

**City of Alpine  
Regular City Council Meeting  
March 19th, 2013  
6:00 P.M.  
Minutes**

- 1. Call to Order, Invocation and Pledge of allegiance to the flag – JoBeth McLeod gave the invocation to the flag and Mayor Rangra led the pledge of allegiance to the flag.**
- 2. Determination of a quorum and proof of notice of the meeting – Mayor Rangra and Councilmembers Bermudez, Davidson, Lujan, Gonzales and Asgeirsson were present. Meeting notice had been posted at 4:15 P.M. on March 15, 2013.**
- 3. Presentations, recognitions and proclamations – Mayor Rangra presented Councilor Bermudez with a plaque in recognition of her achieving the “Certified Municipal Officer” (CMO) designation. He said this was the highest rank of importance a city official could have. He said the House of Representatives recognized Councilor Bermudez as well. She was presented with a certificate and a flag from State Representative Pancho Nevarez.**
- 4. Reports –**

**City Mayor’s Report - Mayor Rangra said last Thursday the Council and the Brewster County Groundwater Conservation District Board of Directors met here in the Council Chambers.**

**City Attorney Report – City Attorney Armstrong said he had nothing at this time. Councilor Gonzales asked about the report from the Attorney General’s Office. Mr. Armstrong said the letter has been sent off requesting an opinion but there has been no response yet. Councilor Gonzales said he believed Mr. Armstrong received a phone call from the Attorney General’s Office. Mr. Armstrong said he called the Attorney General’s Office and they said to send a letter, which he did, and there has been no response yet.**

**City Manager Report – The City Manager said the only thing he had was that we did send out the Notice of Intent on the Quiet Zone. He said it went out to the different agencies and we will publish it in the local paper. He said we have a 60 day comment period that we have initiated. He said we should start being able to do something after May 15<sup>th</sup> and we can move on it. Councilor Lujan said at the last meeting of the Council the City Manager reported that some of the employees paid the money back. He asked what**

the total amount of payments. The City Manager said they estimated about \$24,000 and the fund cleared out. Councilor Lujan asked if everything was paid off. The City Manager said yes sir, everything was current. He said nobody owes anything. Councilor Gonzales said he just wanted to point out that previously the City Manager reported that one person had not paid last time, she had paid it. The City Manager said he did not know it at the time. Councilor Lujan said first there was nothing happening about people owing and then there was \$9,000 and now it is up to \$24,000. The City Manager said \$9,000 wa/s for one individual and the rest of it is what was estimated was owed by all the different individuals. Councilor Davidson asked about the quiet zone. He said after the comment period if there are no comments or changes that means it goes out to bid? The City Manager said that was right. The City Manager said we will bring it to the Council for resolution, unless there are comments that we will have to address. He said if there are no comments, we will not have to do that. Councilor Davidson asked if there would be a public hearing. The City Manager said they say we do not need a public hearing. Mayor Rangra said we don't need a public hearing if we don't want one. The City Manager said unless the Council requires one. The City Manager said the closing is May 15<sup>th</sup>. Mayor Rangra asked about the monies that the staff members borrowed, unauthorized or otherwise. He asked if we were clear on that. The City Manager said he checked on it again today and everything is paid up.

**City Staff Updates – None**

**5. Citizens Comments (on agenda items) –**

**Pete Smyke – said his comment was on item #9. He said he still did not get this. He said really from the time that the board and Jerry took over the company and before that until it was split up there was a whole raft of irregularities. He said what we are looking at is violations in April and May in 2010 or 2011 and the March 28<sup>th</sup> meeting referred to in the agenda item, Mayor Johnson offered to give SWTMGC one of Cindy's crews to help move stuff out. He said there is no compensation mentioned. He said we also got charged the \$17 rate by SWTMGC from July 20, 2011 until the company split in February of 2012. He said that was hard on people to pay their gas bills. He said if we are looking at trying to recover stuff we need to go all the way back. He said it does not seem to make sense to him to pull this one thing out and say this was wrong and this was bad. He said he would like to see us expand this out.**

**6. Public Hearings – None**

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

**A. Approve Amtrak's – 2013 National Train Day 5/11/2013 (C. Garcia, CM)**

**B. Approve Tony's Plumbing – Restroom Repairs @ swimming pool in the amount of \$6,200. (C. Garcia, CM)**

Item 7B was moved to the Action items upon the request of Councilor Asgeirsson. Mayor Rangra said item 7B would be pulled out of the Consent Agenda. There was no objection by the Council. Councilor Davidson said he had received the minutes for February 26<sup>th</sup> and wondered why they were not on this consent agenda for approval. The City Secretary said she had not finished them until one o'clock in the morning on Sunday and that is why they were not on this agenda. Councilor Davidson said they were in his box and that they were rather lengthy. The City Secretary said yes, they were. Councilor Davidson thanked the City Secretary for her work. Motion was made by Councilor Davidson, by Resolution 2013-03-08, to approve item 7A of the consent agenda. Motion was seconded by Councilor Gonzales. Motion unanimously carried.

