

**City of Alpine
Regular City Council Meeting
February 26th, 2013
6:00 P.M.
Minutes**

- 1. Call to Order, Invocation and Pledge of allegiance to the flag – Invocation was given by Deacon Paul Lister, Our Lady of Peace Catholic Church. Pledge of Allegiance was led by Mayor Rangra.**
- 2. Determination of a quorum and proof of notice of the meeting – Mayor Rangra, Councilors Bermudez, Davidson, Lujan, Gonzales and Asgeirsson were present. Meeting notice was posted at 5:00 P.M. on February 22nd, 2013.**
- 3. Presentations, recognitions and proclamations – None**
- 4. Reports –**

City Mayor's Report - Mayor Rangra said we had quite a few visitors here over the weekend as a lot of you know. He said we had Cowboy Poetry Gathering and it was quite exciting. He said he was sure a lot of the audience was there and hoped they enjoyed the activities. He said the second thing he wanted to say was about a letter that came to him in the mail. He said it was not signed by anyone. He said he wished the person who had sent the letter.....he said there was some talk of retaliation in the letter.....he wished that they had signed his name, or her name, or their name so he could pick up the phone and call them and have coffee with them. He said we may have diverse views but we need to have a dialogue. He said he got this in the mail and gave it to the City Secretary. He said feel free to write but please sign your name.

City Attorney Report – The City Attorney said he just had one item, the appraisal on the Scown easement. He said the preliminary appraisal is complete and at the next meeting he will be asking for a resolution as he works with the appraiser to get this finalized and get ready for the acquisition process. He said everything else he will reserve until later. Councilor Gonzales said he would like to ask about the preliminary Appraisal. He said he has never seen it and we have discussed that before. He asked if the City Attorney was saying that we had a preliminary Appraisal. The City Attorney said it just came in and he needed to add some easement language to it, give it back to the appraiser, finalize it and then get it to the Council. Councilor Gonzales said so the City Attorney has the appraisal but has not given it to the Council yet. The City Attorney said

that was right, it is preliminary. He said it is being worked out. Councilor Lujan said he had a question for the City Attorney in regards to his opinion, on February 19, 2013 in regards to the request by the Mayor in the provisions of the Alpine Home Rule Charter. He asked if City Attorney Armstrong was comfortable with discussing that. City Attorney said he was very comfortable with discussing it but it might be more appropriate to discuss it at the time of the item. Councilor Lujan said he was going to go ahead and ask about it right now. He said Mr. Rangra asked him for an opinion about the Home Rule Charter. He said it came to his attention that Mr. Armstrong stated that he based his opinion on the City Charter of May, 1993. Councilor Lujan asked who provided him with a copy of the City Charter and he said it was the City Secretary. He asked if Mr. Armstrong was aware that after that Charter of 1993, it was amended in 1995 and also amended in 2009. The City Attorney said the 1995 amendments were in the Charter he was handed. Councilor Lujan said when the Council asked an opinion of the Charter, you would think he would need the most recent charter amendment. City Attorney Lujan said he pulled down from the website, the most recent charter, including the 2009 amendments but those were not submitted to the voters so those amendments were not true amendments. Councilor Lujan said those amendments were posted on the internet and people were basing everything on those amendments and were those done wrong? City Attorney Armstrong said the sections in the Charter that he based his opinion on were apparently the operative sections in the charter and the opinion is based on the current Home Rule Charter of the City of Alpine, Texas of 2005. Councilor Lujan said 2009 amendments were not approved by the voters and did City Attorney Armstrong think it was correct to post those on the internet. He asked if someone could manipulate the charters to get a legal opinion on something. City Attorney Armstrong said he was able to obtain the proper charter and also render his opinion based on the current charter sections that are operative. Councilor Lujan said it was wrong to post the 2009 charter because it might be misleading to the public. Mayor Rangra asked the City Attorney if he was aware of the 2005 Charter. The City Attorney said he was aware of that. Mayor Rangra asked the City Attorney felt he had to look at the Charters from 1993 and 1995. City Attorney Armstrong said the sections he rendered his opinion on were from the current charter. City Attorney said he thought the best practice would certainly be to remove the language from the internet and state that the amendments in 2009 to the Charter do not exist. Mayor Rangra said the 2005 Charter is the Charter. Mayor Rangra asked the City Secretary how the 2009 amendments got on the internet. The City Secretary said the Council voted on the amendments and she believed the City Attorney said to put them on the internet, since they were told they were just grammatical changes. Mayor Rangra asked if any portion of Mr. Armstrongs' opinion was based on the "2009 Charter". Mr. Armstrong said it was not, it was based on 2005. Councilor Lujan asked the City Secretary if the Council was who voted on

the 2009 changes to the Charter and she said it was. He asked the City Secretary who told the city staff to post the changes on the internet and she said she believed it was the Charter Review Committee who told the City Attorney that there were only grammatical changes. She said the city staff was eventually asked to post the changes on the internet since they had never been posted. Councilor Lujan said the reason he was asking was because in 2009, Mayor Rangra formed a group to review the Charter and they changed the specific word "full" council and he nominated his son to be the head of that review board. Mayor Rangra said in 2009, the charter review committee had a few people on it and no council member nominated or appointed the chair. He said the committee members were nominated who appointed their own chair. He said that charter was presented to the Council and two members gave a minority report which means they did not agree. He said one of them was Councilor Bermudez and the second one was Amit Rangra. Mayor Rangra said he was sitting on the Council. He said the Charter was accepted and not approved. He said this document is non-existent. Councilor Bermudez said there were seven people on the committee and she said it was not Dr. Rangra who appointed Amit as the Chair, it was the group itself. Councilor Gonzales said on February 13th, he wrote Scott Houston, who is the TML Attorney. He said he asked about the City Charter. He asked if any changes needed to be taken to the voters, even if they were only grammatical changes, or other changes like increasing votes or decreasing votes of the city council. He asked if it was changed without a public vote could it be changed back without council consent, since it was changed only by a city council vote. He said Scott's response was that a charter cannot be amended without it being properly submitted at an election. He said any attempts to change it without an election are void. He asked City Attorney Armstrong if he agreed with what Scott Houston was saying. City Attorney Armstrong said the Local Government Code clearly states that provision and yes he does agree with what Scott said. Mayor Rangra said Councilor Gonzales should have said the charter was accepted instead of approved. He asked that the Council use the right words and if it was accepted, say it was accepted. He said a lot of problems start when language is used that does not really exist. Councilor Lujan asked Mayor Rangra if he wanted to read the Council minutes for him. Mayor Rangra said Councilor Lujan said he appointed Amit Rangra as the Chair of the Charter Review Committee. Mayor Rangra said the motion said on March 7, 2006, Resolution 2006-03-040 to accept the following nominations by councilmembers to the charter committee, Motion was seconded by Councilor Brewer and Councilor Rangra nominated Amit Rangra. He asked "Does it say he appointed the chair." Councilor Bermudez said he did not. He appointed him to the committee, like someone appointed her. Mayor Rangra said he had the right to appoint anybody. He said, to Councilor Lujan, "don't say that he appointed the chair because he did not do that." Councilor Davidson said in the interest of his comment on language, Councilor Rangra nominated

and the Council appointed. Mayor Rangra said the Council did not appoint the Chair either. Councilor Davidson said no but the Council appointed the candidate.

City Manager Report – The City Manager said he did not have anything.

City Staff Updates –

Cindy Hollander, Director of Utilities – said she was there to ask the Council about an item under Executive Session, number 26, pursuant to Texas Government Code, Subsection 551.071, Consultation with Attorney, possible pending or contemplated litigation or settlement offer. She said A - number 1, Rey Dominguez to address the Council concerning grievance. She said number 2 was to consider calling witnesses concerning grievance of Rey Dominguez and number 3 was to consider possible reinstatement of Rey Dominguez to original position (job). She said all of these were listed by different individuals. She said at this time everyone that you would possibly be able to call as a witness to his performance or lack thereof is in presence and they have all agreed that without this being held in open session, they will not bear witness. She said they are requesting that the Council consider that A of executive session, item 26, be held in open session for the public to know what is going on. City Attorney said the employee has the right to privacy and the employee has the choice as to executive session or open session. He said he did not know if the employee was here but we are going to make sure that the employee's due process rights are maintained. He said if the employee wants this in executive session he has that right. Cindy asked if it was the grieving employee or the employees that are there to bear witness because you have more employees that have that on the table. John Armstrong said the employee who has the grievance has that right. He said no job actions are being taken against the witnesses that he is aware of. Cindy said no job actions are being taken against Mr. Dominguez as well. The City Attorney said it is up to the employee to demand an executive session. Mayor Rangra said we can talk about that at that time.

