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**TOWN OF ALPINE  
COUNCIL MINUTES  
NOVEMBER 15TH, 2005**

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CLERK'S NOTES: THIS IS A RECORDED COUNCIL MEETING AND WITH ANY SET OF COUNCIL MINUTES, THEY ARE A SUMMARY ONLY.

Mayor David Lloyd, called the meeting to order at 7:00 p.m. and held the pledge of allegiance. A quorum was established by the clerk through a roll call. Council members present: D.R. Hutchinson, Steve Fusco, Don Jorgensen, and Shirley Brown. Also present Mayor David Lloyd. Others present: see attached list (CLERK'S NOTE: MANY PEOPLE DID NOT SIGN THE ATTENDANCE SHEET).

**A. ACTION ITEMS AND NEW BUSINESS:**

(Clerk's Note: Tape 1 of 3- Side A begins here)

- **COUNCIL MINUTES:** Mayor Lloyd called for a motion to approve the November 1st, 2005 Minutes. Mr. Fusco advised he wanted to comment on the minutes in regard to letting the public know the Town of Alpine wrote a grant in conjunction with the Child Development Center for \$291,000.00 for a child development center in Alpine. The grant was approved and Mr. Fusco wanted the public to know who may feel the Town doesn't "do anything." **Steve Fusco motioned to approve the minutes. Don Jorgensen seconded. VOTE: 5- Yes; 0 - No; 0- Abstain; 0- Absent.**
- **COUNCIL MEETING PROCEDURES:** Mayor Lloyd advised that due to the last council meeting lasted for 5 hours, rules of order or procedures were drafted. Two sheets of information are available; one sheet will be for regular council meetings hereafter and the second sheet of rules are for tonight's public hearing continuing the Bull Moose's Liquor License hearing. Mayor Lloyd read the rules of order for tonight's public hearing. Mayor Lloyd asked if anyone from the Fire Marshal's office was present; no representatives were present. Mayor Lloyd acknowledged Tom Montoya and Tim Mangum of the Liquor Licensing Division. Larry McKenzie, local part-time resident, questioned whether a "head count" was conducted due to the occupancy listing at the door. Officer Gardner offered to conduct a "head count".
- **Planning & Zoning Minutes:** Mayor Lloyd called for a motion tabling the October 25th, 2005 P&Z Minutes. **D.R. Hutchinson so moved. Don Jorgensen seconded. VOTE: 5-Yes; 0- No; 0- Abstain; 0- Absent**
- **PUBLIC HEARING - CONTINUED FROM 11-01-5 FOR RENEWAL OF THE OF THE 2006 RETAIL LIQUOR LICENSE FOR ROCKY MOUNTAIN ROGUES, INC. D.B.A. THE BULL MOOSE SALOON:**

**Robert A. Walker, Written Letter:** Mr. Dubisz read a written letter on behalf of Robert A. Walker; the letter reads as follows:

"I have asked the Mayor to read this letter at the city counsel meeting, as thankfully I am unable to attend. I would like to appolijize to the Alpine city counsel and anyone who was at the last city counsel meeting, that I may have affended with my use of inaproperate language. It was not meant to offend anyone. I was just exercizing My First Amendment rights, and unfortunetly in the heat of battle in an emotionally charge atmfosfear got a little carried away. Again if I offend anyone, it was not intentional and was not meant to offend anyone.

Also I have personally appolijized to the Mayor for my statement that I believe that he was the driving force behind the attempt to shut down the Bull Moose. So I would now like to publicly appolijize to the Mayor for my

statement, that I felt that he was behind the vendetta to shut down the Bull Moose. My belief was based on hearsay, the very thing that I hate most about what I have heard in the counsel meetings.

In closing It is my wish that the city of Alpine and the management of the Bull Moose find a exceptabe way to end this dispute as it is only hurting the town of Alpine an driving wedges between good friends. This has been a good town and I believe that Bull Moose and their management is good for Alpine so for the greter good of the city please find a exceptable solution to this problem, before anymore damage is done." -- Robert A. Wagner (see attachment A)

**Kathy Owsiany, local Town of Alpine resident, written letter:** James Lubing read on behalf of Kathy Owsiany a letter received by the Town of Alpine (see attachment B).

"To the Town of Alpine Mayor and Council:

Since I am unable to attend the meeting on Nov. 15th, I would like to express my opinion concerning the Bull Moose situation. I would appreciate it if you would read this letter in the meeting so others are aware of my support for our governing body.

I am very disturbed that the owners of the Bull Moose actually have people buying into their persecution complex. If there is anyone with a vendetta, it isn't the Town officials against the Bull Moose, it is the owners against the Town. They are the ones making Alpine a laughing stock. Their ridiculous campaign of letters to the editor makes it very clear. The Town has tried repeatedly to work with the owners. They are the ones who seem to think, "It's my way or the highway."

The problem here is that the owners of the Bull Moose don't think they need to follow the rules. They don't have to follow the regulations pertaining to building permits, building completion, sign permits, cooperating with beautification efforts, etc. By the way, noise can't be grand fathered. Have some courtesy and respect and close your windows or lower the volume next time. I have nothing against Jim and Juline personally, but I do not appreciate the way they have been attempting to discredit our governing body and police force for the last several years.

Perhaps the problem began when we were lucky enough to elect a Mayor and Council who expected them to abide by Town regulations. It seems the real campaign to denigrate began with the formation of the Town Police Force, before an officer was ever even hired. I am glad that we now have local law enforcement. The services that we were receiving from the County were marginal at best, and we received no revenue for speeding citations. I'm sure using Jim and Juline's form of logic, this means no one was speeding through town. I commend our Police Chief for his patience through what can only be considered a very unfair smear campaign. Alpine is very fortunate to have a such a good, decent and capable person working for the health and safety of our community.

I also think it is interesting that now that they are trying to garner support, they have stopped the exotic dancer advertising that they have known for years was and is offensive to many members of the community. This advertising was also a contributor to making Alpine a laughing stock. Not just within the valley community, but with tourists and visitors as well. Those folks who want to claim that there is nothing illegal going on during those shows must have a different definition of prostitution than the legal one. This comment is not based on rumors, it is based on direct reports from people who have attended.

I have a real problem when people complain, but do nothing to serve, improve or help our community. I know what a burden it can be to hold a public office and the lack of appreciation that goes along with it. I know that you are not trying to shut the Bull Moose down, you are following through on your oath of office and the requirements set forth in the state statutes. It is a terrible shame when things go to litigation, because most of the time only lawyers come out the winners. I realize this was decision of last resort on the part of the council, in an attempt to allow an unbiased party to review the situation.