**8. Information or Discussion items –**

**A. Discuss Councilor Julian Gonzales' letter dated January 17<sup>th</sup>, 2013, and misleading City of Alpine letterhead letter dated February 13<sup>th</sup>, 2013, to the City of Marfa Mayor Dan Dunlap regarding financial situation, and distribution of assets of the Gas company. (C. Lujan) – Councilor Lujan** said he just wanted to bring up this issue. He said Mayor Dunlap had sent him an email asking him if these are letters are by Mr. Gonzales and he wants to know if this is a private investigation or a city investigation. He said he (Mayor Dunlap) asked him (Councilor Lujan) so he thought he might ask Mr. Gonzales if this was a personal investigation or a city investigation. Councilor Gonzales said he had some notes that he would like to read. He said the elected official has an inherent right of access to government bodies records if the official is requesting the records in his official capacity. He said he had where that came from. He said he also had the ability to be able to access this information and not have to give a reason why and whether it be written, by email or by fax. He said as a City Councilman he also had the right to use city stationary, because it does have his name on it. He said the gas company is a company that was owned by both cities 50/50. He said he asked the gas board representatives to give me this information and he has not received it. He said he asked the members to come forward and give us some information and he has not received it so he decided to.... Councilor Lujan said he did not believe that Councilor Gonzales was answering his question. He said he asked if this was a personal or city investigation. Councilor Gonzales said he did not have to answer that. Councilor Lujan said "oh you don't have to answer that?" Councilor Gonzales said "No, I don't". Councilor Lujan, said "All right". Mayor

Rangra asked if there were any other questions on this item. There were no other questions on this item.

- B. Discuss supporting Texas for Health Care Reform Organization to urge the Texas Legislature to expand the Medicaid Program. (C. Lujan) -**  
Councilor Lujan said he received an email from this organization and he said it is called Texas Health Care Reform and they are asking us to participate and demand the state of Texas to spend Medicaid in order to be in compliance with the ObamaCare which is going to begin at the beginning of next year. He said apparently the state of Texas is kind of resisting the expansion of Medicaid and he thinks we as good citizens need to support this organization and demand that Medicare be expanded in order for the State of Texas to be in compliance with ObamaCare and for thousands of people to get the benefits of being insured under the ObamaCare. He said that is his say on this item. Councilor Bermudez asked if this was the one that Governor Perry said he did not want. Councilor Lujan said “exactly, yes”. He said apparently, he heard that sooner or later Governor Perry was going to have to give in because there was a bunch of states together prior to a month ago on this and now everybody is signing up to spending Medicaid and the State of Texas is not going to have any choice about this maybe. Mayor Rangra said since this was a discussion item if the audience wanted to participate, they could, or we could wait until an action item. Carl Fleming said he did not have any problem with expanding Medicaid to eligible people who are disadvantaged but anyone who is not a citizen of the United States and who is living in Texas...and he said we have gained a lot of non-citizens...from Arizona. He said he did not believe those people should be lined up to receive federal benefits if they are not a citizen of the United States.

- C. Discussion of results of special meeting of city council on March 14<sup>th</sup>. (M. Davidson) –** Councilor Davidson said maybe results is not the best word. He said he thought we had a nice meeting. He said it was four city Councilmen and the Mayor and four or five people from the water district. He said they kind of went over the issues and what were the fears and what concerns did the City of Alpine have about possible deregulation by the Groundwater Conservation District. He said the Conservation District presented their enabling legislation that enacted the district which specifically made charging production fees difficult. He said it does specifically and actually requires, and that is what makes this legislation unique, it requires the district to charge export fees. He said in other words if someone drilled water in Brewster County and pumped it into another County, even if the purpose was for exploration or marketing or whatever, the water code does not prejudice against that. He said but this legislation specifically allows or requires the district to charge a export fee which would not affect the City of Alpine in any way. He said he

thought it was a pretty good meeting and we got a few things on the table. He said from his standpoint, he thinks the goals of all parties are the same, to protect water from exportation by interests who do not have the best interests of the City at heart. He said also to keep our water for local use and he thinks that ultimately the coming together is an interpretation of the section of the water code that exempts the City and he thinks that we have heard a couple of attorney's opinions informally and he thinks that we are going to be looking for another opinion because it would be from a neutral party to determine if whether the City is now protected by legislation or actually exempted from protection by the legislation. He said that is all he has for right now. Councilor Asgeirsson said he wanted to add that it seemed like it was a really productive meeting and what she liked is that we are starting to work together. She said out here the more you have in numbers, the better off you are. She said with just the City Council it would take a lot for us to fight somebody. She said one of the things they brought up was that if we had to fight somebody legally and we were part of the groundwater district, they would be picking up the tab. She said if we are not and something happens that we have to fight legally, then the City of Alpine would be picking up the tab. Councilor Bermudez asked the City Manager, if in a case like this, does Alpine being a municipality, have some backup from somewhere to help us out on this? The City Manager said not in a legal situation. He said that would come out of our funds. He said it would come out of our water or sewer funds. Councilor Gonzales said he would like to get a neutral opinion on 36.121 and he has been researching it. He said he thinks he has the full answer but Mike is right, we are interested in water for 6,000 people, here in Alpine and we want to protect that. He said he is going to try to find out as much as he can about it so that he can make a good decision. Councilor Bermudez said she agreed with all three council members. She said she did learn something new that she had not learned in the past two years, when we went through all of this, was that this interlocal agreement was only for one year. She said that was one of her fears that she had. She said like Councilor Gonzales said, we are still looking into it to get someone to really tell us what 36.121 is all about. Mayor Rangra said he thought it was a good meeting. He said he agreed with all of the Council Members. He said we were not yelling and screaming and there was no shouting. He said we got to know each other. He said there were issues discussed and there were a lot of options that were discussed from the makeup of the board and our reply. He said that is the way to do it, to talk, to keep the discussion neutral and not personal.

