City of Alpine Regular City Council Meeting September 3rd, 2013 6:00 P.M. Minutes

- 1. <u>Call to Order, Invocation and Pledge of allegiance to the flag</u> Invocation was given by Lana Covington. Mayor Rangra led the pledge of allegiance to the flags.
- 2. <u>Determination of a quorum and proof of notice of the meeting</u> Mayor Rangra and Councilmen Bermudez, Davidson, Fitzgerald, Gonzales and Castelli were present. Original Meeting notice was posted at 6:00 P. M. on August 30th, 2013 and the Amended Notice was posted at 3:45 P.M. on August 31st, 2013.
- 3. Presentations, recognitions and proclamations -

Bob Steele with the Alpine Lions Club said he wanted to express their heartfelt appreciation for all the City Staff and the City for all they did for the first ever Big Bend Gun and Knife Show. He said it was an incredible success. He said they got lots of positive comments from the vendors about the friendliness of the people in Alpine. He said they enjoyed coming here and said they would be back. He said he has vendors who have already signed up to return for next year so he thinks it was a great success. He said he wants to express his thanks because City staff did a lot of things to help us. He said they helped to get the banners up and it was great. He thanked the City again.

4. Reports -

<u>City Mayor's Report</u> - Mayor Rangra said he missed his fellow Lions on the weekend because they kept him busy at City Hall. He said that is all thanks to the City Attorney who was enjoying his vacation in Houston. He told the Council Members that they all had a copy of a very thick document. He said other than that he does not have anything to say or add.

City Attorney Report -

A. Code Violation, Vic Horn, 605 E. Ave. B, Operating Business in R1 (M. Castelli) – City Attorney Armstrong said on the equipment operating business in R1 zone at 605 E. Avenue B, notice was sent on 8/9/13 and to date it has not been abated. He said on or about the 19th day of September, the violation will be reported in Municipal Court. He said Mr.

Horn told Robert Polanco that he will abate and move the equipment if it is not taken care of within the prescribed notice time, there will be a citation filed against Mr. Horn that will make initial hearing on the September docket. He said otherwise it was a very busy weekend. Councilor Castelli said the same letter was sent to this gentleman on February 8, 2012 and he made the agreement to abate it within the 15 days. He said that has been almost a year and one half ago. He asked what makes today any different than it was a year and a half ago? City Attorney Armstrong said a new Sheriff in town. Councilor Castelli asked if we had his word that he would hit this and hit it hard. City Attorney Armstrong said we are going to follow all procedures and we will prosecute in Municipal Court and if that does not work we will come to council about authorization to file a nuisance law suit and gain several penalties. He said he will remind the Council that they authorized the Municipal Judge in February or March of this year to act in civil capacity and you also passed an abatement ordinance on these things and that will be taken care of. He said first we are going through Municipal Court for our ordinary process. He said we have had an agreement that does not work and we will follow up. Councilor Castelli said this particular issue sat for thirty days on Mr. Polanco's desk without it being responded to. City Attorney Armstrong said the City Attorney has it now. Councilor Castelli said this may seem like a small issue but it is the small things that bleed into the big things. He said as we are going to talk about tonight, in open session or in Executive Session, there are some pretty big things that need to be addressed and he just wants to take a moment to talk about when he started his career, he started with a furniture manufacturing company outside of Dallas. He said we had a brand new 200,000 square foot air conditioned plant and back in the early 80's that was pretty much unheard of. He said they manufactured some very high end residential and office furniture. He said it got out in the factory after seeing the president of the company walking around....The City Attorney told Councilor Castelli that this was not the time for a speech. He said this is the City Attorney's Report. Councilor Castelli said he would get to that at some point when it was appropriate. The City Attorney said thank you.

B. <u>Code Violation, Mike Scudder, 609 E. Hancock, abandoned vehicle in yard. (M. Castelli)</u> – City Attorney Armstrong said concerning the abandoned vehicle at 609 E. Hancock, it has been abated and removed.

<u>City Manager Report</u> – Mayor Rangra said we have our Interim Finance Director sitting here because our Interim City Manager resigned as of Friday. He said he received an email at 7:02 in the evening as did the rest of the Council. He said Deborah is going to make a presentation to the Council.

- A. Code Violation, Vic Horn, 605 E. Ave. B, Operating Business in R1 (M. Castelli)
- B. Code Violation, Mike Scudder, 609 E. Hancock, abandoned vehicle in yard. (M. Castelli)

City Staff Updates -

- A. FY 2013/2014 Budget and Tax Rate Deborah Pattison, Finance Director - Deborah Pattison said the Mayor and Council did an excellent job in the budget workshops for nine hours total. She said we committed a lot of time for that project and she appreciates that. She said we have met with all the budget notices in the newspaper and the budget is slated for adoption on September 17th, in two weeks and the major difference this year is that we are proposing that the effective tax rate be adopted. She said the tax rate would reduce from .5423 to .5385. She said another significant difference is based on how we calculated and handled the debt service this year. She said we have been able to shift almost \$320,000 from debt service into the maintenance and operations account. She said that will help out in both short term and long term. She said the figures in the paper were the combined budget summary because citizens had asked to see last year's budget in comparison to this year's budget. She said we did do a lot of splitting out of accounts, accounts that were being normally funded out of the General Fund. She said they are being allocated to the actual Enterprise Fund so that we can look at the possibility of each one of the Enterprise Funds which is sanitation, water, sewer and the gas system and this year's budget has a transfer in from the Enterprise Fund back to General Fund in the amount of \$717,150 which is almost half of what the adopted budget that was appropriated last year. She said she thinks we are moving in the right direction to have a balanced budget and she thanked the Mayor and Council very much. Mayor Rangra said concerning the budget that we have, the numbers that were presented to the Council revenue wise are very conservative. He asked how solid those numbers are. Deborah said she believes they are solid and conservative. She said she does not want to anticipate additional revenues that we may not receive. She said these are very conservative numbers. Deborah said we are projecting off numbers that are in the new accounting system. She said we are projecting the best we can. She said we have gone back to paper records whenever we can. She said she is not saying it is perfect but we have attempted to be very conservative. She said we have looked back, looked at prior years and prior budgets.
- B. Judge Schlosser Report on Municipal Court Judge Schlosser said

