

**City of Alpine
Regular City Council Meeting
Tuesday, March 17th, 2015
5:30 P.M.
Minutes**

1. **Call to Order, Invocation and Pledge of allegiance to the flag** – Mayor Rangra called the meeting to order. Dick Zimmer gave the invocation and Mayor Rangra led the Pledge of Allegiance to the flags.
2. **Determination of a quorum and proof of notice of the meeting** – Mayor Rangra, Councilors Bermudez, Salas, Fitzgerald, Gonzales and Stephens were present. The meeting notice had been posted at 4:00 P.M. on March 13th, 2015. Barbara Quirk was present remotely for the meeting. City Manager Zimmer and City Secretary Taylor were also present.
3. **Presentations, recognitions and proclamations** – None
4. **Reports** –
City Mayor's Report - Mayor Rangra said the Appraisal Board met today and they had a report from the auditor. He said he handed out some items that he got in the mail to the Council members for them to take a look at. He said last week on Tuesday, he went to Austin. He said our State Senator had declared Tuesday to be Brewster County Day. He said he was told that the State Affairs Committee was meeting to talk about House Bill 540 which deals with Home Rule Cities. He said he stayed another night and appeared before the committee and testified. He said there were a lot of people there from industries, and they were in favor of HB 540 and there were quite a few people from the cities and obviously they were opposed to HB 540. He said he would explain what Home Rule City means. He said there are two kinds of cities in the State of Texas. He said one is General Law City and the other is Home Rule City. He said in order to be a Home Rule City you have to have at least 5,000 people. He said he believed we became a Home Rule City in 1990 or something like that. He said what that means is that we can make our own laws, called Ordinances, as long as they do not conflict with the Texas Constitution. He said the Home Rule City concept was created in 1912 by a Constitutional Amendment. He said if the State wants to do away with it, they have to go before the public. He said what our wise men in Austin are doing, they are leaving this Home Rule Cities intact but taking away our ability to pass ordinances, which is the heart of the whole thing. He said like some of the Ordinances that the Council is going to be looking at in the near future. He said we would have to send our request to the Attorney General's Office and if the Attorney General okay's it then we go forward. He said he raised that question to the committee members and to the person who wrote this bill and introduced it, that if it is passed and

signed by the Governor, would it go to the public for ratification? He said there was no answer. He said we have lawyers, like our City Attorney, Mr. McKamie, and other cities have lawyers too. He said when we talk about these ordinances, we always ask our lawyer and they make sure that we are not in violation of the Constitution. He said if we have the mechanism in place, why do we want to, then sweep it over to the Attorney General's Office. He said that is the question. He said it is taking the power that we have away from us and we will have to do whatever they want us to do. He said that is what it was about. He said the Senate has not set the date up yet and whenever they do it, he will go there. He said it was a pretty interesting meeting, talking to them and all of that. He said that is what he did. He said our City Manager, Erik, is not here, but in his place, Megan is going to be holding down the fort, and he told Megan, it was all hers.

City Manager Report – (presented by Megan Antrim, Finance Director)

- **Baines Park Project Update** – Kokernot Park project timing/update – Megan said the core structure was in place and grading work was being done to level the area. She said they are building a small retaining wall on the North end of the project and they anticipate completion within the week. She said once Baines Park swing project is complete the team will migrate over to Kokernot Park. She said we are addressing the build of the ADA compatible swing first and the weather is improving which will allow for the concrete pour. She said we will follow the swing project with the new Toddler playset that was acquired through the Grant received by the Big Bend Parks Group.
- **Gas Company Update** – The City of Alpine 2015 DIMP Projects are – Alpine – 1) Gray Addition Project 2) Ted and Covey 3) Andy and Alley 4) Gray and Tom Lackey 5) W. Avenue A and N. 13th Street and 6) New Services. Fort Davis – 1) Woodward Street and Madrone St. Project 2) Murphy St. Project and 3) New Services.
- **Sewer Plant Update – TCEQ Enforcement Action** – Megan said we negotiated pricing on the dewatering roll-off and negotiated the pricing on the final wiring for aerator installation. She said we are making progress on the reduction of sludge in the old Racetrack and working around the precipitation schedule. She said the City Manager and the Director of Utilities are working with the TCEQ enforcement group this past week on a new order that is forthcoming.
- **Income Statement, Budget Variance, Specific Activity Report** - Megan said concerning the Financial Readout, the Government Fund Total Revenue is \$2,176,058, Total Expense is \$1,367,183 and the Net Income is \$808,875. The Water/Sewer/Sanitation Fund Total Revenue is \$1,561,808,

Total Expense was \$1,455,882 and the Net Income is \$105,926. The Airport Fund Total Revenue is \$251,080, Total Expense is \$234,532 and the Net Income is \$16,548. The Gas Department Fund Total Revenue is \$1,138,661, Total Expense is \$603,019 and the Net Income is \$535,642. The total net income for the City is \$1,466,991. Hotel Occupancy Tax Total Revenue is \$212,570, Total Expense is \$109,749 and Net Income is \$102,821. Megan said early year Ad Valorem tax revenues and the Gas Company revenues coming in over the last three months represent the strength of the first half of the year financials. She said we will start ordering more street materials over the March/April timeframe and are working on several DIMP projects that were outlined in the Gas Company report, that will drive the expenses in our Government and Gas Company funds. She said the research we are doing related to overall paving costs and building asset costs should be finalized in the next month. This will give us a clearer picture on the dollars we will need to accumulate and spend out of the government fund to get back to a healthy asset position over time. She said the Police Department expense has the most attention right now with the City Manager and Finance Director. She said additional activities like the bomb threats and continued bridge accidents have driven overtime and some additional expense to that Department. She said we do monitor weekly and are working on ways to help minimize overall spend in our government fund. She said we are also very concerned about the deterioration of the roads and will address the anticipated costing as we communicate our findings and requirements based on the road paving/health research. The weather has been particularly abusive to our roads this year (about 4 months of continuous moisture), which is something we have to address. She said overall account balances continue to grow and our trend is stronger on cash position than 2 years ago. She said building some cash reserves will allow us to execute on the needed work for airport maintenance, road maintenance and other asset/infrastructure maintenance needs that continue to arise.

Councilor Fitzgerald said last budget cycle we put in \$25,000 for a hot box which would allow Hector's crew to put hot mix in the pot holes and melt the surrounding area so they would not wash out every time it rained. He asked if Megan had any idea when that money might get spent and when Hector might have that. Megan said she did not know. He said that money was allocated to be able to solve the pot hole problems. Megan said she knew there had been discussion as far as a hot box. Councilor Fitzgerald said cold mix washes away every time it rains. Megan said she thinks that

is as far as this has gone at this time.

City Staff Updates – None

5. Citizens Comments (on agenda items) – (limited to 3 minutes) –

Mayor Rangra said the City Attorney said item 6A and 6B and 6C have been cancelled for tonight and will be rescheduled. He said what we are going to do is have the citizens talk about this in citizens comments. He said they can talk about anything they want to as long as it is on the agenda. He said we will not have a formal hearing on 6A, 6B or 6C tonight, or item 12 or 13 or 14 also. The City Attorney said that is correct.