**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.)**

**7B. – Approve Tony’s Plumbing – Restroom Repairs @ swimming pool in the amount of \$6,200. (C. Garcia, CM) - The City Manager said this was a quote that Tony’s plumbing had provided to us. He said we had asked two other plumbers to look at the project to repair the bathroom lines that were decayed and rusted out. He said Tony was the only one that submitted a proposal. He said the other two did not bring anything in. He said we did contact, or rather Hector contacted, two other plumbers. He said what he intended to do here was repair just the bathrooms and add two handicapped commodes to meet the ADA requirements anyway. He said we do not have any money for this project, other than the 50,000 that had been removed by the Council as contingency money. He said he is requesting that we use part of that \$50,000 that we had cut out of the budget from Parks. He said the Council had cut out \$500,000 and it went to the contingency fund that the council had set aside. He said \$50,000 was dedicated for Parks improvements. Councilor Asgeirsson asked why this was not advertised instead of calling people. The City Manager said because this was not a big item, he said it was just a small repair. He said we had solicited three quotes. He said we had contacted Barmore and Jonathon to a quote but they never brought one. Councilor Asgeirsson said the estimate was from November 29, 2012. The City Manager said that was correct. He said he had reviewed it way back in November and then he came back. Councilor Asgeirsson asked if he was going to stick to this or was the City Manager going to come back to the Council and ask for more money. The City Manager said no, this was the quote that he originally gave us. Councilor Asgeirsson said everything will be repaired and he will not charge us more money. The City Manager said this will be repaired and he will not charge us more money on this project. He said this isn’t part of the contract with Aquatic, he said this is a different repair that we are doing at the swimming pool for the bathrooms. Councilor Davidson asked if this was to be paid in advance for the work. The City Manager said no sir. He said he would get paid after he was finished. Councilor Gonzales asked if the City Manager had said that we did have the money for that. The City Manager said the Council had set \$50,000 aside for the Parks, under Council discretion, out of the budget, as a contingency fund. He said he asking to use part of that \$50,000 to pay for these improvements. Councilor Gonzales said based on the repair of the bathrooms, he asked if the City Manager had an estimate of when the pool would be open. The City Manager said we will open it on the first of June if it does not leak. Councilor Bermudez asked if the Council could try it out first. The City manager said we are hoping to have water in it next month. Mayor Rangra said we will be paying this plumber \$6,200 to do this project. The City Manager said if the Council approves it. Motion was made by Councilor Gonzales to approve Tony’s Plumbing – Restroom Repairs @ swimming pool in the amount of \$6,200.00 to be taken out of the Council contingency fund for parks. Motion was seconded by Councilor Bermudez. Motion carried unanimously.**

**9. Discuss and Consider the following: (A. Rangra, Mayor)**

- A. Discuss the October 10<sup>th</sup>, 2011 opinion of the Texas Attorney General issued in response to a request from Mayor Dan Dunlap of Marfa, Tx. and in his official capacity as the President of Southwest Texas Municipal Gas Corporation Board (SWTMGCB); concerning the relationship of the cities of Alpine, Tx. and Marfa, Tx. as it relates to the Texas Open Meeting Act (TOMA) and the ownership of the SWTMGC: (A. Rangra, Mayor)**
- B. Based upon the aforementioned opinion, that the Alpine City Council vote to take appropriate legal action(s); including, but not limited to, directing the SWTMGCB to obtain reimbursement for any and all material(s), personal property, inventory, business records and notes pertaining to the assets obtained from the SWTMGC warehouse located at 203 N. Apple Street, Alpine, Texas, by the contractor and his employee(s) and any persons or agencies acting under their directions; (A. Rangra, Mayor)**
- C. Direct the Alpine City Attorney or appropriate legal authorities to commence such legal process as necessary to obtain reimbursement for any unfinished portion or portions thereof, of the contract executed March 28, 2011 between the SWTMGC and the contractor, Paragon Corporation, its owners, including but not limited to Joey DeHart, President of Paragon Corporation, its stockholders, employees, consultants and sub-contractors, if any, and their employees. (A. Rangra) –**

**Mayor Rangra said item A was for discussion and items B and C were for action. He said the reason he separated them was for the Council to take a look at the Attorney General's opinion in 9A, on October 10, 2011, and was given to Mr. Dan Dunlap who represented SWTMGC. He said that agreement very clearly states that the cities of Marfa and Alpine have jurisdiction over the gas company, regardless of what people have to say. He said he has given them quite a few reasons. He said the board is not in a superior position but is subordinate to the cities. He said the reason he listed items B and C is because there was a contract signed between Southwest Texas Municipal Gas Corporation and Paragon Corporation on March 29<sup>th</sup> to do a certain job. He said for payment it says the owner (SWTMGC) shall pay the contractor (Paragon Corporation) for all labor and materials, the sum of \$165,000, apparently, when the work is completed. He said he was told that the work was not completed and that the gas company employees finished the work. He asked the City Manager if this was correct. The City Manager said it was the agency out of Corpus Christi and the employees. The City Manager asked if the City of Alpine paid for**