in light of the City Manager's resignation, she is going to withhold some of the things she was going to talk about until we have had an opportunity to discuss them with the interim. She said there were some things that she has provided in previous reports to the Council that have not been taken care of by the City Manager related to the finances of the Court. She said she would like to give the Interim an opportunity to correct those deficiencies. She said she was not given a copy of the budget before the budget meetings and therefore did not comment at the budget hearings but she has now had a chance to review the budget and there are some concerns that she has. She said for many years we have not had the benefit of collecting out of city finances from tickets that were written to out of city residents. She said because our Omnibase System that connects us to DPS to tell them not to renew a driver's license has been non-functioning for over three years, the entire time that she has been there. She said this is a huge problem for the court because a lot of our finances come from out of city resident tickets. She said she has put that in previous reports and she would like to take that up with whoever comes in as City Manager. She said if we do not get resolution to this problem, she will come back and discuss it with the Council. She said that is one of the main things that she sees as a reason why the court finances are as low as they are. She said we do a really good job of collecting the fines that are owed for residents. She said they do not think that the people who are non residents of Alpine should be given a free ride. She said one of the delays and one of the reasons why it was delayed in getting corrected when she first came over is that the old computer system. which was serviced by the former City Finance Director could not get corrected. She said they would repeatedly ask that it be corrected so that it could function but it was never corrected. She said when they went to Hill Country, it was a year before the City turned their finances over to Hill Country. She said the Court was actually turned over to Hill Country when the Police Department was. She said when that was done, she requested an Omnibase system be hooked up and it is still not hooked up. She said she requested it several times and she requested that Hill Country be brought in to correct that, with a simple visit by them, and it still has not been done. She said she did talk to the former City Manager about this problem and he asked her to give him more time since they were busy with the budget and busy with other things. She said however in the budget meetings it was brought up to the Council that the finances of the Court were low. She said that is why. She said she took over finances of the court last month when they directed her to and since that time she has been pretty diligent in trying to get attention to these matters. She said she is going to take them one at a time. She said right now she would like to focus on the Omni Base

system and once we get that done, we can talk about other things. She said if we prioritize the list and try to get them addressed one by one, we can get those done. She said the other thing is that she did request in previous reports that the City Finance Director go over the finances with her so that we have some oversight of the accountability that has not been done. She said the other thing is that court matters have been taken up in staff meetings but she has not been invited to the meetings or told about the meetings. She said those are three things but she would like to focus on the first thing. She said once we get the first thing corrected, she thinks we can start working on the other things. She said these are all things that have been reported to the Council in previous reports and reported at the same time to the City Manager and City Finance Director. She said she is hoping by just coming here tonight it will focus their attention and your attention on these problems so that we can get the court finances in shape.

5. Citizens Comments (on agenda items) -

Bob Litton – said he resides in Ward 1 in Alpine. He said he wants to comment on two agenda items, numbers 11 and 18A. He said discussion of 18A, Evaluation Protocol, is scheduled for Executive Session. He said he does not believe that it properly belongs there. He said he does believe that it is a topic worthy of discussion, even though it has been gone over and over again in past years. He said however, since it does not concern a particular employee, it should be discussed in open session, in the presence of the public. He said concerning item 11, the parameters of the second public comment period, that too has been discussed time and again by the council. He said he would hazard a guess that it comes up every two or three years. He said there are some legitimate problems with it. He said one is that some citizens will raise issues that have been dealt with through a prior conference, that could have been dealt with through a prior conference with the city manager or some other staff member. He said the second problem is that occasionally citizens, arriving late to the meeting or simply being dissatisfied with an action already taken will resurrect a topic that has already been decided. He said those problems can be handled by a proactive Mayor with a loud gavel. He said on the other side of the question, unimpeded access to the entire council's attention is a desirable opportunity for citizens, who have city wide concerns or worthwhile ideas for the Council to consider. He said of course the council cannot and should not take up those matters during that day's meeting but you should be able to put them on the next agenda. He said above all, we as a community, should do all we can to expand the opportunity for citizens to participate in city politics. He said some will say well why can't they bring up such matters and let their representatives bring up the matters to the Council. He said his answer to that is firstly, any

comment looses punch when it is second hand. He said secondly their representative can misunderstand and therefore misinterpret a citizens comment. He said thirdly a comment made in open session smacks less of a TOMA violation, than does one over the phone or an I-Pad. He said speaking of TOMA, he despises that law. He said the legislature has taken a law, originally well intended, and wrapped it in chains and restrictions, so severe as to shield local governing, not enhance it. He said the legislature has the arrogant, hypocritical gall to exempt themselves from this rule in session.

J. R. Smith – said he was going to address item 12 on the agenda. He said this is about proclaiming Alpine, Texas as the "Mule Deer Capital of Texas". He said no one claims that in this state as far as his research has been able to tell. He said this came to his attention about five years ago. He said he was shocked to look at the numbers coming across his desk, that the average hunter coming to your area spends four to five times more money per day in this area than the average tourist does. He said before he moved here, he worked on a ranch North of Fort Davis. He said it was a small ranch and they only had four hunting camps and there would be five to eight people per camp for the first week and the second week and they were all paying \$2,000 apiece. He said plus when they would come to town, then they would buy their groceries for camping. He said when they would leave, he would clean out their camps and he got to live for three to four months on the food that they left in there, that they purchased. He said when you consider that the money they were bringing in and that was just the level of \$2,000. He said we have ranches in this area that are getting anywhere from \$10,000 to \$15,000 per person for them being here for five days. He said the feed stores benefit from the feed that the ranchers put out all year long. He said all the benefits in town range from people pulling up in a trailer, with three to four four-wheelers on it, who fill up tanks of gas and tanks of gas and come back no telling how many times. He said he has seen each hunter at Porter's sometimes, have three to five baskets of steaks, ice and adult beverage. He said somehow it does not last them for the whole week and they have to come back in the middle of the week. He said all that, they pay taxes, and it even filters down. He said he had an Italian hunter who spent \$15,000 to hunt one particular animal here. He said he would always take his wife to Santa Fe and buy art. He said he bought two paintings from him and sales tax was paid on and a year later he sent a painting to his hotel in Florida when he went hog hunting down there. He said it is big business and big money and it does not cost us anything to proclaim that. He said because of the changes in Colorado, a lot of people are looking for places to hunt Mule Deer and most of the hunters in Colorado have been Texas hunters and a lot of them do not realize that this is the prime habitat to come and take photographs, camp, come hunt, find West Texas, find Alpine and come back and keep spending money here.