Manfred Fritsche - said he was not quite sure if he understood what items on the agenda were off. He asked if item 9 and 15 were still on. Mayor Rangra said yes. Mr. Fritsche said but 6A is eliminated and 6B and 6C. He said he understands that we can talk about these items if we want to on the citizens comments. He said he wants to talk about items 9 and 15 and 7C which is in Executive Session, and he understands that has been eliminated. He said on items 9 and 15, is what Council actually authorized on 17th of February with respect to the expenditure of \$35,000 to subsidize Commonwealth Company in their endeavor to develop and build 40 housing units. He said he was not at the February 17th meeting. He said what he knew about it, he read in the news articles in the Avalanche and what has come to his attention since then. He said as far as usual he thinks there is a degree of lack of transparency to keep the public in the dark. He said what is contained in the three resolutions cited in Agenda Item #15, that the Mayor put on the agenda. He said we do not know. He said why an Executive Session has been cancelled with the Attorney concerning Commonwealth. He asked the Council to recall that they work for the public. He said the ramifications and fallout from actions taken or not taken by the Mayor, the City Manager and the City Attorney are absolutely bizarre. He said the 3 to 2 vote taken on February 17th apparently was enough for the City Manager to commit the city to the \$35,000 expenditure. He said as he hears about the events, he believes the Mayor had some doubts about if that appropriation approval was part of the 3 to 2 vote. He said the Avalanche piece that Mr. Street wrote up in the February 19th Avalanche issue had the following quote in it. "Councilor Rick Stephens noted that the City was only asked to give a green light to let the project go forward and there is no skin off our nose if it fails." He said the City Manager then took the extraordinary action, with the assistance of the City Attorney, who by the way was appointed by the Council, the contract was signed and the commitment is apparently accomplished. He said section 4.02© of the charter is crystal clear. He said it says the City Manager shall see that all laws and provisions of this charter and the acts of counsel, subject to the enforcement by the

management is subject to his or her direction and supervision, are faithfully executed. He said it does not state that the City Manager can bypass Council or the Mayor when he is displeased with the Council Action. He said this dispute, at this time, revolves around the principle of governance as in the Charter. He said the City Council formulates policy and the City Manager executes that policy. He said it is simple and direct. He said plainly what is done wrong here might be summarized from a movie script, from Cool Hand Luke. "What we have here is a failure to communicate." He said if there was an ambiguity in whatever resolution might be applicable in whatever was authorized, a special meeting might have cleared the air and could have been convened. He said part of that appropriation passage should have also identified the precise source of the funding since it was not part of the budget, and the budget line items affected and whether or not one or more budget amendments would be required to expending the \$35,000 to a private, profit making business. He said what has motivated the City Manager to engineer this runaround the Mayor, with the assistance of the City Attorney? He said maybe he will tell us. He said what is beyond dispute is that the City Manager has poisoned the well with his overt act of disrespect and disloyalty to the Mayor, and the same might be said for the City Attorney. He said the question before this council this evening is do taxpaying citizens receive value for the \$35,000 of public funds. He said his own view is "no way". He said he can only hope that Council shares that view. He said in short, effective Municipal government depends on trust, integrity and transparency. He told the Council they had some work to do this evening.

Carl Fleming - said his comment was on item 17A which is in Executive Session. He asked if this was going back two or three years when we had our disaster with our former financial director. He said if it does, everybody that he knows of thinks supposedly that this been all cleared up, and all the finances are just fine. He said he is concerned a little bit.

Jean Larremore – said she is really concerned about the apartment complex that is trying to go up. She said she is a little concerned about the \$35,000 that the city is meeting in kind. She asked if that had already been determined, and asked if the City was going to do that. Mayor Rangra said the Council cannot make any comments during citizen comments. Jean said it was her understanding that it had already gone out which kind of concerns her. She said she has grandchildren and anyone here who has school age children or school age grandchildren who go to that middle school should be concerned. She said her particular concern is about those children. She said we have to do something to make sure our children and grandchildren are protected. She said if you get a 40 unit apartment complex there, right there smack in the middle of where the school is, are you going to move the school? She said what is going to be the conflict between the traffic that is going to be unbelievable. She said it is already. She said she mentioned last night at the Planning and Zoning Commission meeting that right now, if she left her house, at 7 or 7 thirty in

the morning, she better wait for at least another half hour or forty five minutes because she is not getting out of her house. She said there is way too much traffic. She said on the report they were furnished it says every 3.66 minutes, there is another car leaving. She said we have enough cars as it is. She said one leaving every 3.66 minutes is just not good. She said if you think you have problems now with potholes, with that amount of traffic we are going to park our cars in the potholes. She said there are some serious issues with the streets right now and she cannot imagine adding to the traffic or the trash that someone mentioned last night. She asked if anyone had done a crime study on that. She said we are all individual family homes in this area. She said her grandchildren walk to her home. She said it is only two blocks away. She said she always felt safe about that until now. She asked if she would not be able to let her grandkids ride bikes anymore since the traffic would be so horrendous. She said it is not something that she is even willing to go near. She said she is dead set against the 40 unit apartment complex. She said she will fight it tooth and nail with everything she has got.

Oscar Cobos – said he just wanted to touch on item 8B and item 11. He said he just wanted some clarification. He said he had a great visit with Judge Cano today and he takes pleasure in the interests of the community and the Airport. He said last year we went through an issue concerning the ground leases and it got cleared up because it was not even legal to start out with. He said he just had a question for the City Attorney. He said it was mentioned that our Attorney was an AOPA Attorney and he heard from another source that he is not one. He said he wanted to hear from the City Attorney that he is an AOPA Attorney and let it show for the record. He said we need to find that out for sure because he has looked into it and he is not and before we proceed and things get out of hand again, we had that problem with the retroactive ground lease that wasn't even legal.

Debby McCoy – said her comments are concerning the housing development. She said she did a little research on Michael Ash with Commonwealth Development. She said they boast of real estate holdings in excess of \$136,000,000. She said she did not know why the city was doing in-kind of \$35,000 because it does not sound to her like they need it. She talked about other uses for the property. She said another thing that she was concerned about is the impact on and the stress on the infrastructure. She said she has heard that this complex would generate some income and that the rental rate is around \$600 to \$700. She said that money is not coming back into Alpine. She said that money would be going to Commonwealth Developments. She said she did not see how the taxes would benefit the city. She told a story about the crime rate in a similar location in Las Cruces, New Mexico who had low income housing. She said the people who lived in them were criminals. Mayor Rangra said he did not think that had to do with this agenda item and had to be careful because of TOMA.

Michael McDaniel – said thanks to Mr. Ash for answering the questions. He

said he did not think the questions were all completely answered at this time but it was a good start. He said he thinks the people of Alpine would like to know why Alpine was chosen for this project. He said why choose a residential area that needs to be rezoned rather than some property that is already R-3. He said one of the answers that Mr. Ash provided is that anecdotally Alpine needs this housing. He said no one is providing hard numbers or hard evidence that we need this housing. He said there are some empty rentals available in town. He said he will assume that this is government subsidized housing. He said the reason he assumes that, looking at these numbers, that Mr. Ash provided comes out to \$314,000. He said there are numbers here that there will be four million dollars. He said if we say two million for construction, even he has no idea if that is correct. He said that would be about a 19 year payback. He said that is why he assumes that it is government subsidized because if not there would be quicker payback than 19 years. He said he thinks the last item he wants to bring up with regards to the new folks that are coming into town, he wanted to know where the jobs were. He said if this is government subsidized housing they would like to get a leg up and get a job. He said he wanted to know where the jobs were for the 40 new units.

