a municipality to require approval of subdivision plats or the authority of a home-rule city to regulate exploration or development of mineral interests within its boundaries”**
- 4) There are inconsistencies in how the courts have resolved the jurisdictional issues between States and Municipalities/Cities**

Councilor Stephens said Key points from the Oil and Gas Conference were:

Texas HB540 AND HB539 filed on December 17, 2014.

- 1) HB540 would require cities to submit valid petitions to the Texas Attorney General for Review before holding an election and if the Petition is not consistent with State law the election can be withheld.**
- 2) HB539 would require cities to reimburse the state for lost revenue related to taxes, fees, royalties and other income that result from city drilling regulations.**

Other key points from the TML Oil and Gas Conference were:

The Texas Railroad Commission has many on-line resources to help cities and citizens.

- <http://www.rrc.state.tx.us/legal/rules/current-rules> provides more than 100 oil and gas rules
- Hydraulic Fracking Fluid Information must be listed on FracFocus website: <http://fracfocus.org>
- www.rrc.state.tx.us
 - Online research queries
 - Public GIS Viewers
 - Research and Statistics
 - Natural Gas, Crude and Hazardous Liquid Pipelines

D. Discuss pending Resolution on closing of SWTMGC account and royalty agreement based on final asset disbursement date of February 12, 2015 as outlined in dissolution of SWTMGC agreement. (E. Zimmer, CM) – City Manager said we have a royalty agreement with WTG. He said February 12th is the final day required of the Board of Directors of the dissolved SWTMGC. He said it will be three years since the corporation was dissolved. Dan Dunlap wrote to the City Manager to let him know that the board needs to meet one more final time to assign the royalty agreement with West Texas Gas to the cities and to split the funds in the bank account and close it. He enclosed two resolutions to review. The City Manager said the council will need to agree on a Resolution that will define this agreement. He said he will engage the City Attorney, Mick McKamie, to finalize the agreement. He said this item will be on the February 3rd or February 17th agenda.

E. Budget Variance, Income Statement and Specific Activity Report Readout/October 2014 – December 2014 (E. Zimmer, CM) - City Manager Zimmer said that our unaudited income position through the first quarter of the year is as follows:

Government Fund – Total Revenue \$1,057,210, Total Expenses \$790,368 = Net Income of \$266,842.

Water/Sewer/Sanitation – Total Revenue \$945,211, Total Expenses \$926,403 = Net Income \$18,808.

Airport – Total Revenue - \$162,560, Total Expenses \$157,803 = Net Income \$4,758

Gas – Total Revenue - \$429,920, Total Expenses \$256,285 = Net Income \$173,634

Total for the City = \$464,042

Hotel Occupancy Tax – Total Revenue \$117,233, Total Expenses \$84,561 = Net Income \$32,672

City Manager Zimmer said revenues associated with Ad Valorem Taxes began to increase during the second half of December giving us a boost. He said total expenses for water, sewer and sanitation appears high based on transferring the funds for the debt service payment early in the fiscal cycle. He said debt service payment is not due until late February or early March. He said regarding the specific activity report, it shows us at a total amount of \$2,112,047.61 across our checking accounts. He said Megan, the Finance Director, continues to work with Marlene at Gibson/Ruddock on our due to – due from accounts to provide a better level of clarity to myself and the elected officials. He said the checking account totals are a critical piece we integrate in with our discussion with the department heads. Rationale being that even though we may have room in the budget for certain items, we have to be certain we have the cash in our bank accounts and we understand our trend of spending over the next 90 days.

Action Items to be accompanied by a brief statement of facts, including where funds are coming from, if applicable. (Action items limited to (up to) 10 per meeting.) (Citizens are allowed to comment–limited to 3 minutes – after being called upon by Mayor)

9. Discuss and Consider authorizing the City Manager to finalize WTG negotiation of recommended long-term contract gas rate versus continued usage of spot rate. (E. Zimmer, CM) – City Manager Zimmer said WTG sent us their rate options available to the City of Alpine in order to facilitate a change from the current spot rate purchase methodology. He said this has been a pending action item from the City and we have received good rate quotes from WTG (West Texas Gas). He told the Council that in their packets was a chart outlining our past purchasing rate (at the spot rate) for the prior 15 months. He recommended that we move forward trying to negotiate the 18-month rate with WTG. He said this would give us a consistent lower price than we have received over the last 2 years and also help us align the future decision making closer to our annual budget cycle. Councilor Stephens asked if the current decline in crude was important and if we waited another month would we get better rates. City Manager Zimmer said we can have a set rate for 18 or 24 months. He said he did not know if crude prices would impact it. He said he thought the certainty of rates would help us sleep better. Councilor Bermudez said she thought 18 months would be good. Mayor Rangra said he hoped the price of gas went down and talked about the gas prices dropping before when we were in a contract with WTG. Motion was made by Councilor Stephens, by Resolution 2015-01-04, to authorize the city manager and give him the discretion to come up with the best deal for the City of Alpine gas rates with West Texas Gas. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

10. Discuss and Consider approving the opening of a checking account at West Texas National Bank for TXCDBG Contract 7214000 grant funds. (E. Zimmer, CM) – Motion was made by Councilor Stephens, by Resolution 2015-01-05, to approve the opening of a checking account at West Texas National Bank for TXCDBG Contract 7214000 grant funds. Motion was seconded by Councilor Gonzales. Motion unanimously carried.

11. Council Members Comments –

Councilor Bermudez – said she was glad to have City Attorney Mick McKamie present in person at tonight’s meeting. She also said she liked Councilor Stephens presentation.

Councilor Fitzgerald – said he also enjoyed Councilor Stephen’s presentation. He said he felt all of the council should do presentations after they attended meetings from now on.

Councilor Gonzales – said tomorrow was “hump” day at the Library and that they would be having hot dogs with all the toppings for \$6.00 at lunch. He said they would also have dessert which would be cake or cookies. He invited everyone to attend.

Councilor Stephens – said he had no further comments.

Mayor Rangra – said thanks for coming.

Motion was made by Councilor Bermudez to adjourn the meeting so that the council could enter into Executive Session. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

Motion was made by Councilor Bermudez to enter into Executive Session at 7:40 P.M. Motion was seconded by Councilor Stephens. Motion unanimously carried. Councilor entered into Executive Session at 7:43 P.M.

12. Executive Session – Pursuant to Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property) and 551.074 (personnel matters).

A. Consider annual review for City Attorney Mick McKamie – (E. Zimmer, CM)

B. Discuss and Consider land exchange concerning old city landfill and property west of town. (J. Gonzales)

13. Action – After Executive Session –

A. Action, if any, concerning annual review for City Attorney Mick McKamie

– E. Zimmer, CM) – Motion was made by Councilor Bermudez to take no action on this item at 7:44 P.M. Motion was seconded by Councilor Gonzales. Motion unanimously carried.

B. Action, if any, concerning land exchange. (J. Gonzales) - Motion was made by Councilor Bermudez to take no action on this item at 7:45 P.M. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

14. Adjournment – Meeting was adjourned at 7:46 P.M.

NOTICE: The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on the posted agenda, above, as authorized by the Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), and 551.086 (economic development).

I certify that this notice was posted at 1:45 P.M. on January 16th, 2015, 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 1:45 P.M on January 16th, 2015, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Margaret "Molly" Taylor, City Secretary