Martha Latta - Keep Alpine beautiful and Alpine recycles. She said she had two bits of good news for each of those organizations. She said this week she just got the numbers back on our electronics recycling and we recycled 14.5 tons of electronics which is up from 10 tons last year. She said that is $\frac{3}{4}$ of a day that we are allowed to put in the landfill. She then said “coming soon to a park near you” and showed the Council and audience dog bag waste stations that arrived and she said they would get those installed in the parks as the parks guys see fit as to where they will put them next week.

5. Citizens Comments (on agenda items) –

Pete Smyke – said he was referring to item 26 A through E. He said he would

just like to say that these are very serious issues being brought and if you find that things haven't been done correctly, it's important to remember that we are all adults, we all have free will and we all make choices as to what we do and don't do. He said if people are found to have made the wrong choices and it hurts the city, keep that in mind as you are going through these items.

Anita DeVries – said she wanted to comment on the other discussion that we have been having on the charter. She said this item was 9. She asked the City Secretary if there was an original when amendments were approved that shows the amendments and when they were approved by the vote of the people. The City Secretary said the City did have that. Anita DeVries said anything that does not have a vote showing on that amendment is not legitimate. The City Secretary said that was right. Mayor Rangra said that did not pertain to agenda item number 9. The City Attorney said the reasoning for that is that we are required by law to have their discussions only upon either properly posted executive session items or on items that the public has been given notice on, so that we are not discussing everything. He said we have to stay within the law and we have to discuss only what the public has been notified and given an opportunity to appear and discuss. He said this is pretty specific and it is not that anyone wants to not hear what you have to say, it's just that we have to post it according to Chapter 551 of the Local Government Code. He said we are not being ugly to anyone. He said we just have to make sure that the notice is done properly. Mayor Rangra asked if there were any other comments about the items that are on the agenda.

6. Public Hearings – None

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

A. Approve Council minutes of February 5th, 2013. (C. Garcia, CM) –

B. Pass a resolution to express our thanks and gratitude to our State Representative, the Honorable Alfonso “Poncho” Nevarez for introducing HB 1351 in support of Sul Ross State University. (A. Bermudez) -

C. Waive fees for Cinco De Mayo for Civic Center on 5/1/2013. (C. Garcia, CM) –

D. Consider a spring City Wide Garage Sale (tentatively set for March 30th) – (J. Gonzales)

Motion was made by Councilor Gonzales , by Resolution 2013-02-12, to approve the Consent Agenda in its entirety. Motion was seconded by Councilor Davidson. Motion unanimously carried.

8. Information or Discussion items – None

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.)

- 9. Discuss and Consider residency requirements as referenced in the City Charter, Section 3.02 (B) for City Councilmember, Ward 5 and possible action to remove Councilmember for failure to comply with the requirements of Section 3.02 (B) which states “If the mayor or a member of the City Council shall cease to possess any of these qualifications or shall cease to reside in the City or in the Ward from which they were elected or shall be convicted of a felony or is absent from three (3) consecutive regular Council meetings without being excused by the Council, he or she shall immediately forfeit the office.” (A. Rangra, Mayor) – Mayor Rangra said he put this item on the agenda because he received last week, one letter from Ward 5 who said he has been having trouble trying to get hold of his Council member and then on the 22nd he received another letter from the person who lives across the street from the current residency. He said he called the councilmember for a meeting to discuss this matter but were not able to get together, and on Monday he mailed a registered letter to her current residence, and to the one in Ward 5. He said he talked about this issue this afternoon, February 26th, with the City Attorney and the City Attorney is going to elaborate on this because it is a delicate situation. The City Attorney said the Council person in question called and asked him to opine about the position and gave him information that the vacancy from the district is to be temporary and it is due to some personal matters that do not need to be discussed. He said he gave the Councilperson his opinion that as long as it is fairly temporary, the law is quite clear that in order to change a residence you have to a) intend to change your residence and b) you have to touch the new residence that you call your residence. He said a perfect example might be that he had to go to Dallas for a prosecutor’s seminar a couple of weeks ago and spent three days there. He said he was clearly out of the city but he did not intend to stay out of the city. He said he merely absented himself for a business purpose. He said it is very similar to this situation. He said the Councilperson has advised that there is no intent to vacate ward 5 and is a temporary absence and therefore does not, in his opinion, qualify for a vacancy or absence or change in residence. He said that is his opinion and it was checked with him and because of the personal nature it was not spread around and it was also requested that he keep this to himself. He said now that it has made the agenda, he makes his opinion public. The City Attorney said this matter should be closed for the time being. Mayor Rangra said he would consider this matter closed. Councilor Davidson said in the past whenever we have had an agenda come up that was not voted on tentatively, then it can be brought back up. Motion was made by**

Councilor Lujan to table this item. Motion died for lack of a second. Motion was made by Councilor Davidson to accept this item as written, by Resolution 2013-02-13, and his intent is to vote against it when it comes up for a vote. Motion was seconded by Councilor Lujan. Councilor Asgeirsson said when Dr. Rangra called he did not contact her immediately. She said he waited until after lunch on Friday and our agenda items should have been marked down already. She said this is at the very top of the list. She said she thought it was his intention to do that. She said she had known him for a lot of years and she had the highest respect for him until now. She said any other decent Mayor would have called her. She said he should have called her since they have been colleagues for a long time, and he should have come to her. She said he did call her and she was going to meet with him but then she found out what the agenda was all about. She said this was already public. She said how he used her personal issues for his personal political benefit is unforgiveable. She said she would never do that to anybody, staff or anybody. She said she would go to them face to face. She said this was not ethical of him and was by far very evil and she will never forgive him for this. Mayor Rangra asked the City Secretary if one letter was received on Tuesday and was in the box. The City Secretary said yes, that is true. Mayor Rangra asked if he gave the letter to her on Tuesday and she said yes. Mayor Rangra asked if the person who wrote the letter from Ward 5 was present and if he had contacted him. The person was not present in the audience. Mayor Rangra asked when the second letter was received and given to him. The City Secretary said it was noon, she believed. Mayor Rangra asked what he said at that time. The City Secretary said Mayor Rangra said he wanted to talk to Councilmember Asgeirsson but to save a place on the agenda. She said he did not want to put it on the agenda without talking to Councilmember Asgeirsson first. Mayor Rangra said at 3:11 he called Councilor Asgeirsson on Friday. He said that he wanted to meet with her at 5:30 to talk about a serious matter, but right now he was on his way to campus since he was hosting a group of people there and he would call her as soon as he got out. He said at 5:11 he called again and left a message for her to please call him. She said it was already on the agenda. Mayor Rangra said an item can be removed. He said he has an obligation when somebody calls or writes a letter, he has to take action. Councilor Davidson asked that the Mayor call for the question. Councilor Lujan asked the City Secretary about posting times and why the item was placed first on the agenda. The City Secretary said she was asked to move this item to the top of the agenda due to the nature of the item. Mayor Rangra said he asked her to place the item in that location. Motion was seconded by Councilor Lujan. Councilor Gonzales voted in favor. Councilors Bermudez, Davidson, Lujan and Asgeirsson voted against. Motion failed.

10. Discuss and Consider keeping the State Statute 36.121 in place to

safeguard water interests of 6,000 plus people living in the City of Alpine in its current form without any changes. (A. Bermudez) . – Councilor Bermudez said she believed that Councilor Davidson could have a Conflict of Interest with his position on the Groundwater District Board of Directors and being a Councilmember. Councilor Davidson said he did not believe it was a Conflict of Interest. Councilor Bermudez said it is a potential conflict for dual offices to contract with each other. She said the Interlocal Agreement is a contract. She said she believed that we should ask the Attorney General about the conflict on holding dual offices. She said she would like to request that we obtain an Attorney General’s opinion on this. Councilor Bermudez read further concerning dual office holding from an Attorney General document “Dual Office Holding Limitations Made Easy”. The City Attorney said he did not think this was a Conflict of Interest. Councilor Bermudez said this water thing is very, very important and she thinks that we need an Attorney General Opinion. The City Attorney said he would be happy to request an opinion on behalf of the Council. Councilor Bermudez asked the City Attorney to request an opinion on behalf of the City of Alpine from the Attorney General. The City Attorney said he would be happy to request an opinion and would do so on his own for the Council. He said we could go ahead and discuss this item since he previously approved the agenda. Councilor Davidson said he did not have the courtesy to be provided with this information in their packages. He said he read one section on the first page about what a dual office holder meant and he pointed out the paragraph which said in #1 – Texas Constitutional restrictions on holding two civil offices of emolument (see question #2 below); and #2 What does it mean to hold “more than one civil office of emolument”? – In basic terms, to hold “more than one civil office of emolument” means to hold two paid public offices.” He said he rested his case and he would be happy to hear what the Attorney General had on that. He said he has not read the entire document but he did read page 1. He said now he would like to discuss the actual wording on this item. He said he was also going to propose for the next meeting that we have an agenda item to safeguard the interests of the city council of Alpine by leaving the lights on and leaving the doors open at night when we close because currently the City of Alpine, with a Capital C and not the people of the City of Alpine, because all the people of the City of Alpine and any wells that they might own or operate are under the jurisdiction of the Brewster County Groundwater Conservation District. He said the City, because of this rare piece of legislation that actually passed six years before the BCGCD was in place exempts the City by complete accident from the jurisdiction of the groundwater districts and therefore the city is not subject to any of the potential rules and regulations and neither is it subject to the protection that the groundwater district affords. He said the legislature of Texas has been very clear that the groundwater districts of Texas are the preferred method for local control and management of groundwater. He said