James Griggs – said they have empty housing that is not rented. He said they cannot sell anything. He said this will bring in so much more housing to Alpine it will not do anybody any good. He said the taxes are so high now they cannot stay in business. He said when they tied into sewer they had to pay for every bit of water and sewer in there. He said this will just raise their taxes that much higher. He said it is killing the people who have been here forever. He said his neighbors are on a fixed income like himself. He said he does not understand why they are going to be gouged so much more so some big corporation can make more money. He said it is not right.

Jean Larremore – said she would like to know about an answer to a question that Mr. Ash gave them. She said on the existing plat that had been dedicated to the city, were the roadways closed as a result of the replat that had been conveyed to this project. She said she understands that would also count as City Support. She said she is not sure what road would be abandoned or closed in that area. She said there are no roads that need to be abandoned in that area. She said we do not have enough roads as it is. She said you cannot build any more roads in that area because there is no room. She said if you are talking about building roads in between each apartment, again you are adding to the traffic.

6. Public Hearings –

- A. Public Hearing to hear citizens views and comments concerning Zoning change requested by Commonwealth Development Corporation of America from R-2 to R-3 to permit development of a 40 unit multifamily rental housing development. This request is made by Michael D. Ash, Agent for Commonwealth Development

Corporation of America. Record owners are Fred Davis, Bill Davis and Barbara Crousen. The property identification/street address is southeast corner of N. 16th Street and W. Brown Avenue in Alpine and the legal description is Colima Addition, Blocks 1-6. (E. Zimmer, CM) – Skipped per instructions by City Attorney McKamie,

- B. Public Hearing to hear citizens views and comments concerning Ordinance 2014-10-01, Zoning Board of Adjustment, an Ordinance of the City Council of the City of Alpine, Texas, amending Appendix C – Zoning of the Code of Ordinances of the City of Alpine, Texas, by adding a new section 8 to said Appendix C – Zoning of the Code of Ordinances of the City of Alpine, Texas, creating a zoning Board of Adjustment for the City of Alpine, Texas; establishing guidelines and procedures relating to said Board; establishing jurisdiction of said Board pursuant to Chapter 211 of the Local Government Code of the State of Texas. (E. Zimmer, CM) – Skipped per instructions by City Attorney McKamie.**
- C. Public Hearing to hear citizens views and comments concerning a Buildings and Standards Commission Ordinance for the City of Alpine, Texas, Ordinance 2015-03-01, amending Appendix C – Zoning of the Code of Ordinances of the City of Alpine, Texas, by adding a new Section 9 to said Appendix C, creating a building and standards commission for the City of Alpine, Texas; establishing guidelines and procedures relating to said Board; establishing jurisdiction of such board, pursuant to the Local Government Code of the State of Texas, Chapter 54, Subchapter C (Quasi-Judicial enforcement of health and safety ordinances), and Texas Local Government Code Chapter 214 (Municipal Regulation of Housing and other structures), subchapter A (Dangerous structures), and City of Alpine Code Chapter 18, Article IX, Sec. 18-260 (International Property Maintenance Code, and City of Alpine Code, Chapter 18, Article X, Sections 18-281-291 (Dangerous Buildings); creating standards for non-compliance, abatement, providing for appeal process; making various provisions and findings related thereto, including compliance with the comprehensive plan of the City of Alpine, Texas; providing a severability clause; providing a savings clause; finding compliance with the Texas Open Meetings Law; providing a repealing clause; and providing an effective date. (E. Zimmer, CM) – Skipped per instructions by City Attorney McKamie.**
- 7. Consent Agenda – (Minutes, Financial reports, Department written reports, board appointments, etc.) – (Notice to the Public – The following items are of a routine and administrative nature. The Council has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one**

vote without being discussed separately unless requested by a Council Member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.)

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

B. Approval for Mayor to sign letter to TxDot requesting additional signage be added along highways depicting route through Alpine as way to Big Bend National Park. (A. Rangra, Mayor) -

Motion was made by Councilor Gonzales, by Resolution 2015-03-06 to Approve the Consent Agenda in its entirety. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.

8. Information or Discussion items – (Citizens are allowed to comment – limited to 3 minutes – after being called upon by Mayor.) –

A. Airport Advisory Board Readout by Chair of Airport Advisory Board or designee (E. Zimmer, CM) -

1) 2014 updates

2) 2015 goals

3) Board needs from Council members (E. Zimmer, CM)

Kyp Angel, the Chair of the Airport Advisory Board, said he was going to start off with the accomplishments for 2014. He said we were able to work with the FAA and Johnny Galvan and Molly Taylor. He said they were able to get the Satellite System or WASA going at the Airport. He said that stands for Wide Area Occupation System for the approach for 23. He said the City has met all the requirements to complete this WASA approach for 23. He said it looks like in 2015 we are going to be able to put a band aid on the taxiways and do a bond and repair. He said the surface will get us by for a couple of more years. He said in 2015 we got with Mary Carmen and are working on an Action Plan update from TxDot Aviation. He said since 2007 we have fallen way behind on where we should be. He said they have also requested from the City Manager that they put the Airport out for local bids on the fuel sales at the Airport. He said he believes that has been put out. He said long term on the action plan or some long term things that he would like to see is to expand the ramp area at the airport. He said right now you cannot even park an airplane because it is so full. He said they would like to get into the 21st century on lighting for the runway. He said the last time they did new lighting was in 1968. He said those are some of the things they are looking for. Oscar Cobos asked if there would be an appointee from Ward 5 for this year on the Airport Board. Mayor Rangra said this is a

TOMA thing and we do not answer questions. Mayor Rangra asked if Rick Stephens could answer Oscar Cobos with this question. City Attorney McKamie said he could answer Mr. Cobos. Councilor Stephens said the short answer is yes. He said there are a number of people who have approached him about serving on boards. Mr. Cobos asked when we would see something concerning the FBO. He asked when the public would know. He said they would like the public to know, not behind closed doors. Megan said they are still working on that and discussing it. She said there is no set time as of right now. She said that would be something that Erik would put back on the agenda. She said they are still working through the proposals that have come in.

- B. Discuss updated Contract Rates for McKamie law Firm. (J. Gonzales) – Councilor Gonzales said he had a couple of questions about Mr. McKamie’s billing. He said one of the things he noticed in the billing was that Barbara is charging us for consulting with Mr. McKamie. Mr. McKamie said when we enter an item for the billing, another attorney will indicate if they have consulted with another attorney but the city does not get billed for that time. He said that is an inaccurate statement. Councilor Gonzales said he had the bills and he could show where Barbara is consulting Mr. McKamie and we get charged for it. Mr. McKamie said she might consult with him but that would not be the only item under that description. He said if there is an oversight on a bill you will find that we correct it immediately. Mr. McKamie said Councilor Gonzales has not brought any of these items to his attention before now. Councilor Gonzales said he is bringing them up right now. Mr. McKamie said before the meeting would be the prudent thing to do or take it to Mr. Zimmer. Mr. Gonzales asked if he took it to Mr. McKamie would he get billed for that. Mr. McKamie said that has never happened. Mr. Gonzales and the intimation that it could happen is inappropriate. Councilor Gonzales said he understood that we were going to talk about a set rate under Executive Session. Mr. McKamie said he would be happy to talk about it now. He said there are no secrets. He said they think they have made a proposal to the city. He said they have included several alternatives back in 2013, one of which was to have a set rate for attendance at two City Council meetings plus 10 additional hours a month and that was one of the alternatives so when the question was raised earlier we simply submitted a similar one again for your consideration. Councilor Gonzales said the reason he has been asking about contract rates is because it has been over a year and we have paid a total of \$108,000 for the McKamie Firm. He said that is quite a lot of money. City Attorney McKamie said it can be expensive. He said they had some litigation that they represented the city on which was separately billed from the attorney work, of course, on a separate bill. He said also as we discussed last time when they first came in as City Attorney there was quite a bit of work to be done and they were called