I know that you are not perfect. You're not supposed to be. According to letters sent to the editor by Jim and Juline, they are apparently perfect, but that is their delusional reality. I appreciate the countless hours of service that you provide to our town. I hope others who support you will make this support known. I hope that Jim and Juline will see what a destructive force they have been in this community lately and set down their hostility to work with the Town officials. If not, they deserve whatever they get. Sincerely and with respect, Kathy Owsiany "

**Jesse and Karen O'Connor, Jackson residents:** Jesse O'Connor resident of Jackson approached the council on behalf of his wife as well who is employed for the Teton County Sheriff's Department. Mr. O'Connor advised he is not a resident of Alpine, however, under Mr. James Lubing's criteria lists "the welfare of the people residing in the vicinity shall be adversely affected" and he considers himself living 35 miles away as neighbors to Alpine. He advised it is Jackson's youth who is allegedly driving down and it concerns him. The letter dated November 14th, 2005 was read as follows:

"TO THE TOWN COUNCIL AND MAYOR OF ALPINE, WYOMING:

As parents and members of a neighboring community, the latest reports of what is going on at the Bull Moose alarm us. If any of these allegations of underage drinking, elicit sex and allowing large numbers of minors to congregate within the establishment are true, why hasn't local law-enforcement taken action for infringements on the laws? We call upon you as law-makers and government officials to enforce existing laws and protect your citizens.

We're all fighting the issue of underage drinking which doesn't gain much attention until one of our youth die or end up seriously injured. Then everyone wonders, who was responsible. How could such a tragedy happen with diligent parenting, educational awareness programs and dutiful law-enforcement to protect them? We rile up and take a stand for a day, then return to our complacency until the next one happens.

Where do we begin to deal with the problem? It begins with each of us taking responsibility – the parents, the law-makers, the law-enforcers... and the establishments that are granted the PRIVILEGE of serving alcohol to ADULTS.

What **are** the responsibilities of obtaining and RETAINING a liquor license? Has this been recently reviewed in the case of the Bull Moose? If enforcement of the law is being ignored, it is our responsibility as citizens to stand up and address these issues head-on and put a stop to the corruption that is pleasuring so few and endangering so many.

We feel the infringements at the Bull Moose are repetitious and so far without consequence. This is why we ask that you review the facts carefully and implore you to deny the request to renew their liquor license.

Sincerely,  
Karen and Jesse O'Connor  
Jackson, WY" (see Attachment C)

**Bryant Brown, Town of Alpine resident:** Mr. Brown read his letter dated November 9th, 2005 as follows:

"Dear Mayor Lloyd:

My comments are directed to yourself, the Alpine Town Council and others as appropriate. First, thank you for your service provided toward making this a better community. There are many talented, hard working folks here; I believe you will agree that their efforts might become more productive if cooperation, respect and appreciation for one another were generally the practice of choice. Could it be significant that the difference between better and bitter is the "i"?

As I reflect upon the hearing developments related thus far to consideration of the Bull Moose Saloon liquor license renewal, I note evidence is of record indicating several 2005 violations of Wyoming State Statutes 12-5-203, MINORS RESTRICTED FROM DISPENSING ROOM, AND 12-5-204, PROHIBITED ACTS WITHIN DISPENSING ROOM, which then convinces, me as a citizen here that the welfare of people residing in the vicinity of proposed license premises are adversely and seriously affected; such finding is of significance according to provisions of 12-4-104, paragraph "b".

What further consideration would warrant any alternative action by the Alpine licensing authority? Certainly, cooperation by Bull Moose Saloon proprietors toward effective redress of noted problems has not been observed in the hearing proceedings. Another concern has also recently come back to mind; while doing yard work in our

neighborhood, I recalled some conversations with a young man who had been living there; he's not there anymore, and he is not coming back. Dustin died a little over a year ago in an apparent alcohol related accident on the Grey's River Road. He was nineteen (19). I hope his death will not be in vain. Whether we agree or not, I think we all share in the responsibility to some degree. If we really care, then we will do better to avoid a repeat untimely demise of our most valuable resource—the youth. Respectfully submitted, Bryant Brown" (see Attachment D)

**Amy Dubisz, Town of Alpine resident:** Jim Dubisz, on behalf of Amy Dubisz, read his wife's letter as follows:

"Town of Alpine Council Members, and Members of the Community:

We are once again gathered to determine the fate of the Bull Moose's liquor license. Many things have come to light over the course of the past year. Some proven, some only hearsay.

After reading the minutes of the last meeting, I have come to the conclusion that it should not be renewed due to several factors. The first is the lack of compliance issues regarding the State of Wyoming's Building Fire Codes. The minutes state that they were approached April of 2005 and notified that they were out of compliance and given adequate time to have plans in place for compliance. Those plans were not put in place for reasons unknown to me. The Bull Moose was given every opportunity to put these plans in place. Appeals were filed and given and each time the previous order to cease all business operations and close immediately was upheld. Certain restrictions were put in place, but still no real effort is apparently being made to bring the Bull Moose into compliance. Only more appeals and litigation. The minutes state Mr. Miller saying that to bring the old building into compliance will cost approximately \$50,000. I would like to remind Mr. Miller and the council members that Mr. Blittersdorf has been quoted numerous times as saying that the Bull Moose is a multi-million dollar business and that the Town of Alpine is lucky to have them here. So what is \$50,000 dollars to spend to bring their establishment to code and keep the Fire Marshall happy?

Then there are the exotic dancers. There are several witnesses stating that inappropriate and illegal contact was made on numerous occasions. The same applies with the underage drinking. Once again several witnesses have stated that they themselves were served or personally saw other minors being served alcohol. All of these people can not be wrong or have a personal vendetta against the Bull Moose or its owners as they would have us believe. It has long been my experience that where there is smoke, there is fire and the Bull Moose protests way too much for me to believe that all these charges and allegations are false. I would like to see the Bull Moose answer these allegations without verbally attacking the witnesses. If they are innocent of these charges, then please show me proof and proof isn't attacking the credibility of the witness or dragging skeletons out of the closet.

There have been rumors, I have no idea if there is any truth in them, that the Bull Moose is willing to make concessions to keep their liquor license. If this is the case, then once again I would like to remind the council of the exotic dancers and underage drinking violations and the fire code compliance issue and their obvious disregard to conform to what the law requires them to do despite being given more than enough time. I would be very concerned renewing the license based on any promises that they would make based on their previous unwillingness to work with authorities. My recommendation for the council is to obey the laws and revoke the Bull Moose's license due to the above mentioned violations and non-compliance issues until such time they are in full compliance with all the required codes and laws or until the courts decide otherwise. My recommendation to the Bull Moose is to quit antagonizing everyone and start obeying the laws of this town, county and state. If you were doing that all along, we would not be here and the question of whether to renew your liquor license would not even be an issue. You'd have your liquor license. Amy Dubisz" (See Attachment E)

**Jim Dubisz, Town of Alpine resident:** Mr. Dubisz read his letter dated November 15th, 2005 as follows:

"To the Honorable Mayor, Council Members and Residents of Alpine:

Regarding the request to renew the liquor license for the Bull Moose Saloon

I received a copy of the minutes dated November 1, 2005 herein referred to as the "minutes" directly from Tracey Matthews and I have read them in detail. My observations follow:

**Regarding the Saloons unwillingness to cooperate with local and state governing authorities** I quote an order issued by the Wyoming State Fire Marshall found on page 4 of the minutes, "The Bull Moose Saloon/ Restaurant has continually failed to correct life threatening deficiencies at the facility after numerous discussions. As a result of

your demonstrated inability to work cooperatively to address the safety of the building's occupants, the building must be closed for public occupancy immediately."