currently it is just like we left our doors open and our lights on at night at City Hall, in terms of our water. He said of course none of the big cities in Texas that are drilling by leaps and bounds are not running out of water, has any interest in coming outside their own jurisdiction and finding water. He said if one of those happened to in the future and came to a neighboring property to where a city has wells and drill a big well to export water and it dried up the city well or hampered the operation of the city well, the city would have no recourse. He said the city could sue in District Court but the District Court would come back to the City and say "you had the opportunity to be part of a water district to protect your water and why didn't you do it, and why are you asking us now to save you." He said they basically have no jurisdiction to do anything and the city would not have any recourse but damages. He said with an active groundwater district, the city or any other entity can go to the groundwater district and get some standards and ask for a period during which there is historic data and pumping data and well data and show where a new development has come in to get water and the groundwater district can make a ruling and limit the production of the new well. He said if the new well owners have a big interest and have a lot of money, they will go to district court to get that overturned. He said such a case would be predicated on the groundwater district and it would defend the city in that lawsuit. He said he thinks this is intentionally worded to be misleading "to safeguard the water efforts". He said it is safeguarding the water from each other, from our own neighbors. He said that is the deal on the water district. He said if the Attorney General thinks he should not serve on the Groundwater Board, his sole intention of being on the board is to protect the groundwater of our city and our county from the many interests that would like to come and tap into it. He said he has been on a regional water planning group from the very inception in 1997 and have actually worked hard and understood about not only our local issues but about the other big players they are trying to look for and trying to help lead them to someone else's water, for the protection of the Groundwater District. He said and to think that he somehow has a conflict of interest and is not sitting on this board to protect the groundwater for the people of this city kind of insults him. Councilor Gonzales said to correct him if he was wrong, but didn't we say the last time, two years ago, that the City was going to go ahead and join but the BCGCD would not let us join unless we got rid of this rule. Councilor Davidson said it is not a club. Councilor Gonzales said he did not say it was a club. He said what they are asking is that we let go of a protection that has been there for a long time for us, even before the board was formed to protect the water. He said yet, they are not going to let us join and they are quoting information not being given and he thinks the information has been given. He said the only recourse to be able to join is to go ahead and let go of the protection that we have for the citizens. Councilor Davidson asked who does that protect it from. Councilor Gonzales said it protects it from anybody else that wants

to get it. Councilor Davidson said no, it did not. He said not 36.121. He said he was sorry but Councilor Gonzales was incorrect. He said someone gave him the wrong information. Councilor Gonzales said he may have some wrong information but this has worked for us for "x" number of years. Councilor Davidson said nobody has come and tried to take our water away. He said it has not. He said "this magic pen prevents elephants from coming to Alpine, and it works, we have never seen one." Councilor Gonzales said he has not been given the opportunity to ask a question. He said why is it that we need to remove this 36.121. Councilor Davidson said it is because it leaves the city's wells vulnerable. Councilor Gonzales asked which well. Councilor Davidson said all of them but not the ones in Jeff Davis County because our wells in Jeff Davis County are regulated by the Jeff Davis County Groundwater District and a export fee is charged that gets extended on. Councilor Gonzales said we have been paying that, okay. Councilor Gonzales asked what that had to do with the Brewster County Water District? Councilor Davidson said nothing. Councilor Gonzales asked why then did we need to remove it. Councilor Davidson said because our wells are not protected. Councilor Gonzales said the Groundwater District is protecting the wells in Brewster County and not Jeff Davis County. Councilor Gonzales said,"Was he wrong in saying that the Brewster County Water Conservation District protects in Brewster County?" Councilor Davidson said yes. Councilor Gonzales said it does not have anything to do with the water in Jeff Davis County. Councilor Gonzales asked again why we needed to remove it. Councilor Davidson said here's the deal. He said we have wells that we lease or whatever and deliver our water from Jeff Davis County. Councilor Gonzales said that is correct. Councilor Davidson said let's just say, and it's a long shot and is not in their 50 year plan to come to the Musquiz field and buy some land and pump water. He said but if they did, with the city owned wells, and it damaged our pumping capabilities to our wells in Jeff Davis County, the Groundwater District could bring that data up and have a hearing in front of the Jeff Davis County Groundwater District and say these people came in and since they have been pumping we have noticed a steady degradation and we would have to cite our pumping levels, our static levels and then they would make a ruling to limit the production from the other people and if necessary take them to court to approve it. He said the groundwater district here does not have that capability of doing that with our own wells in this county because 36.121 makes the Midland exemption. He said this was strictly put into effect in 1995 through a piece of legislation by Tom Craddick specifically so Midland could go outside of Midland County to take water from people who did not have any protection. Councilor Gonzales said he thinks it protects us now, though, because we have been protected all this time and if the groundwater district does not have any jurisdiction in Jeff Davis County then he does not understand why we need to remove that. Councilor Davidson said this does not affect Jeff Davis County. Councilor Gonzales said you just said you wanted Brewster

County exempt from this. Mayor Rangra said let's keep this argument civil. He asked if anyone else had a comment about this. Councilor Asgeirsson said she had a point of order. She said we do not have a motion on this yet. Motion was made by Councilor Bermudez, to approve keeping the State Statute 36.121 in place, to safeguard water interests of 6,000 plus people living in the City of Alpine in its current form without any changes. Motion was seconded by Councilor Gonzales. Joseph Goldman said he read through section 36.121 and it says limitations on rule making power, in districts, over wells and certain powers. He said that is what it addresses. He said the last sentence is rather convoluted. He said it reads the district may not prohibit the political subdivision or municipality from transporting water inside or outside the district's boundaries. He said that is the last thing that he sees in here and it is very clear. He said what he would like to know is what is the jurisdiction of this appointed body? He asked if that was the jurisdiction within the geographic limits of Brewster County and is their jurisdiction over the water that is within the geographic limits of Brewster County. He said or is it? He said a hydrological limit or hydrogeological limit which talks about the aquifers that might extend beyond the boundaries or are they just restricted to those aquifers within the boundary. He said the second question he had is what enforcement does this particular entity, this regional entity, this Brewster County entity have. He said by the way, there is something here, in item 15 that talks about this entity. He said he got totally confused because it is the usual procedure that when you are going to provide or use initials with something you should give the full name first and have initials following it so that if you are going to continue to use the initials, it becomes clear of what you are going to use them for and what they mean. He said there is a statement here which says Brewster County Groundwater District and those initials are BCGD. He said that is what confused him as to what entity it is that is being discussed now. Mayor Rangra said when we get to item #15 we can talk about that. He said we have to be fair to everyone. Joseph said his question is then what is this entity. Mayor Rangra said this agenda is about 36.121 but he does not see a copy of it. The City Secretary said there is a copy in the backup book. Councilor Davidson said he thought it would be useful to combine all of these agenda items. Mayor Rangra asked if there were any more questions. Mayor Rangra read 36.121 to the council and audience. He said the bill states that a County with a population of more than 115,000, cannot take the water out of the county with a population of less than 14,000. He said El Paso County wants to buy water from Brewster County, Jeff Davis County or Presidio, under this, they cannot touch the water. He said if we do away with this exemption, El Paso can take as much water as they want to. He said that is what it is all about. He said he would like people to base their opinion based on fact. He said this is a very serious matter. He said the motion is made on item 10. He asked for further discussion. Councilor Lujan said this is a good item and it is kind of tricky. He said he was having a hard time to take a position on