Kathy Lammons – president of the Women's Club of Alpine, said she is commenting on number 10 on the agenda. She said it has come to their attention this week that the American Legion Auxiliary is not going to be able to host Mountain Country Christmas this year. She said the Women's Club stands ready to take over that obligation for the City. She said they have the experience and the know how to do it. She said it is a little bit late. She said their contracts should have gone out in June or July but she thinks that they can get it up and get it going if the Council will grant them permission to take over Mountain Country Christmas.

Katie-Elms Lawrence – said she used to be on Council and number 11 Is of great consideration to her. She said we had a Municipal Judge tell her that she made a fool of herself on council because she listened to a person in the audience speak up about something she knew nothing about. She said that was on the agenda. She said they said she made the motion and voted her own motion down. She said because she heard the other side of the story. She said if you want to know about TOMA and the Attorney General, she is your lady.

6. Public Hearings -

A. Public Hearing regarding the FY 2013-2014 Budget and Tax Rate to receive citizens input. The FY 2013-2014 Budget contains proposed expenditures and revenues from the general fund, airport fund, enterprise fund, capital expenditures and tourism/hotel occupancy tax funds. (C. Harrington, CM) - Deborah Pattison said we have looked at the budget with fresh eyes. She said overall what we are proposing this year is a budget that is four percent less than last year's budget. She said we have done a lot of belt tightening. She said at every staff meeting department heads will be receiving the budget updates from their departments and Council will be given bi-weekly reports as well. She said we appreciate everyone's participation. Bob Steele with the Alpine Lions Club said the Lion's Club also really appreciated the fact that the Council acquired new tables for the Civic Center. He said they are wonderful and they got positive feedback from their vendors. He said he does believe that the Council should consider possibly purchasing 30 more of the rectangular tables out of the hotel/motel tax monies to improve the civic center's usability. He said he thinks it would also help the Mountain Country Christmas and other activities that come in and set up who are selling items. He said they brought in about 20 or 30 more tables to meet the need. He said he thinks it would enhanced the Civic Center and it would be available for all groups to use it. He said he would like that to be kept under consideration for the budget. Ray Hendryx said he just wants to make sure that he understands that in the public hearing, the public is not allowed to ask questions. Mayor Rangra said the public can ask questions but the

Council will not respond. Carl Fleming said it is like a breath of fresh air for the city to say that we are reducing the taxes for the citizens of Alpine this next year. He said he hopes the City does not get into a bind but it is nice to hear. Mayor Rangra said we can respond to the questions during Public Hearing.

- 7. Consent Agenda (Minutes, Financial reports, Department Written Reports, board appointments, etc.) –
- A. Approve Council Minutes of August 6th, August 12th and August 13th. (A. Rangra, Mayor)
- B. Approve Accounts Payable. (C. Harrington, CM)

Motion was made by Councilor Davidson, by Resolution 2013-09-01, to approve the Consent Agenda as a whole. Motion was seconded by Councilor Bermudez. Motion unanimously carried.

- 8. Information or Discussion items -
 - A. Kaci Fullwood with Historic Murphy Street Update to City Council. (J. Gonzales) - She said she would like to thank the City Council for their support of Historic Murphy Street. She said she has recently been hired by Betty Gaddis. She said she was hired as the public relations person for the Historic Murphy Street. She said she would like to offer an update on what is going on and in this time of difficult issues, she brings us a ray of sunshine and hope and cooperation among the dark citizenry of Alpine. She said while the Council was busy this last weekend, they were busy on Murphy Street, having an open air market. She said it was a wonderful party and they had tons of people there. She said this is Susan Curry who has been in business for quite some time. Her studio is on Murphy Street. She said Susan is passing out flyers inviting the Council to the upcoming events and she will go over those in just a minute. She said she just wanted to say that they started out Murphy Street as a group. She said Murphy Street is a group of small business people with small sacks of money, making their dreams come true by putting in sweat equity into this block of Murphy Street. She said they started out in 2008 with two businesses and they are looking at eleven businesses on Murphy Street now. She said Murphy Street is alive and well and growing and they hope to hold the heart of the community there with future events. She said they have the RASPA Company, Ritchie Hotel, Saturday Farmers Market at the Ritchie Hotel, the new Little Backvard Café behind the RASPA Company, Los Jalepenos Restaurant, Tom Curry Studio, Studio Alpine Guest House, Brown Dog Gardens, Big Bend Screen Printing, Old Barbershop Patio that will be opening up as a party venue by next month and we have Patti Hildreth's shop. She said Murphy Street