upon a lot by the staff. He said their rates are reasonable and the time that they spend is the minimum amount of time they need to do that they are called upon to do. He said they do not ask to do additional work. He said they are asked to do work. Councilor Gonzales said in saying that, Mr. McKamie, who do you work for. Mr. McKamie said they work for the city as a corporation, the City Council who is equivalent to the Board of Directors and they respond to requests for advice from members of the staff, the City Manager and his staff whenever they need legal advice or legal work. He said that is how they work. He said they do not come and look for work in Alpine. He said they are requested to do work. Councilor Gonzales said anyone can request work that is on the staff. Mr. McKamie said that is entirely up to the City Council to set that communication for the law firm, the city council and the city manager's office. He said the way it has worked so far in Alpine is the City Manager generally sends us requests for legal work. He said on occasion he will delegate that to a staff member or a department head, but normally we get those assignments from the City Manager's office. Councilor Gonzales said he has dealt with City Attorney's before and he has been able to communicate with them and ask questions and he feels like he has been stifled in the sense that if he calls the City Attorney, we are going to get billed for it and he has a problem with that. He said if he cannot get answers from the City Attorney then he would have to go with somebody else, possibly TML and then he gets reprimanded for doing that because TML says it needs to be answered by your City Attorney. Mr. McKamie said when you hire an attorney you have to pay for the legal advice. He said Councilor Gonzales had not been stymied or stifled as far as he knew. He said he did not recall every being unavailable for a call from anyone on the City Council. He said if they receive a call or an inquiry, they respond within 24 hours. He said he thinks they have been very good about doing that for Alpine. He said he does not recall ever being late on a response. Councilor Gonzales said he had not contributed to any charges. Mr. McKamie said if he called he would respond. He said as far as responding for free, he does not think that is a reasonable request. Councilor Gonzales said he is not saying for free but he is thinking that maybe we need to negotiate and apparently we are going to do that under executive session. Mr. McKamie said he thinks that it has been listed under Executive Session to discuss. Mr. McKamie said the method of communication for the City is whatever you want. Rick Stephens said the budget that we approved this year for City Attorney expenses is \$96,000 for the year. He said thus far we have spent \$32,000. He said we are halfway through the fiscal year and have spent less than half the money so he thinks they are charging the proper amount for their services. Megan Antrim, Finance Director, said the \$332.50 error has been credited back to us. She said it was taken care of the same day that it was brought to their attention. Manfred Fritsche said he had submitted TPIA's and received about 100

pages in billing information for Mr. McKamie's firm. He said when he added it up, and of course this goes over 2 fiscal years, and the total number he came up with was \$108,000. He said some of the stuff is abhorrent. He said the City Manager calls the City Attorney on the most trivial things. He said the preparation of the agenda is one of them. He said Mr. McKamie may be a fine guy but we simply cannot afford him.

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

- 9. Review, Discuss and Consider actions necessary to resolve the Mayor not signing the Resolution passed by City Council on February 17, 2015 to approve the request by Commonwealth Corporation for City of Alpine letter of support relative to developing a parcel of land using Texas Department of Housing and Community Affairs (TDHCA) Housing Tax Credit Program. (R. Stephens).** – Councilor Stephens said the purpose of this agenda is not about the Resolution itself but ensuring compliance about how we follow our policies and procedures, charter and ordinances. He said there are no Resolutions required or any actions from this item. He said the only action that is requested is for the Mayor to sign the Resolution. He said he has gone through and pulled out a set of facts and information that are all included on the postings on the City of Alpine website. Councilor Stephens said on February 17th there was a Resolution to approve Mr. Ash's request and it was passed by 3-2 on the City Council. He said the discussion lasted 58 minutes. He said it is all available to view on the DVD and the Council minutes. He said three days later the Mayor expressed concern to the City Secretary about the final draft resolution that was given him to sign that was neither in the packet or provided at the council meeting. The City Attorney responded and said that the Resolution was the same as the one discussed at the meeting with information inserted that comports what Councilman Fitzgerald's motion requested during the meeting in a prequel of 3-2. He said at the City Council meeting of March 3rd, the minutes of February 3rd and February 17th were moved into Executive Session. He said while in Executive Session no action was taken. He said the agenda for this item also lists the February 3rd and February 17th minutes as agenda items. He said as a relatively new Council member he was trying to understand the process we go through. He said he had been on the Council since July and he became aware of Resolution 2009-07-02 which states that all information to be discussed by the City Council of the City of Alpine must be received by the City Secretary of the City of Alpine on Thursday, preceding a regular or special meeting. He said also all requests having monetary requests must identify the source that the funding is coming from before any action is taken. He said subsequent to the Resolution Council adopted Rules and Procedures which state that

the backup information must be received by the City Secretary by Friday at 9 A.M. He said since coming to City Council in July of 2014, the Alpine City Council has included 49 Resolutions on its agenda. He said in addition there have been a number of ordinances on the agenda, ordinances mandated by charter, which require a first and second reading before action is taken. He said of the 49 Resolutions, the following level of documentation was provided. He said there were three Resolutions for which there was no information on the topic other than the agenda and there was no written draft resolution. He said there were 17 Resolutions where information was provided but there was no draft Resolution. He said there were 20 Resolutions where information was provided and while there was no draft resolution, in his opinion, a pro forma resolution was provided. Of the nine resolutions of the forty nine resolutions, there was information provided and there was a proposed resolution. He said so of the 49 resolutions about half had written resolutions and the other half did not which is part of the contention of the discussion of this particular agenda item. He said if we use the information from the March 3rd meeting, there were four resolutions passed, 2 of which had information provided ahead of time and two did not. He said he understood the desire of the City Council to operate according to the Charter and to Ordinances and to Resolutions previously passed. He said based on the operation of the Council since his tenure there have been different levels of documentation provided to the City Council. It has been his experience, that despite the level of information provided, some a lot and some almost none, ensuing discussion provided good insight and information and provided a basis from which Council members could comment on their respective opinions. He said based upon the review of the documents and a review of the video tape of February 17th, he has made the following observation. He said the City Council did in fact receive information for the February 3rd, 2015 concerning Commonwealth. He said the City Council spend 53 minutes on the subject including questions back and forth with Mr. Ash. He said the City Council passed a Resolution "Approving Mr. Ash's request" by a vote of 3-2. In fact the Mayor called two or three times for a recount of the vote and that can be seen on the replay of the City Council DVD. He said from a Policies and Procedures standpoint, he struggles with the Mayor not having signed the Resolution and request that the Mayor sign the Resolution. Councilor Stephens said no action needed to be taken on this item. Councilor Gonzales said in that we are supposed to say where the money is coming from in our budget and that was not what was proposed and there were no amendments to what was presented to us in the book and it never mentioned the money of \$35,600. He said there was another Resolution that was placed on our desks and Councilor Fitzgerald would agree with him that the Council does not accept that kind of paperwork being put on our desks at the very last minute. He said if we are talking about accepting a Resolution, the Resolution that was in the book is the one that we adopted and he does not know how it was determined, that Mr. Ash can put an item on the agenda and call it an