that. The City Manager said no. He said the Southwest Texas Municipal Gas Corporation paid for that and did the work. Mayor Rangra said “for all of it?” The City Manager said yes sir. Mayor Rangra said the work was not completed still. The City Manager said “no, the tie-ins were not done.” Mayor Rangra said then, at the end of the year, the CPA from Fort Davis, who did the auditing, Lannom and Roach, gave the following report. He said under inventory it said – under inventory it was noted that an outside contractor was allowed to withdraw inventory for use in the TXDOT project. It said this project for which the Southwest Texas Municipal Gas Corporation paid \$165,000. It said the company personnel did not monitor or track these withdrawals. It said this responsibility was assigned to the outside contractor personnel. It said the responsible party subsequently passed away and any records kept were destroyed. It said the company has reconstructed the inventory withdrawn to the best of their abilities. He said it also says, however, they were not able to maintain sufficient audit evidence to support the inventory as stated in the financial statement. He said these were the comments that the auditor made. He said the material was taken out of the warehouse of the Southwest Texas Municipal Gas Corporation and the management responded (of the SWTMGC) that the company had the appropriate controls of the inventory area, so why were they not followed? He said a primary issue had to do with the TXDOT Alpine Sidewalk Project. He said in October, 2010, the project was already static as scheduled, placing the company in danger of being fired for delays. He said the management of the company had been assumed by a committee, where the corporate officers had served as employees. He said this continued until 2011 when Randy Guzman was named interim manager. He said management was confident that inventory internal control was still in place at that time. He said by the end of March 2011, events changed significantly that resulted in further delays. He said one of the companies failed to complete their contract and Juan Lerma was hired to accomplish tie-ins. Paragon was hired to finish the sidewalk project and at the same time several people presented time leaving the extra work load. He said management was never made aware or consulted. He said at this time the interim manager and his assistant felt pressure to delegate the responsibility of keeping records of the inventory taken from the yard by Paragon to one of the Paragon employees. He said it should also be noted that Juan Lerma’s Crew may have been drawing inventory during the same period of time while keeping their own records. He said and it goes on....He said the question he had is this. He said it does not matter to him as the Mayor or as a taxpayer, but the contract that was signed between SWTMGC and Paragon Corporation is also very serious. He said it was supported, more or less, by the taxpayers. He said you pay \$165,000 for a certain job and the \$165,000 was to include materials and labor. He said when the time came to get the material, the contractor goes to the warehouse of the SWTMGC and there was no monitoring. He said he was told that he would

say that and later on people would change their mind. He said it also says that the company has reconstructed the inventory that was withdrawn. He said there is a list somewhere that shows how much inventory was withdrawn. He said it is not difficult to figure out how much that would cost if you had to buy it wholesale or go to a local hardware store. He said he was told that it was somewhere between 20 and 30 thousand dollars, by the employees. He said if you have to go downtown to buy it, it will cost about 50 to 60 thousand dollars. He said when you buy something, you also pay sales tax and sales tax is distributed between the state (the state lost money) and the city (money that we use to fix the potholes). He said he is asking a question (he knows the company is on its way to being dissolved). He said he went to a meeting two months ago and raised that question. He said some of the members jumped on him and asked why he wanted to bring up this issue because there is a question of only one pipe. He said he asked how long the pipe was, and there was no answer. He said all he is saying is that this council has an obligation to direct the gas company. He said the assets are there. He said the council has an obligation, to do that, and that is what he believes, to recoup the money, from the contractor or whoever is responsible for taking the stuff out of the warehouse of SWTMGC. He said it is up to the council as to what the council wants to do. He said his question is if the council is interested or not interested in this. Councilor Bermudez said the loans or payroll advances that were taken out by our City staff were paid back and how long did that go back – two years, she thought. The City Manager said no, it was for a year. Councilor Bermudez said this contract is fixing to be two years old. She said she thought we did need to be paid back, one way or the other, so she made a motion, by Resolution 2013-03-09 to have our attorney contact the Attorney General and the Texas Rangers to come in and investigate this also. Motion was seconded by Councilor Gonzales. He said he would like to get their opinion on that whether they see it as a problem or not. Councilor Asgeirsson said in order for something like this to happen, both cities would have to be involved. She said given the rapport the Mayor has with the City of Marfa, they are not going to do anything. She said the contract was with the gas company and Paragon and not between the City of Alpine and Paragon. She said there were other contractors involved in the TXDOT project and the Mayor named a couple of them and there were other ones that came in and left. He said they were all taking inventory. She said she did not know how he could zero in on one contractor and say that he is the only one responsible for the inventory. She said the gas company also had a computer crash and they lost a lot of materials and they had to reconstruct it and put it back in and she did not know if all of it was put in there or not, and the board did not either at that time. She said another point she wants to make is that the gas company is dissolved and there is nothing there. She said in order to do something like this, it is going to cost money and who is going to pay for it? Mayor Rangra said he was just reading out of the pages that came