this. He asked for the City Attorney's opinion on this and asked if we voted no on this if someone would come in and take over the control of our water. He said this is kind of a tricky item, very tricky. The City Attorney said a yes vote would be a signal to our state senator and state representative to not propose or support any amendment that would repeal 36.121. He said a no vote would give a similar signal to Senator Uresti and Representative Nevarez but he said he did believe that it would indicate support to repeal 36.121. Councilor Davidson said the repeal of 36.121 has never been an issue. He said for example Jeff Davis County merely asked for and voted to exempt them from this accidental net that was cast over them. He said there is a reason why most areas in Texas are under a groundwater district. He said the Mayor and he had lunch and exchanged ideas and he does not interpret this the same way that he does. He said the Mayor mentioned that El Paso has absolutely nothing to do with 36.121 because of its population. He said this is something put in by Midland to exempt them from the rules of the groundwater districts of their neighboring counties so that they can come in and drill a well and pump water. He said if anyone gripes because their wells go dry, this piece of the water code means tough luck. He said this act was amended in 2011 and that was because Midland grew and they had to add some numbers to the population figures. He said this is a piece of legislation strictly for Midland and by everyone's interpretation of this that he has ever gotten, as long as 36.121 is in place, and Brewster County falls under it, the City of Alpine's water is absolutely under threat. He said a citizen out here that has a well in their back yard is covered. He said that is unequal treatment under the law. He said their water can be protected by the groundwater district. He said in answer to Councilor Lujan, he said is that 36.121 is in place whether we vote here yes or no, it's still in place. He said we can vote no, but our City cannot make a change in the Texas Water Code. Councilor Bermudez said from her memory from last year, she remembers that the groundwater district mentioned that the sole purpose of removing section 36.121 was for 1) water conservation, and we know that Alpine is conserving water. She said the other one was the board needed reports. She said she thinks we have told Cindy, if she was not mistaken, that they were supposed to give those reports to the board. She said she believes that the reports were given to the board. She said she did hear some complaints about some reports being blacked out. Councilor Davidson said he was not sure the reports were up to date. He said he knew that the Mayor and City Attorney were making sure that they received the reports. He said they are required to keep this information. He said any public utility is required to keep that and it is public information. Cindy Hollander said her name was mentioned and it had to do with reporting and it comes out of her department. She said in 2006-2009 a request was made by Conrad Arriola for well pumping data. She said the complaint was that there were areas that were blacked out. She said the areas that were blacked out were actually wells that were in Jeff Davis County. She said if they want that data, because it is another

governmental entity, they will have to request it from that gcd and not from us. She said she gave them the data from our city. She said another TPIA request was given to Molly requesting the same data, 2006 to present. She said they copied that data and hand delivered it, got Conrad's signature on it and dated of delivery of those reports. She said those are on file in the City Secretary's office. She said her concern is that they have a little difficulty interpreting some of that data and they do not know what they have. She said she has offered to help but her offers have been refused by that office. She said to say that our reporting is lacking, she takes offense to. She said because Councilor Davidson received the very same packet that Conrad Arriola got in my office. Councilor Davidson said six months later he got the information he requested. Cindy said yes sir, because you requested the Musquiz data information. Councilor Davidson asked if that was not public information. Cindy said it was but he could get that information from the Jeff Davis gcd. She said that information is their property. Councilor Davidson said a citizen of Alpine who wants to know how and where the water comes from and asks the city utility department for information on their drinking water, they pay for, and we do not have to give them that information. Cindy said they get the public drinking water information. She said she gives those customers a consumer confidence report every year which is required by law. She said it is mailed to every customer. She said if another governing entity such as a groundwater conservation district, wants the required information that comes and is reported to another governmental entity, it is their responsibility to gather that information. She said it is not her responsibility to give reporting data of Jeff Davis County to Brewster County Groundwater Conservation District. She said that is the fine line. Councilor Davidson said he stands corrected. Mayor Rangra said if we get all of this discussion out now we can finish the rest of the meeting faster. Mayor Rangra asked Cindy if it was true that we gave the information to the water district and then they asked for the same information again. Cindy said that was true. She said the first time was whenever she came to work here. She said she received a request in November of 2008 for pumping data from 2006 to 2008. She said if you recall there was some leasing inspection requirements that we were visiting with Mr. Ponton on. She said we did not disclose private lease owners information until that was cleared up. She said then the data was from 2006 until July of 2009 and was copied, hand delivered and signed for by Mr. Arriola. She said then they received a TPIA request in November again for pumping data from 2006 to present again. She said the utilities department was in the process of remodeling. She said when they got those boxes out and ran those copies off, they hand delivered those to Conrad. She said they delivered from July 2009 to present, and he signed for those. She said she would not trouble this city to go through and make copies for data that they have already received and signed for. Councilor Asgeirsson called for a point of order. She said the Mayor was getting way off the agenda item. Mayor Rangra said he was not. Councilor Asgeirsson

said this agenda item was about 36.121. Mayor Rangra asked Councilor Asgeirsson if she wanted to conduct the meeting and told her she could conduct the meeting. Councilor Asgeirsson said to ask the attorney. She said Mayor Rangra was getting way off the agenda item. Mayor Rangra asked Councilor Asgeirsson if she wanted to conduct the meeting. Councilor Asgeirsson said she did not. Mayor Rangra said he did not need an opinion. Councilor Asgeirsson said yes he did. Mayor Rangra said we have this issue and then we are going to start talking again about the same issue. He said the reason these items about the water issue keep coming back every year or every two years because of this problem that keeps coming back. He said the reason is that we are accused of not giving the data. Cindy said that is not true and we are giving the data. Mayor Rangra said we are giving the data. Cindy said we are actually asking for a signed and dated documentation that it was received. Mayor Rangra asked if the City of Alpine was subordinate to the water district. Cindy said no it was not. Mayor Rangra asked the City Attorney if we were subordinate to the water district. The City Attorney said no, we are both governmental agencies. Mayor Rangra said he is being asked by a Councilmember to shut this discussion down. Councilor Asgeirsson said that is not true. Mayor Rangra said Cindy is giving the information to everybody and he asked her, her opinion of 36.121 since she has worked with Middle Pecos Groundwater District. She said she was actually on the ratification committee. He said her opinion is that without a joint and equal time, which means equal representation on that board, and if they are not willing to work with us on just a phone call basis, then are they willing to work with us on protecting our water. She said there are so many different issues on the table here, that it is very hard to discuss in a council meeting. She said currently 36.121 was a protection net and was not just for Midland. She said there are several communities that are still protected by 36.121. She said the reason for that being is some of your water conservation districts or some of your regional planning districts have not proven that they can protect another entity, for example Dell City, from coming in buying out your water. She said you can't tell them they can't buy property. She said you cannot tell them they cannot drill a well. She said once they drill that well and your water starts disappearing, at what point did you hire that attorney and go and seek remediation. She said she is sorry. There are so many aspects to 36.121 that need to be explored. She said every time this comes up, they wait until right before it is being presented in the legislature and we've had two years to talk about it and they have refused to talk about it. Mayor Rangra said that is right. Cindy said that is her stance and if you want our support and want us to help you do that, then you should have been at the table and you should have been talking about it and we should have been working together. She said that is her opinion. Mayor Rangra thanked her for her opinion. Councilor Lujan asked if we are voting now. Mayor Rangra said he was going to ask for the vote. Councilor Lujan said he was going to abstain on this item. He said the reason he was going to

abstain was because he might decide to bring it back. Councilor Davidson said as a point of order, the only people who can bring it back are the ones that voted for it on the winning side. City Attorney Armstrong said the only ones who can bring it back are the ones who voted for it on the winning side of the question. Councilor Lujan said he did not agree but he may end up voting. Councilors Bermudez and Gonzales voted in favor. Councilors Davidson, Lujan and Asgeirsson voted against. Motion failed.

- 11. Discuss and Consider setting date(s) and establish procedures for Employee evaluations – John Armstrong (M. Davidson) –** Councilor Davidson said for him this is just a housekeeping exercise, despite accusations to his intent. He said he thought we asked Mr. Armstrong to look into what our established procedures were and it was Councilor Davidson's intention to review those, see if we find them adequate and if not we take another look at it and make another revolution. He asked City Attorney Armstrong if he had any recommendations for the Council at this time. Mr. Armstrong said he had some material for the council but due to the length of the meeting, unless it is really important, he would like to pass out the material to the council. Councilor Davidson said he would be happy to accept the material and take this item off the agenda. Councilor Davidson said the council would take the information Mr. Armstrong has for them and study it. Councilor Davidson made a motion to postpone action on this item. Motion was seconded by Councilor Asgeirsson. Mr. Armstrong passed out the information to the Council. Motion carried unanimously.
- 12. Discuss and Consider possible action regarding operations at City Yard in Ward 2. (C. Garcia, CM) –** The City Manager said we don't have any real cost estimates. He said we estimate that it would run between \$100,000 and \$150,000 because of the buildings we would have to build and the storage facilities. He said we do not have any real cost estimates and we need some detailed cost estimates before we proceed. Councilor Davidson said he thought if this would cost that kind of money we need to find another alternative. The City Manager said it would take us building two big buildings to conform. Councilor Davidson made a motion, to wait until we have a better cost estimate and postpone this item indefinitely. Motion was seconded by Councilor Asgeirsson. Anita DeVries asked if this was a line item in the budget that had been approved. The City Manager said it was not even in the budget and had not been approved. She asked why we are listing agenda items that are not approved in the budget. Motion carried unanimously.
- 13. Discuss and Consider Advertising fees in Texas Journal in the amount of \$5,450. (C. Garcia, CM) -** The City Manager said he has not been able to get more information on this item. He said his recommendation was just to drop this item since he does not think it would benefit us. He said he does

not have the amount of circulation or anything like that. He said he thought the gentleman wanted an answer, but he has not provided any more information to us. Motion was made by Councilor Bermudez to drop this item from the agenda. Motion was seconded by Councilor Asgeirsson. Motion unanimously carried.