amendment so that the lawyer can go ahead and put the money amount in and let the Mayor try to sign this, when this is not what we passed. Councilor Stephens said we passed three Resolutions at the last meeting for which there was nothing written and he said we had no authority to pass them. Councilor Gonzales said if that is true, we need to reevaluate them. Councilor Stephens said he has been on the Council for 17 meetings and there are 39 Resolutions we would have to go back and look at. He said he does not think that was the intent. He said we certainly filled the requirements of this Resolution. Councilor Gonzales said again he goes back to the fact that the money was not mentioned in the Resolution and in fact the one that was laid on our table at the last minute did not mention the money either. He said the question is, did Mr. McKamie forget to put that item on the agenda and then later decided to add it, because he does not think that was right and he does not think that Councilor Fitzgerald (he said he was sitting right next to him), he saw the video tape too – he said Councilor Fitzgerald said he had heartburn with giving money to this corporation or even city services, so, Councilor Gonzales did not see Councilor Fitzgerald saying that is what he wanted to do, to give \$35,600. He said what was said in previous meetings has nothing to do with what was written on the Resolution that was presented. City Attorney McKamie said he does not request anything to be placed on the agenda. He said that was inappropriate. He said he does not place things on the agenda. He said the item was placed on the agenda by whoever (the Council, Mayor or City Manager) put it on there. He said they were just asked to prepare a Resolution on behalf of the City and that is what they put in the packet. He said they did not put anything on the agenda, themselves. Councilor Fitzgerald asked who asked City Attorney McKamie to put it on the agenda. City Attorney McKamie said he did not put it on the agenda. Councilor Gonzales said he knew he did not but asked who put it on the agenda. Councilor Gonzales said he meant the Resolution. City Attorney McKamie said the Resolution was originally presented by Mr. Ash and Mr. McKamie thought it was inappropriate and incomplete and he completed it to protect the city and that is the draft the council had at the council meeting. He said it also intentionally left the amount of money blank because that is up to the Council to decide and not the Attorney. Mayor Rangra asked if he could ask a question. He said he had item 15 on the agenda tonight which relates to this issue. He wanted to know if both the items could be discussed at the same time. The City Attorney said yes, it could be taken out of order. Mayor Rangra then read Item 15 and these minutes now move to item 15.

10. Discuss and Consider review of February 3, 2015 and February 17, 2015 Minutes with City Attorney and pending approval. (E. Zimmer, CM) - Motion was made by Councilor Gonzales to approve the minutes of February 3, 2015 and February 17, 2015 by Resolution 2015-03-08. Motion was seconded by Councilor Fitzgerald. Councilor Stephens said since we just changed the minutes of February 17th, what is in our book is no longer valid and therefore

he cannot vote because he does not know what he is voting on. He said he is just trying to reflect what we just worked through as a Council. He said it is time for us to pay attention to what we are doing. City Attorney McKamie said if the council wants to adopt having a document in final form before the council that would be correct. He said typically in the past the Council has been free to make changes to the minutes and documents before the Council except for Ordinances. He said based upon earlier discussion, unless the council chooses to adopt that process, in that instance Mr. Stephens point would be well taken. Mr. Stephens said on February 17th minutes there was a substantive change in the discussion that has now been changed. Mayor Rangra said we are not approving what happened today but what happened on February 3rd and February 17th. City Attorney McKamie said we will have to reflect what actually occurred and not what we wish had occurred. Mayor Rangra said we have never made any substantial changes other than spelling errors to the minutes. He said what happened on the 3rd and 17th, those documents you cannot change. The City Secretary said she cannot change what was said. Councilor Stephens said the actions tonight made the minutes of February 17th no longer true. Mayor Rangra said that is like history. City Attorney McKamie said the Council is charged to review the minutes for their accuracy and completeness. He said he has to assume that is what the Council's motion was, to approve the minutes as correct and complete. He said Mr. Stephens point is like a point of order which does not really reflect the actions taken on February 17th now. Manfred Fritsche said he believes Mr. Stephens has a valid point. He said there is an affirmative vote on the record, passed on February 17th. He said what was passed today makes no reference to what was passed on February 17th. He said what he thinks should happen is you should link today's vote, rescinding the action that was taken on February 17th. The City Secretary said she could do a footnote on the February 17th minutes linking the action tonight at the end of the minutes. City Attorney McKamie said the City Secretary is stating that she will link the two sets of minutes by a footnote at the end of the February 17th minutes to make it clear of what the effect of that vote was. He said he believes that will be adequate, based on the Texas Open Meetings Act. He said it is preferable to use words like reconsideration when you make a motion under Robert's Rules but he thinks that was the effect of the Council's vote tonight. The City Secretary said she would attach a footnote to the February 17th minutes stating what occurred tonight at this meeting. Mr. McKamie said we can make that language effective. Dr. Escovar suggested that the Council just pass the minutes of the February 3rd meeting and table the February 17th meeting and link that when you approve today's meetings so that you can link the two together. Motion was read by the City Secretary to approve the minutes of February 3rd and February 17th, 2015, and for the City Secretary to include a footnote for the February 17th minutes, linking them to the March 17th minutes. Councilors Bermudez, Salas, Fitzgerald and Gonzales voted in favor. Councilor Stephens abstained from voting. Motion carried.

- 11. Discuss and Consider approval of new/updated lease for Airport Hangar Ground Space Rentals at Alpine Municipal Casparis Airport. (E. Zimmer, CM)**

 - City Finance Director Antrim said basically what has happened is that Erik and Mary Carmen have been working on creating a new lease to be a little more specific and to have a little more structure to it unlike some of our older leases. She said this has a better format that we can apply across the board. She said a copy of it has been provided in the packet for you to review and look at. Councilor Stephens said he thinks the city has done a great job updating the airport ground lease. He said there are a number of issues for example the Airport Rules and Regulations that are not actually included in the leases, so we have people who have airport leases who do not have to abide by the Airport Rules and Regulations. He said his recommendation is that we postpone this until the next meeting so that everyone has the opportunity to review it. He said there is a lot of legalese to work through. He said the City Attorney has done a great job on this lease as well but this will give everyone a chance to better review the lease. Motion was made by Councilor Stephens to postpone this item until the next meeting. Motion was seconded by Councilor Bermudez. Motion unanimously carried.

- 12. Discuss and Consider the Planning and Zoning Commission's recommendation concerning a zoning change request by Commonwealth Development Corporation of America from R-2 to R-3 to permit Development of a 40-unit multifamily rental housing development. This request is made by Michael D. Ash, Agent for Commonwealth Development Corporation of America. Record owners are Fred Davis, Bill Davis and Barbara Crousen. The property identification/street address is southeast corner of N. 16th Street and W. Brown Avenue in Alpine and the legal description is Colima Addition, Blocks 1-6. (E. Zimmer, CM)** - This item was skipped upon the advice of the City Attorney at this time.

- 13. Discuss and Consider the first reading of Ordinance 2014-10-01, Zoning Board of Adjustment and the Planning and Zoning Commission's recommendation concerning a Zoning Board of Adjustment, an Ordinance of the City Council of the City of Alpine, Texas, amending Appendix C – Zoning of the Code of Ordinances of the City of Alpine, Texas, by adding a new section 8 to said Appendix C- Zoning of the Code of Ordinances of the City of Alpine, Texas, creating a zoning Board of Adjustment for the City of Alpine, Texas; establishing guidelines and procedures relating to said Board; establishing jurisdiction of said Board pursuant to Chapter 211 of the Local Government Code of the State of Texas. (E. Zimmer, CM)** – This item was skipped upon the advice of the City Attorney at this time.