**Mr. Lubing advised the Town Council on pg 8 of the minutes to closely look at the Fire Marshall issue because he has grave concern an Order is still in effect from the Fire Marshall advising there is human risk.**

**Regarding alleged serving of alcohol with statutorily defined public indecency taking place I quote pg 7 of the minutes summarizing the content of two signed affidavits received from undercover law officers of incidents that they personally witnessed** within the dispensing room at the Bull Moose including three women dancing topless in plain view and exposing their breasts. All three women were topless on three different tables dancing and touching men in exchange for money. Additionally women were observed wearing only a small g-string panty and high heels. All three (3) women were topless, baring their breasts. That while on top of the tables, the dancers would wrap their legs around the necks and faces of the people watching, the dancers would push their crotches into the faces of the people watching the dancers. The officers also observed the women rubbing their breasts on the heads, faces and necks of the people sitting at the tables.

These are most certainly acts of public indecency as defined by statute- **Mr. Lubing states on page 7 of the minutes that public indecency is one of the crimes that cannot be permitted under a liquor licensed facility.**

**Regarding the sufficiency and adequacy of the evidence presented to the council. Mr. Lubing stated on pg. 12 of the minutes that the council has been presented with a significant body of documentation and furthermore the evidence presented tonight is appropriate for this type of forum under statute.**

It is my understanding based on the evidence presented at the last meeting that months prior the Council Members agreed to initiate a lawsuit to effectively revoke the Bull Moose Saloon's liquor license.

It is my opinion based on the evidence provided, I see nothing that should dissuade the Council for doing the same within their jurisdiction here tonight at this public hearing.

The Bull Moose has done a commendable job at playing the victim in this case while at the same time that have taken every opportunity in the newspapers to criticize the Alpine governing authority, it's employees and police department. As is common in our society they refuse to accept responsibility for their actions.

The real victims will be the residents of Alpine if the Council do as former governing boards have done and ignore the issue on the basis of economics and/or fairness. Laws always appear unfair to law breakers.

I support our Council in their diligent and thorough efforts to finally expose the Bull Moose for what is really is. I implore you to ignore their threats and modern legal maneuvering and to render a just decision.

A famous trial attorney once stated that it the glove does not fit you must acquit. In this case the glove fits. Please do not renew the liquor license for the Bull Moose Saloon. - James D. Dubisz" (see Attachment F)

**Larry McKenzie, part-time Alpine area resident:** Mr. McKenzie stated there are opinions both ways, but what he is mad about is more than the Bull Moose Saloon. Mr. McKenzie stated, "I accuse you and your government ..for where I am from Florida we have the Sunshine Law and I read this and I was at the last meeting and you close the meeting. I left. Now I read 20 minutes later you reopened the meeting." Mayor Lloyd clarified that the public hearing for the Bull Moose was closed and the rest of the council meeting continued with the items on the agenda. Mr. McKenzie stated, "My ignorance. I plead guilty". Mr. McKenzie went on to state he would like to address the Alpine Police Department about respect. Mr. McKenzie stated, "Well respect is like freedom. It's not free. It's earned and you're intimidating. I'm nervous as can be. I'm shaking". Councilman Don Jorgensen intervened and asked Mr. McKenzie to address the council directly. Mr. McKenzie went on to state, "I'm nervous. I'm shaking because I feel

intimidated by this police officer and I'm not the only one. We all feel like we come up here we put a target on our back if we support the Bull Moose Saloon. We are not a bunch of zombies. Jim didn't program us. We have our own opinions like everybody else". Mr. McKenzie advised he went to another local saloon last weekend that had cursing, dancing, drinking, singing and dancing. Mr. McKenzie advised there were two kids ages 8 and 10 in the bar. Mr. McKenzie advised that a member sitting at the council's table was there working the bar that night. He stated, "It's not in the Town of Alpine so I guess you cannot do anything about it, but maybe some of the religious zealots could put a church at the bridge here and save us from these people. This is just crazy!" Mr. McKenzie went on to claim that he already knew how the council would vote tonight and claimed they had divided the community. Mr. McKenzie went on to state he respects those who don't like the nudity but feels its not about the Fire Marshal as the Town has them on their side and the issue is only about the nudity. Mr. McKenzie's again stated the police officer was intimidating him and asked the Mayor to do his job and run the meeting essentially. He thanked the mayor and council for the opportunity to speak.

**Jesse O'Connor, Jackson resident:** Mr. O'Connor advised the article regarding this issue was published in the Jackson Hole Daily News & Guide and that the Bull Moose's counsel claims a lot of hearsay is being presented. He feels that is one way to look at it, however, another way would be to look at it as first-hand observations of concerned citizens. He thanked the town council, mayor, and police department for being concerned about public safety; he advised the police department doesn't intimidate him in the least. Mr. O'Connor congratulated residents for making their voices heard both pro and con on this issue. He advised he and his wife do not bear Jim and Juline any ill will, but advised they are committed to upholding the law and holding business owners accountable. He referenced what he describes as "contemptuous" letters to the editor all summer long in the Jackson Hole newspaper and he advised many Teton County residents felt involved as a result. He believes it isn't being against "fun" what the Town is concerned with rather that they are "pro" community character and safety.

**Dr. Bob Tomlinson, Jackson resident:** Mr. Tomlinson advised he became concerned when hearing of the things happening in Alpine. As a father of two children, he feels that he and his wife have a right to legitimate concern regarding the influences happing in Alpine as they are neighbors. Mr. Tomlinson stated that the owner was quoted in the newspaper saying that no one in Alpine wanted any fun and a sleepy little community. Mr. Tomlinson stated, "I believe that is an ignorant statement because what is of issue here is a community standard of decency and upholding the law." Mr. Tomlinson believes the Town has a reasonable standard of decency as the Town is pursued a grant for a child development center in Alpine. He believes that the council and mayor has an obligation to their neighbors in Jackson to insure these kinds of influences do not "creep into our community." Apparently, children from Jackson have been in Alpine during these events and he asked the council take their obligation seriously, consider their own community and neighboring communities too, uphold a community standard of decency, and uphold the law.