- 14. Discuss and Consider soliciting proposals for new software for cities general ledger, accounting package and utilities package. (C. Garcia, CM)**
- The City Manager said we did not take action on this last time so to move forward we put this item back on the agenda to solicit proposals. Councilor Asgeirsson made a motion, by Resolution 2013-02-13 to solicit proposals for new software for the city's general ledger, accounting package and utilities package. Motion was seconded by Councilor Bermudez. Anita DeVries asked if this was something that was budgeted for. The City Manager said it was not. Anita said again, she questioned why this was on the agenda. Motion unanimously carried. Councilor Davidson said a budget can be amended and this is a real need that we have and there is also a contingency fund in the budget that we have and it would be a simple matter if we find a solution that we favor. The City manager said this would cover the gas department and all utilities.

- 15. Discuss and Consider Support of filing legislation to exempt Brewster County Groundwater District from Section 36.121, Texas Water Code, while continuing to meet with GCD to adopt inter-local agreement governing City of Alpine and BCGCD Relationship. (M. Davidson)** - Councilor Davidson said of course the BCGCD stands for Brewster County Groundwater Conservation District. He said this goes with item 10. He said this is the idea. He said we brought this up back in December, to get together with the Groundwater District and start. He said we had some very productive discussions two years ago and almost came to some agreements. He said he thought in favor of the City of Alpine there is some support on the Groundwater District Board to exempt the municipal use from fees into the future and nobody on the board right now has any inkling at all to impose any limits on anybody, much less the City of Alpine or the municipal users. He said we could adopt an inter-local agreement between the groundwater district and the city to exempt the city from any fees in the future, production fees, as well as pumping limits, at least on existing wells. He said the whole timing issue about filing legislation is that this would be a local issue and at anytime during the point, this body could vote to not support it and then it would just fail. He said it would just go in the trash can like it did two years ago. He said in his opinion, of course, which we don't all share, and he respects everybody for their opinion, this would both protect the city from unknown fees and limits that may come in the future and would also give the city the protection from the groundwater district from outside entities. Motion was made by Councilor Davidson, by Resolution 2013-02-14, that

we support filing the legislation and that we continue to meet with the groundwater district to craft an interlocal agreement. He said that agreement will come back to the City of Alpine for its approval. He said if and only if at that time, it seemed appropriate and we agreed on it, we would support the actual passage of the legislation. If we cannot craft an agreement or interlocal agreement that everyone agrees with, in a regular city council meeting, the legislation dies. Motion was seconded by Councilor Asgeirsson. Mayor Rangra said Councilor Davidson is suggesting that we support the water district efforts to file legislation. He said we are going to talk, the City of Alpine Council and the Brewster County Groundwater Conservation District and if those fail, this will be brought back to the Council and suggest to the legislature that we do not want this legislation. He asked if that was what Councilor Davidson was saying. Mayor Rangra said if it doesn't work out, we will bring this back and say kill it. Councilor Davidson said the legislature will not move the bill through unless they have our support. Mayor Rangra said if we do not inform the legislature, they are going to go through with it. He said so Councilor Davidson is making the recommendation that if we do not reach any agreement with the water district that we need, Councilor Davidson will recommend to the legislators that this legislation be killed. Councilor Bermudez asked if this was still the same thing as last year. She said if we don't go ahead and say yes to the interlocal agreement, then forget about it, and why bother to go. She said that is what they told us last time. She asked if this is going to be the same thing like it was last time. She asked if they were really going to listen to our petitions, as to what we like, etc. Councilor Davidson said he thought the groundwater district did last time. Councilor Bermudez said there were a couple of times that they said they were "out of here" if you all do not want to decide. Councilor Davidson said there were some groundwater district members that have differences of opinion, honest differences of opinion, just like here. He said he thinks that the chances here, one of the reasons he feels strongly about working together and putting together a package that would make you comfortable, make Mayor Rangra comfortable, make Councilor Gonzales comfortable that would make the concerns that you have go away about future regulations and possible fees but also make sure that the groundwater district has the capability of protecting the city of Alpine's water against outside threat. Councilor Davidson said that outside threat could be a development or someone like all the big guys with the money who would want to deliver water to Midland or El Paso. He said if they started irrigating the pecan orchard out there by Sunny Glen, that could affect our wells and if they did we would have nothing to say about their pumping level. He said he really thinks we need the protection for our groundwater that the legislature has given to groundwater districts in general. He said the only limitation that this groundwater district has a special part of their legislation that is fairly unique but not all of them have it. He said it has to do with exporting the water. He said if in the future the

City Council wanted to sell water to Midland and deplete our resources and not leave it for our grandchildren or whatever and sell it for a profit to balance the budget or whatever. He said that exported water, water sold at a profit to someone for exploration or other municipal outside the area, they cannot prevent it by law. He said export is not prejudiced by the Texas Water Code at all to prevent how people get their water but it could be limited if it endangers our local water supply. He said it might limit in some way future options of the city of Alpine if we have a council that really wanted to mine our water and sell it out for profit and the city has sold water to mineral development before at a bulk price that is less than what our customers pay. He said that has been a while and that is not really an issue on the table. He said he thought it can't hurt to meet together and talk and in the past, as in the meetings two years ago, were always over there at the courthouse during the day. He said the district members are perfectly happy to meet in the evening at a time more convenient to all of us here that work during the day and even at these chambers. Councilor Lujan asked why Councilor Bermudez did not respond about the last meeting. Councilor Bermudez said she would like to tell Councilor Lujan why she was not at the meeting. Councilor Lujan said she did not have to tell him why she was not at the last meeting. Mayor Rangra said we need to talk about the item and not why Councilor Bermudez was not there. Councilor Lujan said he has heard talk about three years ago and two years ago and this and that. Mayor Rangra said Councilor Lujan was personalizing this and asked him not to. Councilor Lujan said he would like to ask Mr. Armstrong if he has seen harm to our water resources by us not going along with this change in 36.121. City Attorney Armstrong said that was way beyond his contact. Councilor Lujan said he was going to follow Councilor Davidson's advice and what he has heard up till now. Councilor Gonzales said he would like to point out that water is going to be our most important resource. He said he does not feel comfortable putting the filing of the legislation in front of us and not being able to negotiate the interlocal agreement first. He said he has a problem with that. He said we had two years from the last time like he heard Councilor Davidson quote and this water board could have met with us earlier and not here at the very last. He said we have a month to go before it is all said and done. He said that means that we have to meet in between here when we could have done it a year and one half ago. He asked why are we waiting so long and why all of a sudden this becomes an emergency that we need to do this because of time restraints. He said he has a problem with that. Councilor Davidson said he can understand. He said we all went to those meetings and we came very close to making a deal. He said it is a two way street, in some ways if they are petitioning our support. He said during all these years there are a lot of people that have put in a lot of time and homework. He said there are three members of that board that are City of Alpine and there is one member of that board that is actually a past utility director of the City of Alpine so they are very knowledgeable people. He said he can

understand Councilor Gonzales' problem and he does not really have an excuse to add but he can just say that we have had a lot of issues out on the table at the past and he does not think it will take very long if we can narrow down our concerns to fees and pumping limits. Councilor Gonzales said he has another concern that Councilor Davidson was not mentioning. He said he would like to point out that this board is appointed and not voted on. He said he does not think that even though the board has people who live in Alpine, that we have a representation of the City of Alpine. He said we need the people to go ahead and vote for a water board director and give us the right proportion because we are a big city in the sense that we have 6,000 people as compared to the people that live outside the city in Brewster County. He said this is another concern that he has. He said he thinks it is very important that we have representation that is going to be voted on by the people that live here that are going to feel the effects of whatever decision that we make. Councilor Davidson said he has a great sympathy for that point of view but he said he wanted to tell Councilor Gonzales how that works. He said as far as statute goes, once you have an elected board it is a tax entity. He said once it is an elected board, neither the county nor the city can finance it. He said it would have to be financed with ad valorem taxes. He said it was specifically set up by an enabling election that the whole county voted on to approve or not approve the groundwater district. He said it won by 11 to 1 county wide. He said the majority of the people who voted live in Alpine, so the vast majority of the citizens of Alpine voted to approve this board before anyone was aware that this oddball piece of the water code affected us. He said nobody voted thinking that Alpine was going to be exempt. He said but you are right and that is an issue and that is something that would have to be brought to the legislature to make it an elected board. He said it would have to go through the legislative process and then it would have to have an enabling election and the citizens would have to vote and give the board the power of taxation. He said what we are trying to do is avoid fees on our water. He said to give this board the power of taxation to put a tax on your house does not make sense. Councilor Gonzales said no one wants more taxes but nobody wants to give the power of what is going to happen to our water because he thinks it belongs to the public and does not belong to a water board to decide. Councilor Davidson asked if Councilor Gonzales knew who it belongs to. Councilor Davidson said it belongs to the property owner. Councilor Gonzales said he understands that and he is not taking it away from them, but at the same time you have a lot of people here who are using water. He said we are giving up the ability to be able to manipulate the water ourselves by giving up the right of having people appointed and not elected. Councilor Gonzales said we have a lot of problems. Councilor Gonzales asked Councilor Davidson to answer the question about why wasn't it done before, the interlocal agreement, before we decide to hurry up and do this. Councilor Davidson said he did not say we had to hurry. He said it was on the agenda tonight and we are going to vote on it and see