- 14. Discuss and Consider the first reading of Ordinance 2015-03-01, Establishment of a Building and Standards Commission and the Planning and Zoning Commission's recommendation concerning the establishment of a Building and Standards Commission, an Ordinance amending Appendix**

C, Zoning of the Code of Ordinances of the City of Alpine, Texas, by adding a new Section 9 to said Appendix C, creating a building and standards commission for the City of Alpine, Texas; establishing guidelines and procedures relating to said Board; establishing jurisdiction of said Board, pursuant to the Local Government Code of the State of Texas, Chapter 54, Subchapter C (Quasi-judicial enforcement of health and safety ordinances) and Texas Local Government Code, Chapter 214 (Municipal Regulation of Housing and other structures), subchapter A (Dangerous structures), and City of Alpine Code, Chapter 18, Article IX, Sec. 18-260 (International Property Maintenance Code, and City of Alpine Code Chapter 18, Article X, Sections 18-281-291 (Dangerous Buildings); creating standards for noncompliance, abatement, providing for appeal process; making various provisions and findings related thereto, including compliance with the comprehensive plan of the City of Alpine, Texas; providing a severability clause; providing a savings clause; finding compliance with the Texas Open Meetings Law; providing a repealing clause; and providing an effective date. (E. Zimmer, CM) – This item was skipped upon the advice of the City Attorney at this time.

- 15. Discuss and Consider which one of the following three RESOLUTION'S NO. 2015-02-09, the City Council approved at its February 17 meeting to support the COMMONWEALTH Development Corporation of America dba Commontex Development, Inc. project:**
- 1) The one that was included in the package that the councilmembers received on February 13;**
 - 2) The one the Councilmembers received on 17th from the City Attorney prior to the meeting;**
 - 3) The one prepared by the City Attorney after the meeting was adjourned for the Mayor to sign. (A. Rangra, Mayor)**

Mayor Rangra said the Resolution that was discussed did not have one paragraph, where it said the Resolution was a firm commitment from the City of Alpine for the purpose of commitment for development funding by a local political subdivision in the amount of \$35,600. Mayor Rangra said he agrees with Councilor Stephens in that when a Council passes a Resolution, he as the Mayor should sign it. He said but if there were some changes made in it, which council had not seen, he is not going to sign it. He said now the council has an opportunity to tell him to sign a document. Mayor Rangra said the Resolution was given to him with the extra Paragraph and the Council had not seen it. He said now that the Council has copies of it, if the council now decides that yes, they want the Mayor to sign it (document 3), he will sign it. The Mayor said he is not a signing machine. He said he has to look at what is passed, (he looked at the video) and then by questions he has asked. He said the Attorney and he have exchanged several emails and those emails are in the packet. He said it is up to the Council. He said the public knows it. He said there was a question

raised if we have signed the \$35,000 contract. He said he has not signed it. Councilor Salas said she had a question for Mick McKamie. She said what we voted on, on February 17th, with all that was said, where do we stand with this legally with that resolution. She said since there was a vote 3 to 2. City Attorney McKamie said the Council approved the motion that was made to support the request. He said that was the motion, Mr. Ash's request. He said based on the information at that meeting and also the meeting on February 3rd, which talked about the amounts and the fact that Council support without the financial support would not allow this project to go forward and Mr. Ash at both meetings mentioned that the support encompassed his request which was for support for low and moderate income housing project and if tax credits are awarded by the Department of Housing and Community Affairs then the city would pay in-kind the amount that had been requested. He said that is the amount of money that was discussed at the meeting and encompassed in the motion. He said so that is what has happened so far. He said he thinks the Mayor's item would be tantamount to reconsideration of that to determine if that is what the council intended. Councilor Bermudez said on February 17th, when she voted on this item to go through, she was voting on the Resolution, the paper that was in their packets. She said the first time she saw the other one that had this number three added on was when her packet was brought to her on Friday. She said she does remember back to that meeting and Mr. Ash having mentioned something about \$35,600 or something like that was missing from the Resolution. She said that took her back to Mr. King and his bid for FBO and where they were putting in a contract and it was missing a word that totally changed that paragraph and she said no, she did not want to vote for it. She said she almost feels the same way with this, now that she is looking at it. She said she totally remembers him saying that it is missing and to put it in there and she said she thought, why should I be putting it in there. She said she waited to see if the motion was amended at the motion and nothing was said about amending it. She said that is why she went ahead and voted. She said now that this \$36,000 comes up in her packet, she said that is not what she voted on. She said if she had to do this over again, she would not vote on this. Mick McKamie said our job is to implement the Council's wishes and we will continue to do that. He said when we have a Council vote to approve the request, we will try to implement that. He said that is all we were doing. He said the request was clearly for that amount of money. He said the motion was clearly to encompass all of that. He said the discussion immediately prior to the motion in response to a Council member's question was, if we could support this and not include the financial in which case the proponent said no, he needed the financial support. Mr. McKamie said we were attempting to implement the Council's wishes, which as you know in this particular case, had a deadline. He said the deadline was February 27th and so that is what happened. He said nothing more and nothing less. He said if the Council wishes to reconsider a vote you are free to do that. He said if Councilor Bermudez misunderstood

what was being voted on in that motion that was encompassing that entire request, Mayor, you may want to consider a motion to reconsider that. He said as far as implementing your vote, we are going to do the best we can to implement it. He said why the original resolution did not include a dollar amount and often will not, is because the Council needs to have the authority to put that dollar amount in themselves. He said it is not up to Mr. Ash to do it, it is the Council's responsibility to do it. He said that is what happened with that vote. He said he would encourage the Council from now on though....he said this is the first time he has heard that a Resolution in the form in the agenda packet is all the council is voting on. He said he never heard that before. He said if you consider, during a meeting, Mayor, you might want to consider this process. He said if a Resolution is presented for your approval, whether it is in the packet or not, (he said the two resolutions we had at the last meeting were not in the packet), that perhaps you have a recess before your final vote and the staff can complete the Resolution to say what the Council wants it to say and then vote on it after that. He said that way you can accomplish it all at the same meeting, after a ten minute recess. He said he would suggest that the Council do that. He said this is the first he heard of a process where the Resolution in the packet is binding on the City Council for that meeting because what we try to do is make your wishes show up on those documents, no matter what you want. He said if you vote on it we are going to try to make it read that way. He said that is all we did in this case. He said he hoped the Council could discuss that process and maybe we could get it implemented so that there are no more situations like this. Councilor Stephens said that is precisely, what our City Attorney said, why he raised this issue. He said of the 49 Resolutions this Council has considered, since July of last year, 40 of them had no written paper in front of the Council. He said we have to get the process fixed. He said if we the City Council, cannot have good discussion, and then go back to what is going to be in writing, then we need to change our process, because our process is broke. He said the Motion that was proposed, was not the Resolution. He said quote, what Fitz said was "I propose Mr. Ash's request". He said Fitz did not say Resolution XYZ, it was his request. Councilor Stephens said that was the dialogue we went through, including the 53 minutes we listened to. He said we have some work to do. Mayor Rangra said the same video also says right after this, "Resolution", and there was no amendment or addition. He said he is very familiar on how to listen to a tape. He said no amendments were there. He said that does not mean that he cannot make mistakes. Mayor Rangra said we have had, in the past, quite a few times, when there is no material in the book. He said he has raised the question that there is no information in the book. He said he has asked the Attorney if we can do anything about this. He said when a Resolution is prepared it goes along with what the Motion is. He said he was told at the very first meeting he attended as a council member when there was a question of 1.2 million dollars that we had to borrow to build a sewer and water pipeline. He said there was a motion in writing and it passed. He