and the old furniture store, the Raspa Company, has long been a gathering place for the community. She said a place where the community can come and talk and share and with that in mind she would like to invite everyone to their upcoming events that they are having on Murphy Street. She said on October 18th, they have a Harvest Moon Progressive Dinner. She said it is limited to 45 people and there will be tickets for sale at Brown Dog. She said they are going to start off at Brown Dog with drinks, go to Alpine Studio for appetizers, Los Jalepenos for dinner, homemade dessert at the Raspa Company followed by drumming at the end of the evening. She said it is going to be quite a fun evening and it will be limited to 45 people who can go to Brown Dog Gardens and get their tickets first. She said it will be their first and they hope to hold many more. She said on October 31st there will be a really fun party on Murphy Street. She said they close off the street and it turns into a Halloween Street Festival with all kinds of candy and vendors on the street and people in costume. She said on November 2nd, they are going to have a Day of the Dead celebration. She said she would just like to say that Day of the Dead has a special meaning to her after celebrating it in Terlingua for many years and she is really looking forward to this year being in Alpine. Susan Curry said one of the things that they started last year (she said this is the second year of Festival of Altar). She said what they do is set up the La Sombra, which is the open area with shade over it and they have individual tables surrounding it and any member of the community can come and bring pictures of their loved ones that have passed and celebrate the beauty of the day. She said this is a festival that is done all over the world and they are really glad to be able to bring it to Alpine. Kaci said one extra thing that she wanted to note is that they will have a venue on Murphy Street for any service group that would like to do a haunted house for Halloween. She said they have a new outdoor patio area that is available free of charge for any service group who would like to do a haunted house. She thanked the Council again for their support of Murphy Street and thanked them for their wonderful service on City Council and they look forward to a long and prosperous relationship.

- B. <u>Discussion on TOMA</u>. (Mayor Rangra) Mayor Rangra said he would postpone this item until the next meeting because we have a lot of things to talk about and he asked the City Secretary to put copies of an opinion regarding TOMA. He said there are a lot of references and sometime in the future, maybe at the next meeting, we will talk about it.
- C. <u>Discussion with the interim Director of Finance regarding past accounting irregularities.</u> (Jim "Fitz" Fitzgerald) Councilor Fitzgerald said he had some questions that he wanted some answers to but he would like to hear the update from the District Attorney first, because he may answer some of the questions that he has.

D. Update by District Attorney, City Attorney, and Texas Ranger on current investigation. (C. Harrington, CM) - The City Attorney said a lot has been happening. He said we are going to get into this in Executive Session. He said the Honorable Rod Ponton is here, our District Attorney. He said the Texas Ranger who is handling the investigation, who Ms. Pattison and he have been working with, is not here because he was called to El Paso and he informed him of that vesterday. He said he can answer any questions regarding the status of the investigation. He said really his role is simply to make sure that information is funneled appropriately and confidentially to the Ranger for further process. He said he knows that there has been a lot of work that has been done and he will answer any questions. He said otherwise the investigation is not even remotely dead and is active and ongoing. He said it is policy, the stated policy, of the City of Alpine to proactively and completely respond to concerns but also when questions are asked by Ranger it is the duty of the finance department and his duty to respond to those questions. He said we have to make sure that we don't go willy nilly because we could spoil the investigation. He said he is sure that Mr. Ponton would agree with that. He said we want to make sure that when items are reviewed for either accounting irregularities or potential criminal irregularities, that we are not dealing with speculation, but we are dealing with fact, fact that has been ascertained. He said we are not going on a witch hunt and we are dealing appropriately with fairness to everyone involved and get all sides of the story. He said he is not in a position at this point, nor is anyone, to level charges beyond those that have been leveled and he believes that are being presented to the Grand Jury at a future date. He said the investigation is active, it is broad and it is ongoing. He said that does indicate that there is wrongdoing and does not indicate that there is criminal activity, it merely indicates that the city is reinventing itself and is being very careful in doing so. He said it is like a duck on the water. calm on the surface but there is a lot of paddling going on underneath. Rod Ponton, 83rd District Attorney said there is very little that he can comment on regarding the ongoing criminal investigations. He said he can say, as has been noted publically previously, there is a criminal investigation going on in the hands of the Texas Rangers concerning the former City Finance Director. He said that investigation is not concluded and when it is concluded it will be presented to the Brewster County Grand Jury for determination of whether or not an indictment should be returned against the former finance director. He said regarding any other matters, it is going to require guite a bit of additional work on the part of the City to help coordinate the information to the Texas Rangers before that can be processed. He said the 83rd District Attorney's Office is not an investigation office, it is a prosecution office. He said they have to have cases brought to them by an investigative agency. He said in this case it is in the capable hands of the Texas Rangers. He said regarding additional requests for information, he will discuss those with the

Council in Executive Session. He said he should add that right now there is no specific investigation or action being taken against any other specific individual at the City of Alpine. He said his office and the Rangers do not go up against specific individuals, but follow the investigation to where it might lead them. Mayor Rangra said he just wanted to add something about the document that the District Attorney had copies of that we talked about earlier. He said he talked with the City Attorney this morning and he gave it to the District Attorney. The District Attorney said he received a copy of it and forwarded a copy to the Texas Ranger for his review. Ray Hendryx said the document that we were referring to, and that the Mayor held up a while ago, was it available to the public. Mayor Rangra said he would let the Attorney respond to that. The City Attorney told Mr. Hendryx to make a freedom of information request and the city would respond to it accordingly. Councilor Fitzgerald said he had a list of questions to ask and asked the City Attorney if he should ask them now or what would he recommend. The City Attorney said he knew that Councilor Fitzgerald had vetted the questions with the City Attorney and with the Ranger. He said he has been informed that the answers to those questions would not impede the investigation. He said he has been informed of that as well. He said in light of the information over the weekend, he has asked that Councilor Fitzgerald address those in executive session not for the purpose of withholding information, but for purposes of clarity and a process to where we can get those out in an orderly fashion and without partial or half-information, He said he would ask that but it is certainly up to him and any questions he asked would be responded to. Councilor Fitzgerald said this puts him in a quandary. He said he wants to do what should be done. City Attorney Armstrong said he would ask that Councilor Fitzgerald do that in executive session. He said he would ask and not tell him to do so. Councilor Fitzgerald said he would go with what the Attorney recommends.