**Jerry Vassar, Alpine area resident:** Mr. Vassar advised a year ago this issue was "hashed" out and expressed disappointment to be here a year later. He expressed that the Town of Alpine has much bigger and better things to tackle on a daily basis. He expressed disappointment on both sides of the issue for not finding some common ground for tolerance, for respect for one another's views, and the ability to step back take a breather and allow one another to live as one chooses without imposing your values or imposing your legal authority. Essentially, Mr. Vassar expressed for everyone to be a good neighbor. In order to create the community the actions have to stop. He states there is no guarantee they will not be back here in a year's time; tolerance has to be exercised on both sides. According to Vassar, that Alpine in the early 1980's had more "naked bodies in the parking lot" than inside the bar today. The Town has been through much worse and survived without a police force and ordinances. People at that time gave each other space to live their life as they chose. He feels that no one moves to Wyoming to be controlled by local ordinances, however, conceded that if safety issues are present that is when the Town should speak up. Mr. Vassar referenced information obtained from the web which lists "20 Clues to Rural Community Survival" in which the #1 survival tactic is that the community must have community pride. Taking pride in the heritage of the community is essential. According to Vassar he feels the history of this community is about a lot of hell raisers and feels we should embrace this. Another tactic for survival is to have a participatory approach to community decision making. Even the most powerful of decision makers search for consensus according to Vassar. Consensus builds community spirit. Another tactic is deliberate transition of power to a younger generation of leaders and also acceptance of women in leadership roles. He would like to see the community contact the Sonoran Institute, a non-profit agency which helps

communities struggling with economic growth. They help communities grow smartly and he asked that the council and mayor ask for outside help. He asked that a year from now we begin talking about these kind of issues rather than this negative stuff. Mayor Lloyd advised he requested information from the Sonoran Institute already.

**Lenny Sorensen, local resident:** Ms. Sorensen advised that after reading the minutes which states the "welfare of the community being adversely affected," she states she has experienced a loss of income, food, and entertainment because of the potential revocation of the Bull Moose's liquor license. Ms. Sorensen advised that Kathy Jenkins would like to increase the sled dog race experience for the community, and questioned where the people would be accommodated to have a fire, entertainment, food, lodging, etc. Mr. Sorensen stated, "The last meeting seemed to have a lot of allegations and there seemed to be an excess of bovine excrement." She believes the actions of those against the Bull Moose are "far from laudable." Ms. Sorensen referenced the book the Lord of the Flies and stated, "I guess it is Jim not Tim that's being accosted." She questioned why the credibility of what she feels are potentially false allegations are not worth investigating. She stated, "What happened to being innocent until being proven guilty?"

(CLERK'S NOTE: TAPE #1 OF 3 FLIPS TO SIDE B)

In respect to "exotic" Ms. Sorensen referenced the English definition according to Funk and Wagnall which is: "foreign: not native, strange or different that is in a way fascinating, strangely beautiful, enticing; used as noun: a foreign or imported thing a plant that is not native. Exotica: foreign or unfamiliar things, as curious or rare art objects, strange customs, etc." She then asked, "How is this offensive?" She also referenced other problems needing addressed such as drug use. She stated in closing, "United we stand, divided we fall. I moved to this town it was a lot of fun. I'd like to stay here."

**James Pratt, Jackson/Alpine Resident:** Mr. Pratt describes himself as a former Jackson resident, and is a youth pastor; currently he resides in Alpine. He stated, "What you feed the children of this community is what you'll reap from them." He feels the youth of today are questioning any authority and asked what the children will think if the infrastructure of the Town is easily removed. He feels respect for authority diminishes and fades away and he feels a generation of rebellion is born. He asked the council and mayor to stand firm on the laws which govern underage drinking and serving minors.

**Richard Barteck, local resident:** He feels the issue is down to opinion and he questioned the council to consider any precedents which pre-date the current council in regard to revoking or renewing a liquor license. He feels the decision of the council will create a precedent. Although no one likes Town ordinances, he feels Alpine is the fastest growing town in Wyoming and ordinances are inevitable. He asked the council and mayor to give a logical, educated effort to their decision and feels there is an underlying obligation for legal issues and underlying issues of morality. He himself is not offended by the signage at the Bull Moose, however, feels the larger issue is the presentation of the community as a whole presenting to others who come through our community. He feels others that have exclusive religious beliefs may be offended when passing through our community and asked, "should they be offended?" He feels it affects all of us adversely. On the other hand he doesn't feel the Bull Moose should be shut down over 'he-said, she-said' accusation. If the Bull Moose Saloon has refused to comply with laws then he is not opposed to their liquor license being denied. He questioned what kind of message does the council and mayor want to send to the community; he feels there is room for compromise. However, he feels a viable business district hinges on all business owners having a moral obligation to present the right kind of town – it detracts from business. Compromises and responsibility are in order on both sides and no one on either side has "ruined" this Town.

**Arnold Gaub, local resident:** Mr. Gaub advised he has been deeply affected although he lives in the outlying area. He encouraged the approval of the liquor license and for the Town to move forward and resolve the issue. In regard to advertising exotic dancing he doesn't feel this advertising isn't out of line in comparison to advertising of a similar nature he's experienced while traveling. He feels Alpine's issue are a "Sunday school picnic" compared to most areas of the country.

**George Maghee, greater alpine/ local resident:** He remembers Alpine's history of Jeep's Bar, and the other bars. He feels that the Bull Moose Saloon is by far the best operation which has run the saloon. He strongly encouraged the renewal of the liquor license.

**Don Landis, Pastor – resident Jackson:** He advised several of his church members are residents of the Alpine community and he owns property here as well. He feels the issue to be that one person's rights are crossing another's sensibility and realizes the issue to be difficult at hand. Mr. Landis reviewed the Jackson's community aftermath of dealing with several series of alcohol-related deaths. Many of the Jackson residents are reading the letters in the paper and he feels this is "feeding a fire." In 34 years of being a resident he attended the largest funeral with approximately 1,500 people in attendance for the grandson of the Shervins. He feels there is growing concern between the Alpine and Jackson communities to face the up-hill battle of underage drinking and its consequences. He feels the individuals rights to their own views have extended into a realm which is hurting us by clogging our courts, for example, being unable to make decisions. He asked the mayor and council to step back and determine what is good to the community and asked the 'stewards' of the community to uphold the laws that we do have. It appeared to him that the evidence and verification presented by the attorney and police department that can be of detriment to the young people of Jackson. He discussed the most horrible of scenarios in which 20 young people may be served liquor in Alpine then have an accident when returning to Jackson. Mr. Landis advised the public scrutiny, negligence, and liability would be extreme. To approve a liquor license without absolute guarantee that things will be difficult, it would put a lot of good reputations at jeopardy. The outcry is not to create new laws rather to enforce the laws already in existence. He feels there is evidence in which the laws on the books have not been upheld and asked the council to consider the civil liability they would experience if someone's child was hurt. The idea of "innocence until we are proven guilty" works when you are accused of a crime, however, when obtaining a building permit you agree to whatever is asked and if you violate the permit it is revoked. The idea of respecting each others views is American. He stated, "respect the right to hold different views. I agree on that. I do not agree with this new idea that I respect the other person's views or we would never have any dialogue." He implored the council to consider the young people of Jackson when deciding this issue.