where it goes. He said it is what it is. He said he wished that we had met and it seems like we have, these days, meetings that last three or four hours and everyone is busy and it is just one of those things that you put off, just like Christmas shopping. He said he ends up shopping on the 20th of December every year. Councilor Gonzales said he thinks the water is very important and it should have been done a lot sooner. Councilor Davidson said he agrees with him. Councilor Bermudez said in the minutes that we have from the meeting on Thursday, it states that Chachi said that there is not a reason for the future local agreement if they are not able to file this legislation. She said she is going to go ahead and try to work with the county this time around but even though she feels like this is a shotgun wedding, between the county and the city. No power, no agreement. Cindy Hollander, Utilities Director said we have had 2 years to talk about this and she has been here for 7 years. She said she believed we should draft the interlocal agreement before we draft the legislation and send it to Austin. She said there is not that much water out here. She said there are no entities that can come in and take the municipalities water. She said before the Council supports drafting a legislative bill we should sit down first and draft a legislative agreement. She said the horse needs to be before the cart. She said scare tactics need to be left out of this. She asked what the means were for enforcing things. She asked why we had to discuss this as an interlocal body. She said there are rules for small counties and the jurisdiction is the county line. Anita DeVries asked who was giving Brewster County Groundwater Conservation District their guidance. She said the City of Alpine can choose to hold an election for whatever they want. She said they do not want to turn the board into a taxing entity. She said the Council has a right to have a representative on that water district board. Councilor Davidson said most of their monthly meetings are concerning well drilling permits and water usage. He said that they work with Dr. Urbanzyk as a technician. He asked the City Attorney to see if it would work for the city to elect a person. Anita DeVries asked how the agenda was set. Councilor Davidson said Conrad Arriola sets the agenda, who is the Executive Manager. He said mostly it involves updates about legislation and sometimes they bring in people for presentations from the Water Development Board or hydrology outfits. Anita said her concern then is if you wanted to do an interlocal agreement you have to get that on an agenda and someone who has management over our representatives need to have them put that forth. She said she is not hearing from anybody on the council of anybody that knows that you are the responsible parties that are supposed to be doing that. She said her concern is that you have representation but who has the oversight of these representatives and how are we going to get this on the agenda unless the council approves it and then dictates our representative and if they have their own agenda they can thumb their nose at you and say we are not doing that. Councilor Gonzales said what happened last time two years ago was that they did want to give us representation. He said they said one person from Alpine is going to

represent the City and then they threw in another one, who they said could be there, but could not vote. He said he was saying that we did not accept that. He said we do not want that. He said that was not fair. He said that was one of the items that caused it to fail because we are not getting the representation that we want and need. Robert Steele said you either have a local appointed authority making decisions or you will defer to someone sitting in Austin. He said you need to bear that in mind. He said he has heard a lot of discussion and he does not claim to be a water lawyer. He said he read the statutes that we are talking about tonight. He said it seems to him that there is a risk in there if someone came in and they could in fact drill a well and export the water. He said you cannot do a lot about it. He said the groundwater control district is the preferred governing mechanism in the State of Texas, for controlling the use of groundwater. He said if you are going to try to stop the big straw coming in, usually the big straw wins. He said you need to consider where is your threat and he will not make that assessment for them. He said he can tell us that the statute is not protecting us from someone coming in and taking water out. He said the groundwater control district is your means of regulating groundwater in this area. He said the details in the interlocal agreement are for you all to work out. He said those are the really key issues that we have. Mayor Rangra said this board is appointed by the County Commissioners. He said in Presidio they changed the process. He said each city sends a representative and the school board sends a representative. He asked if there was a problem with the City of Alpine sending a representative who represents just over 6,000 people. He said the school may want to send a representative and Sul Ross may want to send a representative. He said last time there was an argument and it did not go anywhere. Mayor Rangra asked where the money came from to run the district right now. Councilor Davidson said it is from the County. Mayor Rangra asked if it was tax money. Councilor Davidson said it was about \$18,000 and was tax money. He said the money was used for everyday stuff. He said it would be great to have more money to do more well monitoring, this and that. He said the district did have a little savings that they had built up and have spent it. He said he would quickly point out that it was not adequate. Councilor Lujan said Pecos and Fort Stockton are having issues with a millionaire now, Clayton Williams. He said he thought if they were to fight themselves as a city there would be bets as to who would win. He said we also heard that the silver mine will use a million gallons of water per day. He said it is something that we really need to discuss. He said he does not see anything in this item that is compromising the city of Alpine. He said he agrees that we need to appoint more people on the board from the city of Alpine. He sees a willingness for that in the meeting that we had the other day. He said for right now he would just like to make a statement. He said he will make the best decision that he can to represent the 6,000 people in the city of Alpine. He said he does not see any compromise so he is going to support this issue. Mayor Rangra said you mentioned Pecos County. He said

Clayton Williams can still take water out even though it is protected by the groundwater district. He said if someone wants to take water out of this town the water district still cannot do anything. Councilor Davidson said they can take it to the District Court. Mayor Rangra said it still happens. He said the protection we are hearing about is not a protection. He said he has argued this point. He said if the members are not elected, they should be appointed from different entities. He said we always hear about this a few months before the legislative session in Austin. He said he is glad at least this time the county is asking the Council to do something. He said there was a suggestion made about the taxing entity. He said if it becomes a representative body then perhaps these bodies can contribute some funds. He said we need to discuss this. He said as is one side keeps talking and we don't get any answers like the question that Anita asked about who is in charge and how does the agenda get done. He said we are sitting over here and have no idea what the board is doing. He said we have no idea how the board is monitoring water. He asked how many wells we have county wide. He said we have 60% of the population that uses 40% of the water. He said that means 40% of the population uses 60% of the water. He asked where is that water going, agriculture or industrial! He said we do not have that information. He said if we are going to be equal partners and not be subordinate, we have to be shaking hands and hands have to be shook as equals. He said it has to be done in a fair way. He said now we are saying let's go ahead and file the bill and later on if we change our mind we will remove it. He said when a bill goes there nobody knows where it winds up. He said you can try all you want to but it will pass as an amendment or something else. He said his suggestion is let's talk and get the interlocal agreement first. He said we have one month and then at the end or middle of the month, after we agree, all of us will drive to Austin and go together. He said that is his recommendation. Councilor Asgeirsson asked how many meetings Mayor Rangra has attended. Mayor Rangra said he has not attended any because this last meeting, he was asked to attend, he had a class to teach. He said when he was on the council they never met. He said they meet in the mornings and he does not have time to go in the mornings. Councilor Davidson said he had a meeting one time and Mr. Garcia was there and the City Attorney was there and Pete Gallego was there but the Mayor was not there. Mayor Rangra asked if this was in Austin. Councilor Davidson said it was in Pete's office. Councilor Davidson called for the question. Joseph Goldman said one of the services the groundwater district provides in permitting. He said he understands that Alpine has a code to permit wells. He asked if this would be something different than an Alpine permit for wells. He asked if there would be a depth limit. Councilor Davidson said that was a ridiculous concept. Joseph said "Don't say that that is a ridiculous concept because there are depth limits such as in Harris County". He said this is a directed question to Councilor Davidson because he said that this would be a service but we permit our own wells so what service would that be. Councilor Davidson said he

would have to do some research but he wanted to ask if we had anyone here from the code department. He asked if the City of Alpine permitted wells and had a permitting system. Cindy Hollander said we did have a permitting system within the city limits. Councilor Davidson said they also had to get one with the groundwater district as well. Cindy said there is a lot of duality when you are looking at rules and filing documentation with the state. She said the permits serve a purpose and they serve a separate purpose. Mayor Rangra said he did meet in Pete's office and they agreed to exempt the City of Alpine from the number of gallons that we are pumping at that time. He said the board for some reason did not agree with that. He said let's get this clear. Councilors Davidson, Lujan and Asgeirsson voted in favor. Councilors Bermudez and Gonzales voted against. Motion carried.