out of the gas company. He said the CPA makes these comments and they are a part of the audit report. He said a comment out of this information is part of the position of the gas company. He said if half a dozen companies took the stuff out of the warehouse, and if SWTMGC failed to do its job, then the cities have that obligation, because cities, as the Attorney General says, own the gas company. He said if the gas company dissolved, the Board of Directors still have to stay in operation for a year. He said they have 8 members. He said if 6 members resign, the two Mayors are still responsible. He said he understands, if the case is tied, then the losing party has to pay for everything. He said we earlier were talking about cover up and all sorts of things. He said there is a story in the paper about the Mayor being involved in a cover up and that time nobody raised the question about the cost. He said this is a fact. He said this is from the CPA and he has been talking about this for over a year. He said something is wrong and we need to investigate it. He said it says Juan Lerma signed the contract with Paragon. He said the documents show that Paragon signed the contract before Juan Lerma did and that is beside the point. He said the point is the taxpayers of Alpine, which are the biggest shareholder and Marfa both were cheated and so was the state. He said when Alpine signs a contract with a contractor, do we ask or let for example this guy "Tony" go to the warehouse and pick up the items. He said SWTMGC had no business doing this. He said if xyz did it, go after them. He said when he went to the meeting and brought this up they yelled at him. He said that is okay, he can take it but the point is that the taxpayers deserve to get this back. Pete Smyke said Melvin told him before he got fired before the project started that he had actually started setting aside and building up inventory and he is wondering if the inventory wasn't stuff that was already set aside. He said that is one possibility. He said the other thing is that this is going to be a can of worms to try to go after because it is going to evolve into a he said she said because they are going to say their employees took it, it wasn't mine, etc. He said he does not know what the state statutes are on this but when you are talking about the overcharge that we had, that is a gas regulatory act, where they can only charge the actual charges and cannot make any extra money or a profit. He said for that we have an in state code and for one month it was something like \$60,000. He said he did not know if there was anything could happen now because the city passed a resolution on July, 2011 and nothing was ever done on that. He said he did not know if there was a way to do a rehearing on that because if you hold a rehearing SWTMGC has to pay for everything, including experts that the city gets and he said he did not know if we could do that after the fact or not but that is where the real money is, is in overcharges. He said he dates the state would want to get involved on this inventory issue. Councilor Lujan asked if this was the same investigation. Mayor Rangra said it is not an investigation but it is a proposal before the council to consider, if council so desires, to pursue this matter of recouping the funds that were lost because the contractors, unnamed contractors, who

raided the SWTMGC warehouse and took whatever they wanted and it was not a part of the contract. He said the contract would pay them "x" number of dollars to do the job. He said like this plumber we hired to do the job for \$6,200. He said he does not see anywhere where it says that the plumber can go to the warehouse. Councilor Lujan said he thought he heard Mayor Rangra talking to some people and talking about laying some pipe. Mayor Rangra said he went to the Board meeting and raised the question about what they are going to do about these comments that you also read, Mr. Lujan, if there is a comment that comes from the CPA saying that stuff was taken out of the warehouse. He said as a member of the group he has to ask a question. He said a question can be construed as investigation. He said he wanted to inquire what it is all about and if someone does not respond properly then he has another venue. He said if this council says they do not want to do anything, that is fine with him. He said he is not going to go and hire investigators. He said he is not going through the AG. He said it is up to the Council, what the Council wants to do. He said all of you have the report. He said he could be wrong in which case the council can vote and let us move on. Councilor Lujan said he is with Mr. Smyke. He said he does not think anyone will be interested and this is a waste of time. He said the key person is no longer on earth. Councilor Lujan said that's okay, we don't respect people's privacy here just to achieve what we want to achieve. He said talking about people that no longer here. He said we are talking about a guy who passed away and this is the guy who took the inventory. Mayor Rangra said he did not think that Councilor Lujan read this properly. He said the report also says that stuff was taken by a fellow named Lerma. He asked Councilor Lujan to read the stuff carefully before you make a motion, please. Councilor Davidson said he read this too and the language being very important and you did not say that he investigated but he accused somebody of cheating, raiding and taking anything they want. He said there is nothing in any of the report that he read that says any of that. He said he tends to agree with Mr. Smyke as well. He said the City of Alpine could only wish for an audit like this based on what we are looking at right now. Mayor Rangra said this clearly says that the manager was made aware of it and it appears that they were keeping records of what was taken and there was no monitoring. He said if somebody comes to his house and takes stuff out of my house and does not leave a list what will he call it. Councilor Asgeirsson called for the question. Mayor Rangra recognized Joseph Goldman for a comment. Councilor Asgeirsson said point of order and said he called for the question. Mayor Rangra said if you read Robert's Rules of Order when a discussion is going on, I cannot stop a discussion. John Armstrong said calling for the question takes priority Mr. Mayor. He told Mayor Rangra that it was seconded and he needed to have a vote on the question. Mayor Rangra said just a minute attorney. John Armstrong said Mr. Mayor you are out of order. Mayor Rangra said he was not out of order. John Armstrong said the call for the question takes priority. Mayor Rangra asked the City Attorney if he wanted to run the

meeting. John Armstrong said if the Mayor needed him to. Mayor Rangra said okay go ahead. John Armstrong said a call for the question takes priority and it was seconded and told the Mayor he needed to take a 'vote on the call for the question. Mayor Rangra told John Armstrong that he had been wrong quite a few times. John Armstrong said no that he hadn't but that the Mayor had. Mayor Rangra said no. John Armstrong said a call for the question takes priority, Mr. Mayor, pursuant to Robert's Rules of Order. Mayor Rangra said the same Robert's Rules of Order says you cannot stop the discussion. John Armstrong said Robert's Rules of Order says a call for the question takes priority Mr. Mayor. Mayor Rangra laughed. John Armstrong said you can laugh all you want. Mayor Rangra said he was not laughing at the City Attorney. Joseph Goldman said what seems to have been dropped from all the conversation is that there was an audit paid for by the gas company and it was paid for prior to the dissolution of the gas corporation and the corporation is called a non-profit corporation and in non-profit corporations you must account for everything, everything and not what you want to sweep under the rug. He said what Mayor Rangra is saying has a great deal of importance and he thinks that the Attorney General's office is aware of this and they have been investigating and there is an ongoing investigation going on right now. The Mayor called for the question. Councilors Bermudez and Gonzales voted in favor. Councilors Davidson, Lujan and Asgeirsson voted against. Motion failed.