**Kelly Fredrick, residency unknown:** Mr. Fredrick advised he agreed with everything Mr. Landis discussed.

**Richard Jenkins, local/ greater Alpine resident:** He appreciates the laws in existence and has learned recently he doesn't understand all the issues around these laws associated with Liquor Division. He has learned some of the laws and definitions of businesses in accordance with liquor licenses and asked for clarification from Tom Montoya of the liquor division. He stated, "It does not seem appropriate to me that what seems to be a bar and can be called a restaurant can have children in it and it says 'bar/ saloon' on the sign and 'Budweiser' in all the windows". He is puzzled over the liquor division definitions and asked the council and mayor to go beyond what the liquor commission defines as a bar and a restaurant and create their own definitions or require conditions of the owners and how children are going to be accepted into an establishment where the lines are somewhat "fuzzy". He supports any action which takes children out of a bar setting. In regard to the Fire Marshal's issues, the council and mayor have some responsibility to work hand-in-hand and he doesn't feel if the owners are attempting to come into compliance it is a reason to shut a business down. As far as exotic dancers he feels the law should be interpreted as it has been stated in the statutes.

**Warren Jones, Pastor Morning Star Baptist Church:** Mr. Jones doesn't live in Alpine but expressed deep caring and commitment to the community and valley. He offered two suggestions for consideration before the council and mayor make a decision. The first suggestion centers around the obvious moral issues and the exotic dancing. He realizes the morality of the issue will never be agreed upon and he respects the difference of opinion. He feels there are deeper moral issues associated with the exotic dancing in how it affects families and children. He advised that pornography has been proven to not be healthy to families and children and erodes trust in any marriage. He suggests that pornography whether in printed versions or in public places has the same effect. The second suggestion he offered that the council and mayor think about the kind of community they want to build and reflect to others and the repercussions and implications of their decision tonight just doesn't extend for one year. The decision tonight will obviously have repercussions for years and generations to come. He questioned, "Is it going to be a family community or is it going to be party town?" He feels you can only have one or the other but you cannot have

both. By encouraging one, he feels you discourage the other. He feels the council's decision tonight will determine the kind of community Alpine will become in the future.

**Donn Wooden, Alpine resident:** Mr. Wooden presented in writing a letter to the council dated November 14th, 2005. He read the letter as follows (see attachment G):

"I am moved to offer my input on the matter of the Bull Moose Liquor License for your most thoughtful consideration at this time.

1) One year ago, I was present when the license was contested by a group of citizens who were opposed to the Exotic Dancers and contradictive advertising with it. "Exotic Dancers", "Families Welcome", that in itself offends the community including me. However, as much as I might not like the exotic dancer activity, and the mockery of the welcome to families, I must defend their right to offer that type of entertainment and advertise, (as long as the activity is lawful)

2) Although the activity and advertising may not be appropriate for many of us in our community, it is not in violation of any State Statute or Town Ordinance to the best of my knowledge. Solution: The town council has the power and ability to draw an ordinance to prohibit exotic dancing or female or male strippers and exotic performers in any place of business.

3) Next, it has always been a mystery to me, Why, the town has to bring a law suit to enforce the laws? Apparently, a citation has been issued against the owners and they have not been served a summons for violating any specific law and no arrest has ever been made. So, if They are breaking the law, make the arrest, let the Judge levy the penalty.

4) The Building issue with the Fire Marshall's office, appears to be something that can be resolved by adding the sprinkler system to the original part of the building that was grand-fathered in until the town deemed that remodeling had exceeded the limit for \$\$ spent for remodeling. I know the history of this building from its very beginning and I can tell you it has been immensely improved by the present owners.

5) And last but not least, there is absolutely nothing to be gained or accomplished by revoking this license for the town overall and will most certainly result in further lengthy and very expensive litigation not only for the bar owners, but the town government and the taxpayers carry the burden while other priorities get set aside because of the ongoing Battle. I submit that the council set the standard, grant the renewal of the license with Conditions and parameters of operation including completion of fire code items within a reasonable period of time.

Respectfully submitted, Donn Wooden"

**Jim Rooks, Principal Alternative High School Jackson:** Mr. Rooks in a 'tongue in cheek' kind of way stated, "I am the infamous Jim Rooks. I am the first principal whose been convicted of two felons to become a principal I guess." He describes himself as a 5th generation Jackson Hole resident and that 90% of his friends live in Alpine. He advised he is here for two very specific reasons and is not here to sway the issue of a liquor license and expressed no concerns in regard to fire safety of the Bull Moose Saloon. He also added he is not here to debate moral issues as he doesn't feel morality can be legislated. However, he is here to state for the record he is not a convicted felon as alleged at the last meeting. He stated, "There has been slanderous statements produced by Mr. Bittersdorf (I apologize if I mispronounce his name), his attorney, and himself. I want you as the Town Council to understand, my superintendent, my boss, was faxed documents by Mr. Blittersdorf that contained these slanderous statements. And there is two definitions of slanderous statements. I would have to prove harm to myself which I certainly could. It is one thing to slander someone in public in language it is another thing to send such a document to that person's employer. That is slanderous and it has caused me problems. The second form of slander per se meaning I can seek financial costs because of those slanderous statements". Mr. Rooks advised he only wants to discuss facts and expressed disbelief that he has had to deal with the "Bull Moose dilemma" in Lincoln County. Mr. Rooks voiced disbelief in becoming a part of the "Bull Moose issue" after essentially deciding to have some drinks with friends. He stated, "When I saw three of my current students inside the establishment. I will let their statements speak for

themselves and I know Mr. Lubing did a good job of presenting those statements". He believes that in working with adolescents for the last 12 years that you will never get a kid to claim they drank if they didn't drink, especially testifying to a police order. He expressed being proud of the girls willing to speak up over the issue.