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 appointing Dian Raun as Ward 1 representative for Parks Board. (A. Bermudez) – Councilor Bermudez said Mr. Herman Acosta is no longer going to be able to serve because of health issues. She said she does want to thank him for many things that he really did for the park and she wishes that he did not have to leave but she knows that we will have another good member, Dian Raun. She said Mrs. Raun worked for Southwest Texas Municipal Gas Company and she has volunteered for this position. Motion was made by Councilor Bermudez, by Resolution 2013-09-02, to appoint Dian Raun as the Ward 1 representative for the Parks and Recreation Board. Motion was seconded by Councilor Gonzales. Councilor

- Fitzgerald said he believed Mrs. Raun was a very good choice. He said she lived very close to the American Legion Park and he thinks she would make a positive contribution to the board. Motion unanimously carried.
- 10. Discuss and Consider allowing the Women's Club of alpine to conduct Mountain Country Christmas this year, as the last year of the two year period, to take the place of the American Legion Womens Group, who cannot hold it this year.(C. Harrington, CM) - City Secretary Taylor said every year a charitable or non-profit organization holds a bazaar in the Civic Center and it is called Mountain Country Christmas. The City grants an organization a two year period to hold this Arts and Crafts Bazaar. She said the American Legion was granted last year and this year as part of their two year term. She said American Legion is unable to hold this last year of the two year term. She said for the past years, American Legion, Family Crisis Center and the Alpine Women's Club have participated in this event. She said she called the Family Crisis Center and they are unable to hold this year. She said the Women's Club is the one that is left, and they are willing and able to hold this year. She said they are requesting to be able to hold the bazaar for this one year of the two year term. She said next year we will vote again on an organization to hold for the two year term. She said it is held on the first weekend in December of every year. Motion was made by Councilor Davidson, by Resolution 2013-09-03, to grant this to the Women's Club of Alpine for this one year. Motion was seconded by Councilor Gonzales. Motion unanimously carried.
- 11. Discuss and Consider discussing and determining the parameters of the second public comment period of City Council Meetings. (M. Castelli) -Councilor Castelli said he put this on the agenda because if you were here last week at the last meeting, it was brought up, that we should limit people's comments, at the second comment period, and have the people, within 72 hours prior to the meeting, notify the City Secretary, of what the comment is going to be about. He said he was shocked and would like the Council as well as the community to debate this issue. He said it does not sound like the America that he loves. He said as an elected official he could hide from his constituents if he wanted to but there is one place they know that they can find him and he is elected to listen to their opinions and he thinks that is important for them to be able to come up here and let him have it or let us have it or let each other have it. He said he thinks it is an important issue that we need to discuss and he does not want to leave it there. Mayor Rangra said Councilor Castelli is referring to item 16, Citizens comments. Councilor Castelli said yes, the second citizens comments. He said we have traditionally had a lot of people, without reservation, without advance notice, to come up and approach and speak to the council with their comments being limited to three minutes. Motion was made by Councilor Castelli, by Resolution 2013-09-04, to continue to allow the public, unfettered speech, to come up to the podium, at the second

citizen's comments, without prior arrangements, knowledge or information for a period of no longer than three minutes. Motion was seconded by Councilor Bermudez. City Attorney Armstrong said the gentleman earlier discussed some of the issues involved with that. He said the particular issue in question was not simply a citizen pop off which is certainly to be allowed but the issue was the giving and/or receiving of information that had been dealt with on a prior agenda. He said this was on the Ambulance and Air Transport issue. He said that outside of the parameters of the previous agenda item should be limited to asking to be placed on a new agenda. He said it should not be, I have this information, here you have it and now let's debate it. He said it was a different kind of comment. He said nobody is trying to restrict free speech here. He said members of the public should understand that the Council does not have to allow any public comment on any issue at any point in time. He said if you do, you cannot discriminate and you must make sure that everyone has equal access. He said the issue is the giving and receiving of information. He said if there is going to be an agenda type item, that should be posted 72 hours in advance. He said he is sorry that there was a misunderstanding in terms of the way it was presented. He said that was probably his fault but there needs to be differentiation between the type of comment and the anticipated response of the pop off. Mayor Rangra said in other words, if the audience feels that they should say something about potholes and that something should be done. The City Attorney said "We do not like potholes". He said they could then ask that potholes be placed on a future agenda and that is no problem. He said if there is information on a specific item, it should be addressed so that anybody could comment on it, instead of a hit and run type of importation of information to the Council. He said you have a much more orderly process where everyone can be involved as opposed to just one person talking about it and no one else gets to discuss it. He said nobody else has information and no one on this council has the information to address it intelligently, he thinks that is a problem and he thinks that is what needs to be addressed. Councilor Fitzgerald asked if the proper procedure would be to call the City Secretary 72 hours before the meeting and put it on the agenda. The City Attorney said he thinks that best practice would be that, to talk to your councilman, get it on the agenda and be prepared to have a complete discussion instead of just willy nilly stuff. He said on a matter of import, and not a frivolous item. He said if they say they have 16 pieces of information and now we are going to discuss it. no. He said the issue is not restricting speech, the issue is making sure that people have appropriate opportunity to fully engage in a debate here with this council. Councilor Gonzales said he understands what they are saying. He said he thinks it is appropriate to hear that they have a problem and then it needs to brought to an agenda item so that we can basically do something about it, yay or nay. Councilor Davidson said he would agree with Councilor Gonzales that in all fairness it would be nice to be able to debate and take action on a point that was made. He said people can come