10. Discuss and Consider taking action, to respond to the City of Marfa Mayor Dan Dunlap's request, and inform him if these letters are personal, or of the City of Alpine investigations. (C. Lujan) - Councilor Lujan said Mayor Dunlap asked him to respond and inform him if this is a personal Investigation or a city investigation and since Mr. Gonzales is refusing to tell him either way, he is going to have to assume that this is not a city investigation. He said he would like to make a motion by Resolution 2013-03-10 to send a letter to inform Mayor Dunlap that the City at this time is not conducting an investigation and that this is personal. Motion was seconded by Councilor Davidson. Councilor Asgeirsson said the letter that was sent was done on city stationary so Mayor Dunlap was addressing the council. She said by putting it on city letterhead it makes people think that the city sent it. Councilors Davidson, Lujan and Asgeirsson voted in favor. Councilor Bermudez voted against. Councilor Gonzales abstained from voting. Motion passed.
11. Discuss and Consider setting date(s) and establish procedures for employee evaluations – John Armstrong. (M. Davidson) – John Armstrong said the thing to do would be to set dates for the employee evaluations. He said he would recommend that the City Attorney and the Judge be evaluated one night and the City Manager and City Secretary evaluated another night. Councilor Davidson said this would be at a regular meeting. Councilor Gonzales said when you say employee evaluations, you are only

counting four people. The City Attorney said yes sir, the four council employees that are directly appointed by council. Councilor Gonzales asked about the other employees. The City Attorney said they would be appointed by the City Manager. Mayor Rangra said what kind of procedure will there be to evaluate. John Armstrong said he already had come up with the procedure a few meetings ago. He said the Mayor should have a copy. Mayor Rangra asked when we wanted to have the Judge and Attorney at the next meeting. Councilor Lujan made a motion to call for a special meeting on Monday next week and evaluate the City Manager and the City Secretary. Councilor Davidson said there is already a motion to accept the procedures and establish dates. Mayor Rangra said if we are going to have a special meeting we need to have the Council Members contacted by the City Secretary and make sure that they are all available. He said the regular meeting is fine because they already meet on those days. He said we are having too many special meetings. Councilor Lujan asked for the Council to say at this meeting if they are going to be here on Monday. Councilor Bermudez said she would not be here on Monday. Councilor Lujan said we have to have a full council for evaluations don't we? John Armstrong said that is your practice but you don't necessarily have to have one. Councilor Lujan said Monday is a good day to call for a special meeting. John Armstrong said Angie will not be here. Councilor Asgeirsson said Angie will not be here. Councilor Lujan asked Councilor Bermudez if she was not going to be here. Councilor Bermudez said she just told him that she would not be here. Councilor Davidson said the next regular meeting will be on the 2<sup>nd</sup> of April. Mayor Rangra said lets have it on the 2<sup>nd</sup>. Motion was made by Councilor Davidson, by Resolution 2013-03-11, that we adopt the procedures as presented by the City Attorney and that we evaluate the City Secretary and the City Manager beginning on April 2<sup>nd</sup>, the next regularly scheduled meeting and that we follow up with the City Attorney and the Municipal Judge on the following meeting which would be the 16<sup>th</sup>. Motion carried unanimously.

12. Discuss and Consider taking action to request easement from Brewster County in reference to flooding in the Avenue K and Pvt. H. Cordova Street area, to prevent flooding in Avenue K and the southern area of Alpine. (J. Gonzales) – Councilor Gonzales said he brought this item up because the last heavy rain we had, we had some flooding on the South side of Pueblo Nuevo and one of the things that has happened is that they have created a road on Avenue K and flattened the area out over there and so what we are doing is asking the Brewster County to allow us to build up a berm there so it would prevent the flood waters from coming in to the lower areas of the city on the South side. Councilor Gonzales made a motion, by Resolution 2013-03-12, to request an easement from Brewster County and for any assistance they can give us from the county, in reference to flooding in the Avenue K and Pvt. H. Cordova Street area, to prevent flooding in Avenue K and the southern area of Alpine. Motion was seconded by Councilor

Bermudez. Councilor Asgeirsson asked if this was in the County. Councilor Gonzales said part of this is in the county where they removed the berm and part of it is in the city so we are going to try to get an easement on both sides so that we can build that back up to prevent flooding in that area. He said it is on Cordova Street and Avenue K. He said the water just goes straight into their houses like a river. He said of course we do not always have a heavy rain like that and we do have a little time but it would be nice to build it back up. Councilor Davidson asked if it was County Property. Councilor Gonzales said it is their easement. He said they have a border like we have a border. Councilor Davidson said doesn't it have to be an easement from the landowner? He said he believed what happened over there was that the people who bought their property who had that RV place, they actually removed it. Councilor Davidson asked Councilor Gonzales if he had talked to anyone with the County. Councilor Gonzales said he had not talked to anyone yet but asked Mayor Rangra if he had talked to anyone. Mayor Rangra said he talked to Commissioner Pallenez and he said he talked to the Judge and the Judge said she wanted to help. Mayor Rangra said most of Avenue K is county property. The City Manager said that was correct. Mayor Rangra said if we had an easement he thinks we can do something about this. He said we cannot do anything without an easement and this would be a good way to show that the county and city can work together. Councilor Davidson said he would like to suggest that we ask the county for an easement and for any assistance that they could give us. Carl Fleming asked if this was a flood zone area. He said it may pay to have someone make a decision on what needs to be done before we just approve something that we are not sure of what it is going to do. Mayor Rangra said it is just asking for an easement and the next step would be what we are going to do. Carl said somebody with some technical knowledge needs to take a look at that before we just build a berm out there because berms do not last very long. City Attorney Armstrong said we have a flood hazard prevention ordinance and he assumes that the houses that are flooding are in the city of Alpine. He said that being the case the flood administrator would need to follow the dictates of the ordinance and there should be no construction particularly in flood zones. The City Manager said it might fall in a flood zone but he does not believe it is. He said it is part of the Moss Creek. He said the problem is that the berm was built by a private individual and that is where the issue is. John Armstrong said we do have an ordinance to govern this. Councilor Davidson said that is where the County may be able to come in and help us. Motion carried unanimously.