He stated, "I regret not calling the police that night. That was my mistake and I should have. I wished I had because it would have probably clarified a whole bunch of stuff about that night". In addition to attempt to clear his "bad name" Mr. Rooks advised he shares his name with his father who taught him a great deal for example to stand up for what you believe in and never apologize for doing what you feel is right. After reading Mark Twain he expressed being able to decide on what to do with all the people slandering his good name. He quoted Mark Twain as follows, "Never argue with an idiot because a passerby won't know the difference of the two." He refused to engage in debate with Mr. Blittersdorf or his attorney, however, Mr. Rooks stated, "There is facts. The fact is that on the night that I was in the Bull Moose there was dozens of underage kids in the bar. I watched dozens of them walk right through the bar without even being asked what their name was anything else. I challenged the bouncer right then and there and said, 'How come you didn't card any of those people?' He blew me off. I went immediately to the head bartender and I never knew Jim I didn't know who he was. I thought I did kind of the Wyoming thing right? I introduced myself, I said what my commitment was, I said that I believed there was a lot of underage kids in his bar in the bar being served. I had no idea the whole time I was talking to the owner of the bar at all. Just thought I was talking to the bartender."

Mr. Rooks went on to state he thought the bartender would be appreciative of this information and advised that he wasn't there to call the cops or anything just make sure the kids get out of the bar and get home safe. Mr. Rooks stated, "He became very aggressive, threatening towards me, and asked me how I planned to get home and 'wished me luck' in getting home safe. So and so forth. I was simply trying to make sure that those three students who I have a legal responsibility to not to mention the former students and other kids that I knew to be underage in the bar. The facts were that there were underage kids in the bar that night drinking. Now I would also say that as possible proof that I don't have any vendetta and I'm not representing anybody. There are statements that I was working with undercover police officers. Unless some of my friends are undercover cops, that's not true." He went on to state, "I watched with my own two eyes underage girls walk up to the head bartender, who I later found out to be the owner of the bar, and were served alcohol." I also know inherently that kids will sneak into bars. He also stated that now his students are no longer coming down here as they are no longer welcome and are being carded. He again advised it is the council's call to approve or deny the liquor license renewal. In closing Mr. Rooks stated, "I am simply here to provide a very small piece of information about a very detailed point of this conversation that on the night in question there were numerous underage kids in that bar being served alcohol, knowingly drinking alcohol and that's a fact."

**Lenny Sorenson, local resident:** Ms. Sorenson approached the microphone and advised the council she would like to address the man she has never met before motioning to Mr. Rooks. She questioned Mayor Lloyd whether the man is a high school principal to which the Mayor clarified he is the principal of an alternative high school. Ms. Sorenson stated, "All right. As an adult, and as a citizen, and as a responsible professional, if he saw those children in the bar, why did he not remove them? To me that is crime that he committed. He was there! You knew they were underage! Why did he not remove them and keep them out of harm's way?" Clerk Matthews interjected to change the tape.

Mr. Rooks questioned Sorenson whether she was addressing him or the council and asked for a chance to respond.

(clerk's note: Tape # 2 of 3 begins here)

Sorenson questioned the council whether the failure to remove the children that night is not an offense or crime of some sort.

**Jim Rooks, Principal:** Mr. Rooks responded by saying, "The parents of the three students that were in my school were called and arrangements were made to ensure that those three students made it home safe that night. So the fact is that they were in fact removed from the bar. Their parents were in fact called. It was a very, long tedious night."

**Lenny Sorenson, local resident:** Ms. Sorenson directed her comments to Mr. Rooks and stated according to the minutes that, "You did nothing when you were there. You observed it and one point you saw dozens and at one point you saw three and you did not make the statement until I asked you why you didn't."

Councilman Fusco advised that Mr. Rooks was not here at the last meeting so he made no statements. The statements were presented by the Bull Moose Saloon.

**Bob Tomlinson, Jackson resident:** Mr. Tomlinson questioned the Mayor whether he understood correctly the hearing is being held to hear comments and not a debate. He expressed concerns of the Mayor allowing Sorenson time at the microphone to debate the issues or to engage in a court type of hearing.

**Louis Abel, Bull Moose employee:** Mr. Abel resides in Thayne and expressed his desire to clarify the issues around the day that Justin died and Mr. Bryant Brown's statements. Mr. Abel stated he was working on the third floor of the motel being built next to the Alpine Market. Mr. Abel witnessed Justin leaving the grocery store with a case of beer in his hands. Mr. Fusco questioned the relevance of Mr. Abel's comments to which Abel replied, "The relevance is that the implication is that was this underage drinker was somehow killed by the actions of the Bull Moose Saloon. I just wanted to make it clear he did buy his beer at the Alpine Market that day." Mr. Jorgensen, council, advised Mr. Brown's letter simply states that he was under the influence and he died and doesn't claim any business at fault.

**Sue Laco, local resident:** Ms. Laco advised on her commute from Nordic Ranches she was considering how great it is to be an American and to live in Wyoming. She feels a sense of pettiness is occurring in a larger sense in comparison to bigger issues in the world. She doesn't feel the establishment "generally" serves minors. She feels that if you have a sense of maturity and parental guidance you don't have to take part in exotic dancing. She was raised in a town of 70,000 residents and feels there was exotic dancing present, however, her family didn't take part in it. She feels the children will mature in an environment when allowed to make choices. The false accusations, lies, and vendettas, are terrible in her opinion. She expressed not understanding why certain factions of residents would not want the revenue from the Bull Moose which offers good food at a good price in her opinion. She feels the community needs to get past this issue. She feels the issue is ridiculous.

**James Phillips, Chief of Alpine PD:** Chief Phillips read a statement to the council and mayor. According to Phillips many people don't understand how law enforcement actually works and that it isn't how television portrays. He advised there are certain rules and restrictions in place for officers to keep them in line. For example, the officer must have a "reasonable suspicion" that there is a crime that will or is occurring. Once there is a reasonable suspicion then an investigation may be initiated. If probable cause is found during that investigation that a crime was committed then a "charging document" is created by the officer. In regard to the Alpine PD not writing any citations, Mr. Phillips advised that officers have two charging documents at their disposal: citations and affidavits. Citations are very small and allow for very little explanation regarding the alleged offense. An affidavit can be pages and pages long and much more specific as a charging document according to Phillips. Officers have the ability to use either form of charging documents. In regard to the three major cases involving the Bull Moose, Mr. Phillips addressed each case separately. In regard to alleged gambling, an affidavit was written and sent to the county attorney's office. According to Phillips many give him much more power than he has, i.e., he ends once the affidavit is given to the county attorney. He has no ability to "charge someone with a crime". In regard to the juveniles in the bar Phillips stated, "We had the same thing. We had our reasonable suspicion and investigated the claims. But for various reasons. I'm not going into the specific details. I don't think we need to spend the time on that. We were unable to find probable cause and by the way and did not file affidavits or citations against the Bull Moose or against the minors in that bar." In regard to the public decency case, Mr. Phillips advised probable cause was found to file affidavits which were filed with the county attorney. In regard to alleged vendettas, Mr. Phillips advised the police department has no vendetta against the Bull Moose and feels they have not been unfairly targeted. He feels the Police Department has endeavored to be fair and impartial. The Bull Moose Saloon has been the reporting party or the victim on cases rather than suspects within the department's data base. He feels they have been treated with fairness and respect and the department passed on some lesser opportunities to act on issues regarding the Bull Moose. The department has responded to the owners request for notices of trespass to problem patrons, removed problem patrons, investigated vandalism and thefts, potential threats, and bad checks all of which the owners have benefited. Mr. Phillips advised

he is very proud of the department and realizes the department isn't perfect and is striving to become better. Mr. Phillips reviewed the department's goals and objectives for courteous service. The Mayor questioned the Chief whether affidavits are as good as citations and why the county attorney has not responded. Mr. Phillips advised the question needs to be raised with the county attorney directly.