up and say stuff but we cannot respond and the rest of the audience cannot say stuff. He said people would have their say so and would be heard but it stops there until the next meeting. He said once again we need to remember that if someone really wants something discussed we have to follow a procedure and we really do not have any choice. City Attorney Armstrong said we do have a procedure ordinance that provides for this right now, from doing it according to a procedural ordinance that was a Resolution regarding certain presentations that was made for following that. He said there is nothing wrong with it. He said the issue is that when detailed subjects come to the council that have been previously debated, that would be more appropriately dealt with as a motion for reconsideration or a giving or taking of information that is on an agenda as opposed to just coming up and revisiting an item that has been previously addressed. Councilor Bermudez said on the second citizens comments a citizen could say," Angie you did this wrong, and this is what you did and I think you did it wrong". She said they do have the right to do that. Mayor Rangra said if a stranger comes to town and finds out that we are having a meeting, stays to the end and says he wants us to know how beautiful this town is. He asked if that person could say that. The City Attorney said yes, because that is factual. Councilor Castelli said what he is hearing is that if someone is not aware of the proper procedure and they bring something up, the Mayor as moderator would be responsible for determining if the question was inappropriate at that time. He said so the responsibility falls on the Mayor. The Mayor said thank you. Mayor Rangra said if that is what the council wants him to do, he will do that. He said as he always says if things are bad, blame him and if things are good, praise the staff. Katie Elms-Lawrence said she applauded Councilor Castelli for doing this and she said she cannot agree with Mr. Armstrong's opinion. She said that is another parameter. She said that makes his job secure and then they all decide whether we can say yes or no. She said you already have a resolution in place and you all have no parliamentarian. She said who knows Robert's Rules of Order who can bring down the gavel and say, Dr. Rangra point of order, that person is speaking out of turn. He said we are setting up a lot of laws again and it is not funny. She said if we have freedom of speech, we have freedom of speech. Carl Fleming said he was the one who was cut off at the last meeting. He said he had two items he would like to bring to the council for the next meeting if somebody chooses to put it on the agenda. He said one is the status of the ambulance service and the flight service and the next one is the one I brought up earlier. Mr. Fleming was told that those items should be brought up during the comment period. Mr. Fleming said we are discussing the comment period. He said he mentioned it to Mr. Castelli last week to bring something up to the council on his request. He said he thinks he forgot about it but he would like to bring it up again. He said if the citizens are unaware the citizens are having a problem getting on the website for the city of Alpine. Trisha Their said she had a comment. She said she thinks what the City

Attorney is saying is that it is not fair to come and take advantage of the Public Comment time. She said if it is not something that can be taken care of in three minutes, then obviously you have to go and do something else. She said it would be up to the Mayor to make the decision. John Waters said he was the publisher of the Big Bend Gazette. He said he too would like to thank Councilor Castelli for putting this on the agenda. He said he does take great concern to some of the comments offered to the Council by the City Attorney. He said for the record, the time is now 7:15 P.M. and he is just now able to make a comment. He has been sitting here for 75 minutes and for the city attorney to address this group and to address him and to address you and say that someone who would sit here for 75 minutes might get up and talk about something that is willy nilly is just insulting. He said he sincerely hopes that the Council will allow the commentary to exist without having to go and register with Molly 72 hours in advance. He said earlier Councilor said if we wanted to receive some documents we would have to file a freedom of information act request. He said that is great. He said if He files a Freedom of Information request with the City of Alpine you all can ignore it. He said that law is a federal law and does not apply to the City of Alpine. He said what applies to the City of Alpine is a Texas Public Information Act and he would have to file an open records request. He said so please he would like that to be in the record. Motion carried unanimously.

12. Discuss and Consider passing a Resolution to proclaim Alpine, Texas, the "Mule Deer Capitol of Texas". (Mayor Rangra) - Mayor Rangra said he felt this was a wonderful thing. J. R. Smith said once again this deals with a very competitive industry. He said he heard from ranchers and members of the Chamber over the last five years of the importance of this economically in our area. He said he has talked with the Game and Fish Commission, Parks and Wildlife, the high desert area is the most prime habitat for many kinds of wildlife and not just mule deer. He said because we are the home of the Alpine Bucks and we have some of the finest mule deer in the country and every morning we find evidence of it in your yard and if you go on loop road they monitor traffic very well. He said the very first day he went to work for the Chamber of Commerce, he drove into the office at 7:00 and a trophy buck was standing in the yard eating and he looked at him and he turned and walked up the hill. He said he thinks we have every right to claim Alpine as the Mule Deer capital of Texas and it will get us a lot of free mileage that will be very beneficial to everyone in the community and in the area. He said that free mileage will help when it comes to tourism and will be very beneficial. Mayor Rangra said last Sunday he met State Representative Pancho Nevarez. He said he asked him about possibly presenting our Resolution to the State Legislature to have us proclaimed Mule Deer Capital of Texas. J. R. said he has already discussed with TXDOT signage that would state such and they gave him that approval about three weeks ago. Motion was made by Councilor Bermudez, by

Resolution 2013-09-05, to pass a Resolution to proclaim Alpine, Texas as the "Mule Deer Capital of Texas". Motion was seconded by Councilor Davidson. Councilor Gonzales said you cannot shoot a mule deer in Alpine. Mayor Rangra read the Resolution declaring Alpine as the Mule Deer Capital of Texas. Motion unanimously carried.

- 13. Discuss and Consider terminating existing contract for Financial Advisory Services with Coastal Securities, Inc. and Discuss and Take Action on hiring US Capital Advisors to provide Financial Advisory Services for the City through execution of USCA Agreement for Financial Advisory Services. (C. Harrington, CM) – Deborah said we currently have a contract with Coastal Security and she has a history with the principles of that company for about 12 years. She said they are very hard working and ethical when it comes to finding the best interest rates and helping with the Certificates of Obligation and refinancing bonds. He said the principles of Coastal Securities have all moved to US Capital Advisors and so basically the individuals that we have the professional relationship with have moved to another company. She said she is actually going to recommend that we table this and bring it back on September 17th because the City Attorney is still working on renegotiating the contract but they would recommend that we put this on the September 17th agenda and bring it to the council when it is complete. Motion was made by Councilor Bermudez to postpone this item. Motion was seconded by Councilor Gonzales. Motion unanimously carried.
- 14. <u>Discuss and Consider accepting resignation of Charles "Chuck" Harrington as City Manager.</u> (Mayor Rangra) Mayor Rangra said the Council received an e-mail on August 30th at 7:00 P.M. in the evening from our former City Manager who tendered his resignation due to personal reasons. He said under the contract that was signed, the city has to accept his resignation. Motion was made by Councilor Castelli by Resolution 2013-09-06, to accept the resignation of Charles Harrington as City Manager of the City of Alpine. Motion was seconded by Councilor Bermudez. Motion carried unanimously.
- Discuss and Consider authorizing the appointment of a temporary, acting City Manager, and authorize the City Secretary, Molly Taylor, to advertise for the position of City Manager, locally and through TML. (Mayor Rangra) The City Attorney said he would take this into Executive Session and bring the action out after Executive Session. Councilor Castelli said he thought publicly we could have people approach who want to be considered so that the public knows. The City Attorney said you have two items, one is getting a temporary acting City Manager and a second would be advertising for interim city manager. He said probably those should be segregated in Executive Session and then brought out. Mayor Rangra said we can separate the two and say 15A. is authorizing the appointment of a temporary, acting City Manager and 15B Authorize the City Secretary Molly