13. Discuss and consider approving a resolution to support to expand the Medicaid Program and contact our State Senator and Representative to urge them to support the expansion of the Medicaid Program. (C. Lujan) – Councilor Lujan said he had said all he wanted to say earlier so he made a Motion by Resolution 2013-03-13, to approve a resolution to support to

expand the Medicaid Program and contact our State Senator and Representative and Governor to urge them to support the expansion of the Medicaid program. Motion was seconded by Councilor Davidson. Councilor Bermudez said she was just thinking that instead of sending this to our State Senator and Representative why don't we just send it to the Governor. She said he is the one who hands out the money and he is the one who is saying that they are not going to spend. She said maybe sending it to him would be good. Councilor Lujan said he was asked by this organization so he is just helping them out. He said he would rather send this directly to this organization. He said if you want to send it to the governor, he does not have a problem with that. Councilor Bermudez said let's go ahead and add the Governor. Rita Peale said how did the Council know all the citizens of Alpine want them to vote on this. Mayor Rangra said the only comment he can make is that the Council is elected by the citizens for each ward in the city. Robert Polanco spoke as a citizen and not as an employee of the City of Alpine. He said he was morally and ethically opposed to ObamaCare for several reasons. He said he agreed with Mr. Fleming but also because he is pro-life and he knows that ObamaCare will fund abortions and contraception. He said he thinks that we elect people at the state and federal level to handle these kinds of issues. He said as Ms. Peale said just like Julian representing the City with his letterhead, the Council is kind of doing the same thing as far as the citizens are concerned in this particular issue. He said the citizens vote the council in to make city decisions, not federal decisions. He said he had never known a federal bureaucracy that could run anything efficiently much less something as complex as healthcare. He said he thinks it violates contract law and it is coercive, making him buy a product that he does not particularly care to buy. He said he is quite happy with his health care here at the city. He said he does not need federal health care. He said he thinks it is coercive and it violates contract laws. He said these are his arguments against this resolution. Motion carried unanimously.

14. Discuss and consider approving large animal permits for two goats and six chickens. Animal Advisory Board recommends that the permits be approved. These animals will be located at 1201 Fighting Buck Avenue and applicants are Ron and Marsha Wells. (C. Garcia, CM) – The City Manager said this is a permit that has been reviewed by the animal control and also by the Animal Advisory Board. He said our recommendation is to move forward and issue the permits. Councilor Lujan asked if everything had been checked out and if they complied with the ordinance. The City Manager said yes sir. Motion was made by Councilor Gonzales, by Resolution 2013-03-14 to approve large animal permits for two goats and six chickens for Ron and Marsha Wells. Motion was seconded by Councilor Lujan. Councilor Davidson asked if the Animal Control actually see the questionnaire that went out to the neighbors. He said it seems to be okay with chickens but not with goats. The City Manager said the Animal Control

officer did see the questionnaire that went out to the neighbors. Councilor Lujan said he had a little conversation with Mr. Armstrong one time and he just wanted to make sure that apparently when people ask for animal permits if they meet the requirements of the ordinance, the possibility of denying the permit is zero. The City Attorney said the possibility is not zero but if they are in compliance with the city ordinance and meet all the hearing requirements and have a recommendation from the board, he believes the recommendation should be upheld. The City Secretary said we had the public hearing last meeting before we adjourned. Ron Wells said they are here for any questions. He said his understanding was that most of the neighbors were concerned that they would have male goats. He said they will only have female goats on their property. Motion carried unanimously.

15. Discuss and consider taking bids on getting a new and up to date action plan for the Airport as recommended by the City of Alpine Airport Board. (C. Garcia, CM) - The City Manager said on this issue we had \$150,000 for an updated plan from TXDOT Aviation for the layout at the airport. He said they will review all the new standards that are around the airport to modify the existing one. He said we would have to match it 90/10. He said they do have the money to move forward with it. He said the Board has pretty well accepted the plan and they want us to consider it and bring it to the Council for approval. Councilor Gonzales asked if this would be the hot asphalt process. The City Manager said no, this is the plan. He said this is the layout plan on how we develop the airport. He said it gives you the rules and regulations on the buildings and hangars and how you set it up. He said it gives you a preliminary sketch on where the new hangars can be placed. Councilor Asgeirsson asked what happened to the old plan. The City Manager said it is an old 1995 plan. He said they recommended that every 10 years to go ahead and update it. He said the 1995 plan is still in existence. Councilor Davidson said this would be a plan that would last another 10 or 15 years. He said this is so we don't do something that we would have to go back and tear down. The City Manager said we would have to go through TXDOT for the 90/10 grant and they will give us the proper guidance and tell us if we need to advertise. Councilor Davidson asked who would do the plan and if they were an engineering firm. The City Manager said the last one we did was by someone in Fort Worth. Councilor Davidson said they specified in Airport layout plans. Councilor Gonzales asked if our part would be 10% and the City Manager said that was correct. Motion was made by Councilor Gonzales, by Resolution 2013-03-15, to approve taking bids on getting a new and up to date action plan for the Airport as recommended by the City of Alpine Airport Board. Motion was seconded by Councilor Bermudez. Motion unanimously carried.
16. Discuss and consider awarding regulator and poly pipe for gas department. (C. Garcia, CM) – The City Manager said the Council had a