**Mayor Lloyd recessed the meeting for a break at 8:40 p.m. and reconvened at 8:53 p.m.**

Donald Miller, Attorney for the Bull Moose asked the Mayor for the owners of the Bull Moose to have time to speak as they were late to the meeting to sign-in. The mayor granted the request and asked the owners to hold comments to three minutes. Their attorney offered to allow some of his time allotted to his clients.

**Juline Christoffersen, Owner Bull Moose Saloon:** Ms. Christoffersen began by referring to the hearing as a court to which Mr. Fusco advised it is a council hearing and not a court hearing. Ms. Christoffersen stated she loves Alpine and loves living here. She expressed concerns after learning during the depositions that both officers had only a couple years of experience. Chief Phillips was handed a very difficult job after only two years experience in a small town as an officer but also a tough job in forming a police department. Ms. Christoffersen offered an apology to the police department if they have seemed "unduly harsh" as they have come from other communities and they are totally unaware of the newness of all this. Ms. Christoffersen was part-owner of the Stage Coach Bar in 1984 and held a liquor license. She advised underage kids like to drink. Ms. Christoffersen stated, "It is everybody's duty to make sure they don't. I realize that on one day last spring we had a group of Jackson kids come down apparently and given the fact that we assumed that 18 year olds could be at the exotic dancing shows they were allowed in. It is our policy to card everybody who comes." Ms. Christoffersen advised it is not the bar's policy to serve minors and they go out of their way not to serve minors. If kids come in with the fake ID's and the ID's look like the kids there isn't much they can do. The issue of underage drinking is a serious issue. Ms. Christoffersen advised the law allows for parents to advise the licensee of the liquor license that there is a problem and that if another violation occurs sanctions can be imposed. They have never received any notices according to Christoffersen. She expressed for anyone to notify them of anyone who is underage drinking in their establishment. Regarding the "minors issue," Christoffersen stated their establishment has never been cited. In regard to Texas Hold 'Em tournaments, she expressed they thought they are exempt from gambling laws and once informed there was a problem the tournaments stopped. Until the Wyoming Supreme Court or State Legislature clarifies the ambiguity in the law, the saloon agreed to stop the tournaments and did so immediately. Two tournaments were conducted and a lot of people had fun.

In regard to the exotic dancing, Ms. Christoffersen advised the Town council had discussed the matter on several occasions and approved of the dancing. The law suit filed in August came as a surprise as the renewal of the license was approved every year. In general the theme tonight has been centered on youth. Ms. Christoffersen advised she doesn't like kids showing up to drink at the Bull Moose and feels it sad the youth are leaving Jackson to come to Alpine for fun. She feels any negligence falls upon the communities in not providing good recreation opportunities; she hopes these issues will become foremost once the issue of the liquor license is addressed.

Steve Fusco questioned Ms. Christoffersen that a drawer full of fake ID's exists and that they will prosecute minors. Ms. Christoffersen advised she will prosecute minors in her establishment. Mr. Fusco questioned whether the police have been called to report any underage minors in their establishment, to which Ms. Christoffersen doesn't have the authority to issue citations and haven't reported this to the police. She asked, "would you like us to?" Mr. Fusco advised it would be relevant to report the underage minors when they have confiscated fake ID's if she is asking for the law to be enforced equally. He asked that if they have any question whether the ID is real or not that they call and report this to the Lincoln County Sheriff's or Alpine PD. Ms. Christoffersen responded by stating, "That's a possibility. The problem is that alot of times these incidents will occur late at night and if we have to call Lincoln County it usually takes 20-30 minutes." Ms. Christoffersen states that Chief Phillips is her neighbor in Star Valley Ranch. Ms. Christoffersen states often times minors present fake ID's and when confiscated runaway from the saloon. Most often times the minors just claim they forgot their ID and leave the saloon.

**Jim Lubing, Town of Alpine Attorney:** Mr. Lubing addressed the council, mayor, and the public over several issues which have been misrepresented and misconstrued in the public hearing, newspapers, etc. The first issue is in

regard to the fact information was sent to the Lincoln County Attorney asking for prosecution of a public indecency case based on the evidence of the type of dancing being conducted was against state statutes. According to Lubing, Scott Sargeant (county attorney) advised the Town they are the liquor license authority, and if they have a problem, to deal with it; as a result of Sargeant's response, the Town filed the lawsuit in August 2005. Mr. Lubing advised since Alpine has created a police department and misdemeanor court, Scott Sargeant has advised on many cases that it is up to the Town to deal with their own cases. Scott Sargeant has been turning down cases not based on the merits of each case but rather due to the fact that Alpine has created their own court system in his eyes. Mr. Lubing advised there is no requirement under the liquor licensing statutes, under Title 12-7-201, does not require that a criminal action is filed in order to file any lawsuit, revoke a liquor license, or deny the renewal of a liquor license. A liquor license stands separate and apart from and the licensing authority is the Town council and mayor. If the Town has a basis for non-renewal of a liquor license; they do not have to renew said license. In fact Mr. Lubing advises there are statutory requirements that advise a liquor license shall not be renewed in certain instances.

Another point of contention which has been misconstrued involves the aspect of this case being described as a "1st Amendment Free Expression Case" according to Lubing. The laws regarding 1st amendment rights center around the freedom to expose yourself, burn flags, and speak as you wish for example. The issues here specifically involve Title 12 of the Wyoming State Statutes governing liquor licenses. If the licensee is in violation of these statutes, the statutes state the licensee shall not hold a liquor license. These standards are not the same standards imposed "generally" in other types of situations. The holding of a liquor license is a limited privilege. Mr. Lubing stated, "It is not a right but a privilege to have one and if you have a liquor license there are certain things you have to comply with." Mr. Lubing believes some of the good of the public debate has resulted in the saloon ID-ing people more stringently as reported by Christoffersen. Better care in the operation is a positive outcome of the debate. According to Lubing the owners advised at the last public hearing that 18 year olds are legally in the bar during exotic dancing shows and that they are serving 21 year olds or 30 year olds who in turn are giving the alcohol to the minors. He feels the problem is the system is set up to allow this type of behavior and doesn't work and that this is the problem which is solvable.