said somebody in the audience said, Rangra, what you did was pass what was in the motion. The Mayor said no, we talked about what else we wanted to do. He said the motion did not say anything about the money. He said so he learned from that, what the motion is. He said as Councilor Fitzgerald pointed out last time, are we here to meet the deadline of the developers or do they have to work with us. He said this is a very important project for the developers. He said on the 28th of February we did not know about the deadline. He said this project should have started last year. He told Mr. McKamie that he was a very smart lawyer and he thinks we should be very proud of the fact that we hired you but we would also like to be told when we are on the verge of making mistakes. He said he believed Mr. McKamie should have told the council to make an amendment to add the \$35,000. He said he does not tell the council what motion to make. He said this is why we have an attorney and we at the City of Alpine are not lawyers. He said he thinks we learned and next time around it will be different. He said like Councilor Stephens said, the system is not broken. He said it is a question of misunderstanding. He said it is a question of not getting all the facts in. Councilor Fitzgerald said he saw a lot of faces here tonight that were not here at the last meeting. He said he would like to explain with Robert's Rules of Order, you have to make a positive motion. He said you cannot make a negative motion. He said he made the motion to approve Mr. Ash's request because it has to be positive, fully understanding and knowing that he was going to vote against it. He said as you may be aware, Councilor Gonzales and himself voted against it. He said he has always been and will always be opposed to giving taxpayer dollars to a private enterprise that is for profit. He said he developed a project in North Dallas and did not get anything from the City. He said he had to pay for everything. He said Mr. Ash wanted the money for him to get a good score. He said that is not our problem. He said it is taxpayer money. He said do you want your money to go to a for profit company? He said he did not think so. He said they say it is in-kind but what is the difference. He said we give them \$35,000 in cash or Hector will go out there with him and his people to do a road and we pay Hector and his people for doing that. He said it is the same thing. He asked where Mr. Ash was last year. He said he came to us with nothing, only the request. Councilor Fitzgerald asked about the infrastructure, the sewer and the water pressure. He asked if that would be affected. He said the Council did not receive any documentation. He said he is still opposed to giving him money or in-kind services. Mayor Rangra said before he went to the public he needed a motion. Councilor Stephens said no motion in required for Item 9. Councilor Salas asked Mr. McKamie if since we missed the deadline was everything we discussed here irrelevant. Mr. McKamie said he did not really know. He said we are familiar that there is a state deadline and that deadline was February 27th. He said he does not know if a late filing could be considered. He said he is not sure if anyone at the city knows. Mayor Rangra said the reason he is asking for guidance from the Council is that prior to the deadline Mick signed the cover letter attached to the Resolution that has \$35,000

mentioned. Mayor Rangra said he refused to sign the letter. He said something was said about the Mayor not being able to sign the documents. He said he thinks the State Agency in Austin needs to know, what it is that the council voted for. He asked if the Council voted for the Resolution that was in the book or the document that was given to the Council during the last meeting. Or it was the amended one. He said the cover letter said the Mayor was not able to sign the Resolution and that is very vague language. He said he was tempted to write a letter to this agency and tell them that he refused to sign. He said he needs the Council to tell him. Mayor Rangra said as of today, the agency has the Resolution. Councilor Bermudez said she wanted to wait for the public hearing so she would know how many people wanted it and how many people do not want it. She said she would want to take a re-vote though. Councilor Stephens said the discussion was very clear. He said a lot of us have looked at the video tape. He said all of you have voted for something different, so to take the resolution and say which one did we vote for, he does not know how we would do that since we voted for something different. Mayor Rangra said there were only two resolutions. Councilor Stephens said he did not vote for either one of those two. Mayor Rangra said as far as the third one is concerned it did not exist. He said the third one is in the hands of the State Agency. Councilor Stephens talked about other modified resolutions. Mayor Rangra said the question is which Resolution the Council wants him to sign. Councilor Salas said she would like to see all three Resolutions before she makes a decision. Councilor Gonzales said his understanding is that the people who voted for it can bring it back to be discussed again. He asked if that was correct. Mr. McKamie said yes, that is Robert's Rules. He said someone who voted for an item can ask for reconsideration, but he thinks the Mayor's posted agenda item may be sufficient for you to discuss it tonight and not wait until the next meeting. Councilor Bermudez said she made a motion, by Resolution 2015-03-07, to go ahead and take a vote, or re-vote on the Resolution #1, the one the Council had in their packets on February 13th as backup. Motion was seconded by Councilor Salas. Councilor Gonzales said the Resolution did include an in-kind amount but our motion has to be positive. Mayor Rangra read the Resolution. Councilor Fitzgerald said he had been contacted by 11 people and not one was in favor of this. He said we are a representative government and we are here to do what the people want. Dale Christopherson said he had to say he thought there was something going on Here that is not really good. He said he was neither for nor against this project. He said what the Council is doing in handling this seems to him totally out of line. He said no one appointed him as parliamentarian for the Council but two things 1) At the meeting in question, Councilor Fitzgerald made a motion to support a plan. He said that was his understanding. He said there was no motion to adopt a particular resolution. He said there was a motion to adopt a particular approach to a situation. He said if the Council wants to undo that, they need to go back and undo that motion. He said he thinks all the stuff about all the Resolutions is beside the point. He said

second, the proper way to approach this, is to go back and seek reconsideration of the motion that was made and then change your minds if you want to. He said what the Council is doing and proposed now as a motion seems to him completely out of line. He said he may be wrong, but he really feels that there is something else going on here that is not really being presented but he does not know how the audience perceives this. He said something seems to be out of whack. Councilor Bermudez said our attorney told us we could do this. Carl Fleming said he was here on that day and it appeared to him that the Council voted on the Resolution basically to support the project that Mr. Ash put forward. He said the City Council passed a Resolution and said the City Council basically supported this project. He said he thinks Mr. Ash, based on that vote, whether it was for the money or not, made some commitments for his company. He said if you go back now and say no, we are not going to support your program, he thinks we are leaving the city open to a lawsuit. Jean Larremore said she is trying really hard to understand all the motions that are being passed or not being passed or brought back or whatever and she knows it is confusing for everyone. She said if there were commitments made to Mr. Ash it could leave us in a lawsuit but it could cause a lot more if the citizens of this town are not listened to and afforded some kind of closure on their own by not having this. She said she was definitely against the motion and encouraged everyone who had children in the school to talk to people about this. Mr. Fritsche asked what was going to happen to the piece of paper that Mr. McKamie signed on the Mayor's behalf. Mayor Rangra said he did not know. Mr. Fritsche said in his opinion Mr. McKamie had no right to sign the document. Mr. McKamie said as he said earlier, we were implementing the Council's actions. He said the letter that was sent does not say the Mayor refused to sign it, it says that as of today the Resolution has not been signed. Mr. McKamie said in order to effect the 3-2 vote, and as Councilor Bermudez pointed out, to support his Resolution to support Mr. Ash. He said that is what the discussion was voting on by the Council. He said he sent the letter advising Mr. Ash of the Council's action. He said that is what was sent. He said Mr. Ash, he understands, but does not know, would have included that in the application to the TDHCA for tax credits. Mr. McKamie said he did not sign anything with the Mayor's name or say anything about why the Mayor did not sign because he did not know. He said all he knew was that in order to give effect to his City Council's vote, he needed to have this sent out before the deadline and that is all he did. He said he would do it again because the duty of the staff and the City Manager and the City Attorney and every other official is to implement what the Council adopts. He said he agrees with Mr. Stephens analysis personally and that is what he thought the Council adopted, the Resolution according to Mr. Ash's request. He said that is what he sent in a two paragraph letter to Mr. Ash on February 26th. He said nothing more and nothing less. He said if the Council wishes to change that Resolution or to make clear their vote by another vote, they can do that tonight based on this agenda item posted by the Mayor. He said it is in the