couple of quotes for the pipe and then one quote for the regulator. He said the gas department needs these to continue their program. He said we need some pipe and we had asked Marfa for some spools to get us through the start of the project. He said they found some leaks around the high school and they are redoing that line. He said we need some pipe to continue our upgrade on our lines. Councilor Gonzales said this was for the 5% that we have to do each year. Motion was made by Councilor Gonzales by Resolution 2013-03-16, to approve awarding a regulator and poly pipe for the gas department. Motion was seconded by Councilor Davidson. The Regulator bid will be awarded to Koons Gas Measurement in the amount of \$2,609.67 and the pipe bid will be awarded to Gajeske, Inc. in the amount of \$24,029.54. Motion unanimously carried.

17. Discuss and consider taking action on planning FY 2014 City Budget and closing out current FY Budget. (M. Davidson) – Councilor Davidson said he brought this up previously and he is bringing it up again. He said the Council got our first copy to look at on the city budget after all the department heads had put there two cents in after the first of August. Motion was made by Councilor Davidson for each department head to come in and present a budget to the City Council, argue their budget and work it out and begin that process in the month of June, by Resolution 2013-03-17. Motion was seconded by Councilor Davidson. Motion unanimously carried.
18. Discuss and Consider cancelling May 11, 2013, City Council Elections for Ward 1 and Ward 5, and declaring candidates for May 11, 2013, City Council Election, for Ward 1 and Ward 5, unopposed and elected. If cancellation is approved these candidate's names will not appear on the ballot. If election is cancelled in these wards (Ward 1 and Ward 5), candidates will take oath of office and receive certificates of election along with Ward 3 elected candidate (Ward 3 race will remain on the ballot, due to opposed candidates) after election day. – The City Secretary said this will be posted in the polling place and will show that these elections have been cancelled because they were unopposed candidates. He said it will save us money too on the election. She said we would have a shorter ballot and there would only be one ballot style and one program for the electronic machines. She said it would save us money. Motion was made by Councilor Davidson, by Resolution 2013-03-18, to approve cancelling the May 11, 2013, City Council Elections for Ward 1 and Ward 5, and declaring candidates for May 11, 2013 City Council Election, for Ward 1 and Ward 5, unopposed and elected. Motion was seconded by Councilor Gonzales. Motion unanimously carried.
19. Citizens Comments (limit 3 minutes) – None
20. Council Member's Comments and Answers –

**Councilor Bermudez** – said Mayor Clouse also held a lot of City Elections and that was one more thing to her credit.

**Councilor Davidson** – said Mayor Clouse was active in the ambassadors and all the different service clubs and the City lost a dear friend in Mickey Clouse.

**Councilor Lujan** – said there were some letters in the paper lately. He said he was having a gathering on Friday at noon at his business to clarify these letters since they are confusing. He said he was inviting everyone and he will be addressing some issues and problems of the city. He said the the funny thing is that those letters are coming from a scientist who told him that he did not believe anything but facts because he is a scientist and now he believes in miracles, so he said he is happy for him for that and also we have a reverend getting involved in politics too, so the world is changing and that is great. He said that is just a comment with all due respect.

**Councilor Asgeirsson** – said she wanted to comment on this meeting and said she was very disappointed on the Mayor's actions tonight. She said for one she said she did not think the Mayor knew the Robert's Rules of Order. She said she thought he showed favoritism to some members of the council. She said he showed great disrespect for the City Attorney.

**Mayor Rangra** – Mayor Rangra said he believes he knows quite a bit about the Robert's Rules of Order.

Motion was made by Councilor Bermudez to enter into Executive Session.  
Motion was seconded by Councilor Gonzales. Motion carried unanimously.

21. **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 551.074.**

A. Discuss Scown Lease. (C. Garcia, CM)

22 **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.**

A. **Consider Scown Lease. (C. Garcia, CM)**- Motion was made by Councilor Davidson, by Resolution 2013-03-19, for the City Attorney to contact the

**Scowns and make an offer to them with the appraised value.  
Motion was seconded by Councilor Asgeirsson. Motion carried.  
Councilor Lujan was not present for the vote.**

**23. Adjournment – There being no further business, meeting was adjourned.**

I certify that this notice was posted at 4:15 P.M. on March 15<sup>th</sup>, 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.

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Dr. Avinash Rangra, Mayor

Attest:

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Margaret "Molly" Taylor, City Secretary

I, Margaret "Molly" Taylor, City Secretary, do certify that this notice was posted at 4:15 P.M on March 15th, 2013, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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Margaret "Molly" Taylor, City Secretary