16. Discuss and Consider a City Wide Spring Cleanup. (A. Bermudez) –

Councilor Bermudez said she would like to amend this. She said she spoke with Martha Latta to see if we went ahead and had this clean up campaign if we could use the dump. She said they are already having a Texas Trash Off on April the 6th. She said Martha suggested that we get together. Councilor Bermudez said she would like to amend this to say Discuss and Consider Texas Trash Off Day on April 6th. She said she imagined that everyone has been around town and said the same thing. She said you see mattresses and brush and everything in the wrong places and not in the trash cans. She said it is getting worse and worse and we are all fed up with it. She said lets help each other as a whole community. She said lets help each other and pick up that stuff and take it to the dump. Martha said Texas Trash Off is a part of Keep Texas Beautiful and it is also part of Keep America Beautiful. She said this is one signature event. She said last year over 2,000 events in the state of Texas were registered for the cleanup. She said we are part of this statewide event. She said she has already got the boy scout troop to clean up Alpine Creek and the 4-H or FFA are wanting to clean up and she will talk to the school district. Councilor Bermudez said she was hoping to get some of the Civic Clubs to help such as the Lions Club. She said she wanted to talk to Dr. Maestas to see if some of the college kids would help us out also. Motion was made by Councilor Bermudez, by Resolution 2013-02-15 to approve a Texas Trash Off Day on April 6th. Motion was seconded by Councilor Davidson. Motion unanimously carried. Councilor Davidson said he thought one of the best things people could do on their own lot to help to keep the trash down is when you take something out to the dumpster, close the lid.

17. Discuss and Consider library construction bid. (C. Garcia, CM) –

The City Manager said the library only received one bid. He said they could not get any other bids. He said we put on this agenda for the library to use the funds that were allocated by HUD. He said we do have to modify the grant somewhat before we start construction but they assured him that they could get it done. The money is coming from the library fund grant. Mayor

Rangra asked what are we constructing?. The City Manager said it is a canopy over a concrete pad that they have on the West side of the library. Councilor Davidson asked how big it was. The City Manager said he did not know the dimensions, he thought 24 by 24. Martha Latta said it was 30 by 40 more or less. The City Manager recommended that they move forward and he would get clearance from HUD. Motion was made by Councilor Gonzales to approve the library construction bid by Resolution 2013-02-15. Motion was seconded by Councilor Davidson. Motion unanimously carried.

18. Discuss and Consider approving batting cage for BBSA. (C. Garcia, CM) –
The City Manager said this was a proposal that they submitted to the Parks Board and they agreed on it. He said he believed the funding was coming out of the hotel/motel tax award that they received so they could attract softball tournaments. Motion was made by Councilor Asgeirsson, by Resolution 2013-02-16, to approve the batting cage for BBSA. Motion was seconded by Councilor Gonzales. Anita DeVries had a question as to the cost of the batting cage. Carla Spencer with BBSA was present and she said they were not using hotel/money funds for this. She said they were paying for this themselves and were not asking for any money. She said all they are asking for is approval on this project. Motion unanimously carried.

19. Discuss and Consider having a public referendum regarding State Statute 36.121 to safeguard water interests of 6,000 plus people living in the City of Alpine in its current form without any alteration. (A. Bermudez) – Councilor Bermudez said water is so very important that she knows our constituents put us here so that we could make decisions but something as important as this, the public itself should be able to want to vote on something like this for us to keep it or do away with it. She said that is what this agenda is about. Motion was made by Councilor Bermudez, to approve having a public referendum regarding State Statute 36.121 to safeguard water interests of 6,000 plus people living in the City of Alpine in its current form without any alteration. Motion was seconded by Councilor Gonzales. Councilor Davidson said the voters in the City of Alpine and Brewster County overwhelmingly voted by an 11 to 1 vote for the organization of the Brewster County Groundwater Conservation District in 2001. He said it seems like they already had their shot at it. Mayor Rangra said only 400 people voted in that election and he wanted to keep that in perspective. Councilor Asgeirsson asked when this would happen and how much would it cost the City of Alpine. The City Secretary said the Secretary of State would have to be notified and schedule this election on a uniform election date. The City Secretary said the election would cost about \$5,000 to \$6,000. Councilors Bermudez and Gonzales voted in favor. Councilors Davidson, Lujan and Asgeirsson voted against. Motion failed.

20. Discuss and Consider forming a committee to study Charter. (J. Gonzales) – Motion was made by Councilor Gonzales to table this item until

a later date. Motion was seconded by Councilor Lujan. Motion carried unanimously.

21. Discuss and Consider submitting an application for water well development and rehabilitation through Texas Water Development Board and authorizing Naismith to pursue the application. (C. Garcia, CM) – The City Manager said this is an issue where there were some funds available that we got notice of. He said Tom had talked about this at our last Council meeting. He said the first come serve would get the money so we are trying to move forward and submit an application. Mayor Rangra asked if we were just submitting an application and no money was involved. The City Manager said that was correct. Motion was made by Councilor Bermudez to approve submitting an application for water well development and rehabilitation through Texas Water Development Board and authorizing Naismith to pursue this application, by Resolution 2013-02-17. Motion was seconded by Councilor Gonzales. The City Manager said \$379,000 is available but we are not asking for a specific amount. Councilor Davidson said we will come out with a ranking and then we will decide based on what we are qualified for. He said so then we are really not committed to this so we can do some planning. The City Manager said this is just an application to get our name on the list. Motion unanimously carried.

22. Discuss and Consider refinancing city water and sewer Revenue Bonds of \$685,000 for a savings of \$129,433. (C. Garcia, CM) – The City Manager said our financial people have reviewed our bonds and this one is eligible for refinancing. He said Mr. Pollen recommended that we move forward and refinance for a lower rate. He said we stand to save about \$129,000 on the issuance and refinance it for the same period. He said all we are asking for is a lower interest rate. He said this CO was issued years ago. Motion was made by Councilor Gonzales by Resolution 2013-02-18, to approve refinancing city water and sewer Revenue Bonds of \$685,000 for a savings of \$129,433. Motion was seconded by Councilor Bermudez. Councilor Davidson asked if this was the CO for the belt press. The City Manager said this was a different CO. Motion carried unanimously.

23. Discuss and Consider renegotiating Cartwright water agreement and extending contract for 5 years. (C. Garcia, CM) – The City Manager said Rebecca Smith had asked us to review the contract and she wants to set up a yearly renewal and make the contract for 5 years. He said she wants to add 2 more cents to her price on the water that we draw out of her well. He said that will go from 15 cents to 17 cents per thousand. He said she would get about \$993 versus what she was getting previously which was about \$800 per month. Motion was made by Councilor Asgeirsson, by Resolution 2013-02-19, to approve renegotiating the Cartwright water agreement and extending the contract for 5 years. Motion was seconded by Councilor Bermudez. The City Attorney said he would like to have a chance

to pass through this contract. He said he would be happy to work with the City Manager to approve this agreement. He said some terms are loose. Councilor Asgeirsson amended her motion to accept the City Manager's recommendation to go ahead and approve this contingent on the City Attorney looking over the agreement and make sure it is correct and once approved by him, to go forward with it. Motion was seconded by Councilor Bermudez. Motion unanimously carried.

24. Citizen's Comments (limit 3 minutes) – None

25. Council's Comments and Answers -

Councilor Lujan – said he just wanted to make a comment about Councilor Bermudez and the disrespectful comments that she made about him. He said do not hold her responsible because she was just reading a script like she usually does. He said Mayor Rangra and his cronies are heavily involved in the cover up of the misappropriations of city funds and tens of thousands of dollars for city employees to be swept under the carpet. He said he is going to start collecting the required signatures for a petition to recall Mr. Rangra as the Mayor of the City of Alpine and then call for a special election. He said your input and support will be very much appreciated.

Councilor Bermudez – said she would like to thank the public for coming and staying up with the Council.

Motion was made by Councilor Gonzales, by Resolution 2013-02-20, to enter into executive session. Motion was seconded by Councilor Davidson. Councilors Bermudez, Davidson, Gonzales and Asgeirsson voted in favor. Councilor Lujan voted against. Motion carried.

26. Executive Session – Pursuant to Texas Government Code, Subsection 551.071, Consultation with Attorney, possible pending or contemplated litigation or settlement offer, Subsection 551.072, Texas Government Code, Consultation with Attorney concerning Real Estate Issues, and Subsection 551.074, Texas Government Code, Personnel Matters.