Taylor, to advertise for the position of Interim City Manager, locally and through TML. Mayor Rangra said we should take up item 15B. Motion was made by Councilor Bermudez, by Resolution 2013-09-07 to authorize the City Secretary to advertise for the position of interim City Manager, locally and through TML until the end of September. Motion was seconded by Councilor Fitzgerald. Councilor Gonzales asked why we were going for interim City Manager. He said we need to go ahead and advertise the job for City Manager. Motion was amended to change the Motion to authorize the City Secretary, Molly Taylor, to advertise for the position of City Manager, locally and through TML. Motion was seconded for the amendment by Councilor Fitzgerald. The City Attorney recommended that the Council withdraw their motions and seconds and amended motions and seconds and start with a new motion. Motion was made by Councilor Bermudez. by Resolution 2013-09-07 to authorize the City Secretary, Molly Taylor, to advertise for the position of City Manager, locally and through TML and include a probationary period of 90 days and to advertise until the end of September and possibly decide on the candidates to interview at the October 15th meeting. Motion was seconded by Councilor Gonzales. Motion unanimously carried. Mayor Rangra said we will now go to 15A which is authorizing the appointment of a temporary acting City Manager. The City Attorney said we could take this item into Executive Session. Mayor Rangra said we need to ask if there are any candidates interested in this position. He said they will need to turn in their resumes to the City Secretary, Molly Taylor. Councilor Castelli said he would like to know who is interested and they can submit their names. Motion was made by Councilor Gonzales to discuss this item in Executive Session. Motion was seconded by Councilor Bermudez. Motion carried unanimously.

16. Citizen's Comments (limit 3 minutes) -

Brian Wise – said he was from Newswest 9 and came down to do a story about the new City Manager and Executive Session and his news station wanted him to put some information out there. He said they have the names of three people who work under the city who have been identified in a prior investigation as misusing city funds. He said there are three specific people working under the city. He said they are talking to the person that did this investigation tomorrow and their names will be out there for people to see. He said that was not the story that he came here to do. He said the story he came here to do was about the new city manager. He asked when the Executive Session would be over.

<u>Trisha Their</u> – said on the Mule Deer Capital there was not public comment allowed. Mayor Rangra apologized for not asking for public comment. She said another thing was that she thought recycling was very important. She said she would like to know more about recycling at curbside. Martha Latta said they do not have curbside. She said we have a citizens drop off site and businesses have cardboard recycling bins. She said she thinks what

they are referring to is the bulky item pickup that happens quarterly and that will be printed on the October utility bill but it is also on the recycling website and they usually put an ad in the paper.

Sharon Gonzales – said the three people that you want to name is slander, because you have no proof. She said the people deserve the right to be heard before the City Council and the investigator before you start putting their names out in the public. Brian Wise said they will get their fair say, that is what news is all about. Sharon said no, you just throw things out there and then you don't go and cover it again. She said she watched that happen with the last scandal they covered. She said there is not enough time on the air for these people to have their say and she thinks that is not fair. She said these are employees and they have a right to be heard through their own employers.

<u>Katie Elms-Lawrence</u> – Asked how the man knew these names and asked what was going on here. She said this was smoke and mirrors and this was not good. She said everything is in Executive Session.

Bryan Garrison – said she makes a good point. He said the press knows a lot more than Council has spoken here today. He said there have been some honest attempts at discussion and then some stymied attempts at preventing discussion on these issues. He said he thinks it is obvious that there are a couple of issues here. He said if the Council does not explain it here, the press will explain it their way.

Bob Steel – said he shares the concern with protecting the rights of Individuals and it must be difficult to listen to the criticisms for not disclosing names but the process has to run its course. He said the investigator will run his investigation. He said he then goes to the Grand Jury and gets an indictment. He said the indictment is then delivered to the District Attorney and it is up to the District Attorney in a court of law to present the case and get a final adjudication for a finding of guilt or not guilt. He said to start disclosing names before investigations have run their course can be damaging to individuals and he just wants everyone to understand that this process is not meant to be smoke and mirrors or to hide the facts from the public but is meant to take into consideration the rights of those individuals who are under investigation some of whom who may later found to be culpable, some of whom who may not be found to be culpable, but the fact that the name comes out in the investigation is what people remember. He thinks that the process does work and try to consider the rights of the individuals who are under investigation that has no real meaning of the fact that people are checking to see if they have involvement. He said we know processes that take it through and that goes to the grand jury and the district attorney.

Deborah Pattison - said as interim finance director she would like to make a

statement. She said anything that they felt was out of character with financial findings have been going directly to the Texas Ranger and directly to the City Attorney. She said they have been following the process of procedure and not been doing sloppy work. She said she is sorry that they have not said more but they are going through the processes and they are doing everything that is required of us and more. She said there is a lot of information but it is in the right proper hands. Sharon Gonzales asked about the employee who put information out in the public's hands without authorization. Deborah said she could not control all of the employees. She said she was sorry about that. The City Attorney said the employee was certainly not authorized to do that and it was against policy and it was against everything that this city stands for, to take information out of channels, unauthorized and give it to the press. He said we do not want the press not to have it but we want the investigators to have it at the appropriate time to have due process for everyone. He said he can tell you that what the press is going to be reporting is only partially accurate. He said we will not follow up because the investigators will get the accurate story and will make a determination as Mr. Steele said through a Grand Jury. He said he would much rather face the criticism of the members of the public and the press who have no interest in protecting the rights of individuals as opposed to having those individuals sue the City and be successful. He said his job as City Attorney is to protect the City and its citizens and he will continue to do that and you can criticize all you want but we are going through the proper channels, period.