form of a reconsideration and it is one of the reasons Robert's Rules do not work very well for a small board like this. He said they are designed for a large parliamentary group. He said it is tantamount to a reconsideration of the vote to make clear what the Resolution is. He said if you do that and change the Resolution to a different form, then he would advise Mr. Ash. He said that could be sent directly to Mr. Ash and the TDHCA as soon as the Mayor signs whatever Resolution the Council adopts as their corrected Action. He said as far as developers go, they might sue us but he defends cities sued by developers all the time, including about 4 right now. He said whether they sue in this case or not, he thinks is secondary to the Council doing what they should as representatives of their constituents and have the resolution say what the council wants it to say. He said once they notify the State and Mr. Ash that would be corrected if necessary and the Mayor's signature would be on whatever the Council adopts. He said he feels pretty confident that if they do sue, we are in good legal position to defend ourselves. Mayor Rangra said the only concern he has is this. He said he agrees with Mr. McKamie and with everyone. He said the question is when the document that was given to him for him to sign and he saw the item \$35,600, he raised a question He said this is not what the Council was given. He said he and Mr. McKamie exchanged quite a few emails on this which Council members have in their packets. He said his point was, in the emails to Mr. McKamie, that this was not what the Council has approved, what he was being asked to sign. He said he would have expected advice from the attorney saying you know, he does not know if it is in the state statutes somewhere, that as an Attorney we should ask every council member, especially Mr. Fitz, what the Council wanted in the Resolution. He said we should send this to the Council. He said we had about 3 or 4 days and you are familiar with how the evenings work. He said the City Attorney was in a better position to send the emails to the Council members and tell that that this is what you believe the wish of the Council was. He said then the council could have said yes it was or not it is not. He said the document which was not on the table was with Mr. McKamie's cover letter that we sent to Mr. Ash. He said not the one in the book or the one that was given to us but the third one which none of the Council members had seen, other than the Mayor. He said this is why we have an attorney. He said with all respect, they know the loopholes. He said it was not done that way. He said he hoped in the future we did not get into this sort of situation. Mr. Ash said he wanted to apologize to the Council and to the Community. He said they do not make a living out of causing problems and fights. He said they want to be supported wherever they develop, which is why he was very happy when two or three weeks ago the Council passed a Resolution of support. He said he understands that things have changed, at least in the Council's minds. He said nothing has changed about the project since the Council approved the Resolution of support last week. He said it is still going to provide a half million dollars of deposit of tax revenue to the city over the next 10-15 years. He said it is still going to provide three million dollars in wages and purchases to the city in

the next 2 ½ to 3 years during the construction period. He said it still would provide quality housing choices than a lot of the housing in the city right now for the next 15 to 20 years. This would be managed by a third party professional management company and all of that is what the city is walking away from. He said it is the city's choice and that is certainly fine. He said he wished it had happened two weeks ago, before they had incurred expenses. He said we had people go to a lot of trouble to try to meet the deadlines. He said he hoped they would reconsider their reconsideration because the things that were positive about the project two weeks ago are still the same things. Motion failed, 5-0. City Attorney McKamie asked if the Mayor wanted to ask for any other motions. He said there were two other alternatives on the Agenda item. Mayor Rangra asked for a motion on the Second Resolution, the one the Council received on February 17th from the City Attorney, prior to the meeting. There was no motion made and this item died for lack of motion. Mayor Rangra then moved to the third Resolution, the one prepared by the City Attorney after the meeting was adjourned and asked the Mayor to sign. There was no motion made and this item died for lack of a motion.

16. Council Members Comments –

Councilor Bermudez – said she wanted to thank the public for bearing with us and she thanked Megan for her presentation today.

Councilor Salas – said she would also like to thank the citizens, Mick for his hard work and Megan for doing an awesome job and she also thanked the City Council members.

Councilor Fitzgerald - thanked the citizens for getting involved and thanked Megan for her good job in filling in for Erik

Councilor Gonzales – said being a City Councilman is a learning process and hopefully we have picked up some information here that will help us in the future.

Councilor Stephens – said he wanted to thank everyone for being here. He said he hopes the citizens fill the room every time. He said ask your friends and neighbors also to show up. He said it is very clear in Planning and Zoning last night when Commonwealth discussion came up that a lot of people were not aware of what was going on. He said if you really want our citizens to thrive the more citizens that participate in our Airport Board meetings, Planning and Zoning and City Council and Parks, the better off our city will be.

Mayor Rangra said thanks for coming and your patience. He thanked Megan for doing a good job.

Motion was made by Councilor Fitzgerald to enter into Executive Session at 8:05

P.M. Motion was seconded by Councilor Salas. Motion unanimously carried.

- 17. Executive Session – Pursuant to Texas Government Code, Sections 551.071 (consultation with City Attorney on a matter for which it is the duty of the City Attorney to discuss the item in closed session) and 551.074 (to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or hear a complaint or charge against an officer or employee)**
- A. Consultation with City Attorney concerning update on finance and personnel investigation by FBI. (E. Zimmer, CM)**
 - B. Discussion and Consideration of City Attorney's duties and related personnel matters. (E. Zimmer, CM)**
 - C. Consultation with City Attorney concerning Commonwealth Corporation topic. (E. Zimmer, CM)**

Council returned into open session at 8:15 P.M.

18. Action – After Executive Session –

- A. Action, if any, concerning update on finance and personnel investigation by FBI. (E. Zimmer, CM) – Motion was made by Councilor Gonzales, by Resolution 2015-03-09, to authorize the City Manager to make a press release concerning the update on finance and personnel investigation by the FBI. Motion was seconded by Councilor Fitzgerald. Motion unanimously carried.**
- B. Action, if any, concerning City Attorney's duties and related personnel matters. (E. Zimmer, CM) – Motion was made by Councilor Stephens, by Resolution 2015-03-10, for the City Manager to come back with information concerning this item. Motion was seconded by Councilor Salas. Motion unanimously carried.**
- C. Action, if any, concerning Commonwealth Corporation topic. (E. Zimmer, CM) – Motion was made by Councilor Fitzgerald to postpone this item, upon the advice of the City Attorney. Motion was seconded by Councilor Bermudez. Motion unanimously carried.**

19. Adjournment – Meeting was adjourned.

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

I certify that this notice was posted at 4:00 P.M. on March 13th, 2015, pursuant to Texas Open Meetings Act. (Texas Vernon's Annotated Civil statutes, section 551.043 Texas Government Code.) This

facility is wheelchair accessible and accessible parking space is available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the city secretary's office at (432) 837-3301 or fax (432) 837-2044 for further information.

Dr. Avinash Rangra, Mayor

Attest:

Margaret "Molly" Taylor, City Secretary

I, Margaret "Molly" Taylor, City Secretary, do certify that this notice was posted at 4:00 P.M. on March 13th, 2015, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Margaret "Molly" Taylor, City Secretary