A. 1. Rey Dominguez to address Council concerning grievance. (C. Garcia, CM)

2. Consider calling witnesses concerning grievance of Rey Dominguez. (M. Davidson)

3. Consider possible reinstatement of Rey Dominguez to original position (job). (C. Lujan)

B. Consider new personnel – financial policy for city. (C. Garcia, CM)

C. Consider the following:

1. Review and control of City Credit Cards usage. (C. Lujan)
2. Removing all charging privileges by City Personnel. (C. Lujan)
3. Cash Advances taken by City Employees. (C. Lujan)
4. Status of pay back of cash advances taken by City Employees. (C. Lujan)
5. Checks written by City Finance Director to himself. (C. Lujan)
6. Status of pay back of money city Finance Director paid to himself. (C. Lujan)
7. Status of pervasive abuse of overtime by Employees, including employees taking overtime not yet worked. (C. Lujan)
8. Status of tightening general ledger controls, and general lack of documentation and oversight of city accounts and funds. (C. Lujan)
9. Select new signature cards for all city accounts and funds. (C. Lujan)
10. Request all names of everyone who has had access to city credit cards prior to the month of January, 2013. (C. Lujan)
11. Accounts Payable and Check Register presented at every Council meeting for all bills payable. (M. Davidson)

D. Discuss directing City Attorney to immediately contact proper authorities to report accounting problems for a full investigation of city accounts and funds. (C. Lujan)

E. Discuss contracting a forensic auditor either from the Attorney General's office, if able and available, or a private concern licensed by the Association of Certified Auditors, to conduct a forensic audit retroactive 6 years, more or less, depending on the auditor's findings. (C. Lujan)

F. Discuss job status of City Manager, including possible termination, and if necessary, appoint an interim City Manager for a period of six months. (C. Lujan)

G. Discuss Scown lease. (C. Garcia, CM)

H. Consider proposals for old landfill use. (C. Garcia, CM)

27. Action – Executive Session – Pursuant to Texas Government Code, Subsection 551.071, Consultation with Attorney – possible pending or contemplated litigation or settlement offer, Subsection 551.072, Texas Government Code, Consultation with Attorney concerning Real Estate Issues, and Subsection 551.074, Texas Government Code, Personnel Matters. -

A.1. Consider action concerning Rey Dominguez grievance. (C. Garcia, CM) –

2. Consider possible reinstatement of Rey Dominguez to original position (job). (C. Lujan) –

Councilor Davidson said on Section A, items 1, 2 and 3 he made a motion that further discussion on this be postponed until the next executive session. Motion was seconded by Councilor Gonzales. An item 3 was added for the witnesses on part A of Executive session. Motion unanimously carried.

B. Approve new personnel - financial policy for city. (C. Garcia, CM) – Motion was made by Councilor Davidson, by Resolution 2013-02-21 to consult with the staff and attorney to finalize the details of a new personnel policy. Motion was seconded by Councilor Gonzales. Motion unanimously carried. Policy Changes are as follows:

1) Check transactions of any amount require two signatures, City Manager and Mayor. In absence of Mayor, Mayor Pro Tem will be 3rd and only other signatory.

2) Accounts payable will be presented to City Council in pre-meeting information package. All bills will be approved by department heads and coded by budget line item. No bills will be paid that have not been processed, reviewed and approved by City Council.

3) City credit cards have been cancelled. New credit card use will be monitored through the same review process as item 2, in detail.

4) Travel expenses for city employees must be documented by receipt. If an advance has been made, failure to produce appropriate travel receipts by city employees within two weeks of travel will result in withholding from the next paycheck.

5) City Council will strengthen ledger controls across the board.

C. Possible Action on the following: (C. Lujan)

1. Review and Control of City Credit Card usage. (C. Lujan) -
2. Removing all charging privileges by City personnel. (C. Lujan)
3. Cash advances taken by City Employees. (C. Lujan)
4. Status of pay back of cash advances taken by City employees. (C. Lujan)
5. Checks written by City Finance Director to himself. (C. Lujan)
6. Status of pay back of money City Finance Director paid to himself. (C. Lujan)
7. Status of pervasive abuse of overtime by Employees, including employees taking overtime not yet worked (C. Lujan).

8. Status of tightening general ledger controls, and general lack of documentation and oversight of city accounts; and (C. Lujan)
9. Select new signature cards for all city accounts; and (C. Lujan)
10. Request all names of everyone who has had access to City Credit Cards prior to the month of January, 2013. (C. Lujan)
11. Strengthen ledger controls across the board (M. Davidson)

Motion was made by Councilor Davidson for sections C 1, 2, 5, 7, and 8 that no action be taken, as those have been taken care of by Resolution 2013-02-28. Motion was seconded by Councilor Asgeirsson. Motion unanimously carried.

Motion was made by Councilor Davidson made a motion by Resolution 2013-02-22, concerning items C 3 and 4, outstanding balances from city employee pay advances must be paid back immediately in full. Motion was seconded by Councilor Bermudez. Motion carried unanimously.

Motion was made by Councilor Davidson made a motion by Resolution 2013-02-23 for item C6, that inappropriate pay advances by the financial director by writing checks to himself on city accounts in the amount of \$9,000, must be reimbursed immediately, and pending discovery of other unauthorized withdrawals, the Council will take further action. Motion was seconded by Councilor Bermudez. Motion carried unanimously.

Motion was made by Councilor Davidson, by Resolution 2013-02-30, (on item C-9) to have two signatures on all checks. People allowed to sign checks are Chuy Garcia, City Manager, Mayor Avinash Rangra and Mayor Pro Tem Mike Davidson. Check transactions of any amount require two signatures, City Manager and Mayor. In absence of Mayor, Mayor Pro-Tem will be 3rd and only other signatory. Motion was seconded by Councilor Bermudez. Motion unanimously carried.

Motion was made by Councilor Davidson that no action be taken on item C 10, by Resolution 2013-02-29, since all employees had the availability to use credit cards but that use has been curtailed. He said there would not be any action on this because they have taken measures to eliminate that problem. Motion was seconded by Councilor Gonzales. Motion unanimously carried.

Motion was made by Councilor Davidson, by Resolution 2013-02-24, for item C-11, that the accounts payable and check register coded by department heads, be presented at each City Council meeting for Council approval for all bills payable. Motion was seconded by Councilor Bermudez. Motion unanimously carried. Item 11 was added during the Executive Session.

D. Consider action directing City Attorney to immediately contact proper authorities to report accounting problems for a full investigation of city

accounts and funds. (C. Lujan)

Motion was made by Councilor Davidson, by Resolution 2013-02-25, for item D, to direct the City Attorney to contact the proper authorities, as appropriate, to report accounting problems for a full investigation. Motion was seconded by Councilor Bermudez. Motion unanimously carried. City Attorney will contact Texas Attorney General and other appropriate investigative and/or judicial offices for information, assistance and to provide information and be as transparent as possible as investigation proceeds.

E. Consider action concerning contracting a forensic auditor either from the Attorney General's office, if able or available, or a private concern licensed by the Association of Certified auditors, to conduct a forensic audit, retroactive 6 years, more or less, depending on the auditor's findings. (C. Lujan)

Motion was made by Councilor Davidson, by Resolution 2013-02-26, for item E to direct the City Attorney to contact a forensic auditor and bring proposals back to the City Council for review and approval. Motion was seconded by Councilor Asgeirsson. Motion unanimously carried. A forensic auditor will be Contracted to investigate City accounts. City Attorney will solicit proposals and report to Council. Motion unanimously carried.

F. Consider action concerning job status of City Manager, including possible termination, and if necessary, appoint an interim City Manager for a period of six months. (C. Lujan)

Motion was made by Councilor Davidson, who said considering the time of night, and the seriousness of this matter, and the need for more discussion, he moved that we continue this item, item F, on the next executive session. Motion was seconded by Councilor Lujan. Councilors Bermudez, Davidson, Gonzales and Asgeirsson voted in favor. Councilor Lujan voted against. Motion carried.

G. Consider Scown lease. (C. Garcia, CM)

Motion was made by Councilor Davidson, by Resolution 2013-02-27, for item G, to ask the City Attorney to search the city records, especially of an appellate ruling in a previous lawsuit that the city was involved in with the Scowns. Motion was seconded by Councilor Asgeirsson. Motion unanimously carried.

H. Consider selecting proposal for old landfill use. (C. Garcia, CM)

Motion was made by Councilor Davidson, to take no action on item H, as we have no appraisal. Motion was seconded by Councilor Gonzales. Motion carried unanimously.

28. Adjournment – There being no further action, meeting was adjourned

I certify that this notice was posted at 5:00 P.M. on February 22nd, 2013, 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 22nd, 2013, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Margaret "Molly" Taylor, City Secretary