<u>Brian Garrison</u> – said he thinks it is a shame that the City cannot give out public information because of the past scandals. He said in a normal situation they could just give us information. He said they did not bring this on and they are just the press reporting.

17. Council Member's Comments and Answers –

<u>Councilor Bermudez</u> – said she would like to thank the audience for coming. She said she would like to see more of you here at every meeting. She said this is good and she would like to see everyone informed as much as possible and she would like to hear from everyone.

<u>Councilor Davidson</u> – said it was unfortunate that this information got out into the public but the whole Texas Open Meeting and Executive Session is there to protect individual rights that do not need to be dragged across the landscape for incomplete allegations that really deserve careful consideration and all of the law, employment law and Texas State Law supports that view point. He said there you go.

<u>Councilor Fitzgerald</u> – said he has a lot of education but he does not have a doctor of juris prudence so you need to go along with what he thinks is in

the best interest of the citizens and of the people that are involved. He said you do not want to go ahead and ruin someone's life reputation and then find out that the information was not correct. He said he has to go along with the City Attorney.

<u>Councilor Gonzales</u> – said he thinks it is a shame that the information was out there but he has two suggestions, check the information to make sure that it is correct and he does not understand how you can say something and not make sure that it is correct. He said he thinks it will set you up for a lawsuit.

Councilor Castelli – said he is having a déjà vu moment when he was sitting out there listening to things said about the former city manager and how that person had rights and they did not break the law but they never said he was not doing the job and why don't they fire him. He said the memo that he read is about people that may not be doing their job. He said there are three individuals. He said he is not talking about the Texas Ranger's investigation. He said the memo and information that he had talks about firing three employees and names those three employees. He said he feels the same way he felt when he sat out there and wondered since when do you have to be a criminal to lose your job. Why can't you be terminated for not doing your job or doing it incorrectly or doing it unethically. He said Texas is an atwill state and our contract with employees says that we are an at will employer. He said he is embarrassed to sit here and be put through this ridicule because you are right.

Mayor Rangra – said as long as he is here as Mayor there will not be any cover up. He said at the same time, all of you know that he went through this himself with a Council member. He said the press splashed his name all over. He said as a Mayor a lot of information was combined and put together. take a piece here and take a piece out there, so no. He said he fully sympathizes with their deadlines but we also have to talk about the reputation of people. He said if someone walks in here and says you are a thief, does that make me a thief? He said it has to be proven and if the press wants to enjoy that and put his name there which has happened, be his quest and if it defames his character, he will take the proper steps. He said what he is saying is that we have to look out for the interests of employees. He said the document that he mentioned was given to him and he called the attorney who was out of town. He said the City Attorney came back and spent three hours this morning and decided to give it to the District Attorney for some action. He said he does not have any way to say these guys are quilty, he said he does not have the time and even if he did he is not playing. He said everyone has a duty to do the best at his job. He said the taxpayers need to know that they are getting their money's worth plus more. He said at the same time, he wants you to know, that as long as he is here, there will not be any cover up. He said he will be very happy to talk with anyone. He

said he is not afraid, he is not worried, and he is not embarrassed. He said there is a job to do and we have to protect everybody's interests. He said everybody's interests, not just the press's ability to publish.

Motion was made by Councilor Davidson to enter into executive session. Motion was seconded by Councilor Bermudez. Motion carried unanimously.

- 18. <u>Executive Session Pursuant to Texas Government Code, Subsection 551.074, Personnel Matters and pursuant to Texas Government Code, Subsection 551.071, Consultation with Attorney –</u>
 - A. Discuss evaluation protocol. (Mayor Rangra)
 - B. Evaluation of Municipal Judge, Rebecca Schlosser. (J. Gonzales)
 - C. Evaluation of City Manager, Charles Harrington. (M. Davidson)
 - D. District Attorney, City Attorney, Texas Ranger, Council and City Manager to discuss possible legal matters. (C. Harrington, CM)
- 19. <u>Action Executive Session –Pursuant to Texas Government Code,</u> Subsection 551.074, Personnel Matters
- A. Action on Evaluation Protocol. (Mayor Rangra) Motion was made by Councilor Fitzgerald, by Resolution 2013-09-08 to research employee evaluation protocols from other municipalities and bring samples back for the council's review and propose one from Alpine, and to appoint Mike Davidson and Michael Castelli to that task. Motion was seconded by Councilor Bermudez. Motion unanimously carried.
- B. <u>Action from evaluations, if needed.</u> (J. Gonzales and M. Davidson) This pertains to items B and C above. Motion was made by Councilor Davidson to take no action on items B and C. Motion was seconded by Councilor Gonzales. Motion carried unanimously.
- C. Any Action concerning discussion of possible legal matters by District Attorney, City Attorney, Texas Ranger, Council and City Manager. (C. Harrington, CM) Motion was made by Councilor Davidson to take no action. Motion was seconded by Councilor Bermudez. Motion carried unanimously.
 - 15 A. <u>Discuss and Consider authorizing the appointment of a temporary, acting City Manager.</u> (Mayor Rangra) Motion was made by Councilor Castelli to take no action. Motion was seconded by Councilor Bermudez. Councilors Castelli, Gonzales and Bermudez voted in favor. Councilors Davidson and Fitzgerald voted against. Motion carried.
- 20. Adjournment Meeting was adjourned.

I certify that this notice was posted at 6:00 P.M.on August 30th, 2013, pursuant to Texas

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 6:00 P.M. on August 30th, 2013, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.
Margaret "Molly" Taylor, City Secretary

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