Another issue of concern is the fact the statutes clearly state if you are a holder of a liquor license it is violation of the liquor license to have public indecency taking place on the premise. The touching of the women, rubbing of lotions, not covering the "bottoms" on the women or the breasts are violations according to the law. This is not illegal in the sense of being described in a "vacuum"; for Mr. Lubing, Wyoming law clearly states this behavior is illegal under Title 12. Clear and simple, according to Lubing, is the fact this issue is a liquor licensing issue and not a "free expression" issue.

Mr. Lubing described the "hysterical media frenzy" occurring over this issue with the Bull Moose has stretched as far as Billings, Montana and all across the state. The lawsuit filed in early August 2005 was filed prior to the Fire Marshal instituting significant restrictions on the saloon. Again, the Town resorted to filing the lawsuit as a result only after the county attorney advised the Town 'it's your problem, you deal with it'. The articles in several newspapers have alleged the Town council has violated the open public meetings laws to which Mr. Lubing advised the Wyoming Supreme Court has never addressed the relationships between the attorney/ client privilege and the open public meeting laws. Mr. Lubing advised that Carter Wilkinson did meet with the council and mayor in closed session at which time it was determined and voted to file a lawsuit to revoke the saloon's liquor license in August 2005. Mr. Lubing's position is that it violates the attorney/ client privilege to require that a vote is taken in a public forum and to take public input whether to file any lawsuit and some courts agree and some disagree. The Wyoming Supreme Court has never dealt with the issue. Mr. Lubing said in hind-sight he could have used his discretionary authority as the Town's attorney to file the lawsuit on behalf of the Town without a vote being taken. Moreover, he doesn't feel the lawsuit was illegally filed but if it was they could dismiss the lawsuit and go through whatever "hoops" someone feels are necessary and then refile the lawsuit the next day.

The S.V. Independent ran a recent newspaper article in which one of the licensees indicate the lawsuit was "dismissed" due to the fact the council violated the open public meeting laws and stated the lawsuit had no merit. According to Lubing this came as a shock to him as he discussed the issue with Mr. Miller at the last public meeting and it was decided by both parties that the lawsuit filed to revoke the 2005 liquor license was futile at this point to

pursue based on the fact the license period was only had a few weeks left. Both attorneys agreed to center on the renewal application for the 2006 Liquor License. The lawsuit filed by the Town of Alpine and the ending of the lawsuit was misconstrued by Mr. Blittersdorf in the newspaper. Mr. Lubing stated, "I want the record straight on that. This council didn't do anything wrong; what they did do was at our advice. At that time we were getting crazy reports as to what was going on over at that bar and there was a last ditch effort because the county attorney wouldn't do anything about any of the complaints." Mr. Rooks has already come in and set the record straight about the outrageous allegations made about him and therefore, Mr. Lubing did not comment on the allegations.

According to Lubing the owners of the saloon have made continuous statements that the liquor division has approved every part of the operation of the saloon. He deferred to Mr. Montoya to answer any such questions and based on his opinion of the law stated the following, "Our position as the Town attorneys is that you {council and mayor} have to apply Title 12 which are the liquor license statutes. You cannot fail to renew the license simply because you have a moral or religious objection to alcohol or dancing that does not violate state law because those are not legal basis to refuse to renew the liquor license." If the decision were based on these types of issues for denying a renewal of the license, the court may well find that an arbitrary and capricious decision was made and overturn the council's decision to deny the license; the council and mayor must stay within the confines of the statutes when making their decision. Again he reiterated the fact the dismissal of the civil litigation was based on the fact only 6 weeks of the 2005 liquor license period remained; it was not dismissed based on lack of merit.

Mr. Lubing presented to the council and mayor his proposed "Bull Moose Retail Liquor License Conditions" dated November 15th, 2005 (see attachment H). He feels these are the minimum conditions under which the Town can stay within the bounds of the law and renew the license. However, Mr. Lubing stated, "Now I think there is plenty of information in that record from last week that you could say that under Title 12 we cannot renew it." Moreover, Mr. Lubing reviewed the conditions of the statutes under which a license shall not be renewed. The blatant misinformation conducted in the newspaper concerns Mr. Lubing and gives him reason to pause. The proposed conditions will only affect the 2006 Liquor License and if any violations occur, they will be back to discuss whether the license should be revoked once again. He stated, "I would and expect that if reasonable restrictions are in place, they will comply with them. That is particularly true when as I understand it they agree with these conditions I propose." For the benefit of the public Mr. Lubing summarized the proposed conditions as outlined in his November 15th, 2005 letter as follows:

1. FIRE MARSHAL: Whatever conditions are in effect from the Fire Marshal currently such as: a) No live entertainment, b) 100 occupants, c) employ a "fire watch" shall be mirrored in the liquor license. The liquor license should only be approved with these restrictions in mind and in place by the Fire Marshal's office. Mr. Lubing made one hand-written change to his proposal as follows to alleviate a concern of Mr. Miller, section 1-e was amended to read, "These restrictions and any legal modifications shall remain in full force and effect (the amended section is underlined). The bottom line for Mr. Lubing is that whatever the Fire Marshal's office expects, the Town mirror's them. If the Fire Marshal's office modifies or lifts the restrictions, the Town will lift such restrictions from the liquor license. On the other hand, if the dispute continues with the Fire Marshal and the agency orders the doors shut on the establishment, this will also be a condition of the liquor license, for example.

2. MINORS: If the Fire Marshal's restrictions are lifted and exotic dancing is allowed back in the bar based on occupancy, no one under the age of twenty-one (21) will be permitted upon the premises of the Bull Moose Building while any such shows are taking place. Alternatively, licensee shall have the opportunity pursuant to W.S. § 12-5-201 (k) during any such shows to refrain from the sale of alcohol or malt beverages during the event, remove all alcoholic beverages and malt beverages from the dispensing room, and close the dispensing room during the event. In other words if the dancing show doesn't violate the public indecency laws, they can have the show. Mr. Lubing stated, "But they are not going to serve booze at it if there are kids under 21 at the show."

3. LAW ENFORCEMENT ACCESS: The Alpine Police Department and its officers shall be allowed access into the Bull Moose premises at all reasonable times, which access shall not be unreasonably restricted.

4. EXOTIC DANCING: According to Mr. Lubing the owners will have to comply with W.S. § 12-5-204 and not allow any of certain enumerated actions to take place anywhere on the licensed premises. Mr. Lubing stated, "In other words the Title 12 requires you comply with the public indecency law and don't violate it. The public indecency law prohibits dancers exposing their external genitalia, perineum, anus, and pubes, and the nipples of the breasts." These parts cannot be exposed with the intention of arousing someone else and in turn violating the public indecency law. Therefore, according to Lubing if any such areas are exposed they are in violation of the public indecency law. Additionally, no "sexual contact" as defined in W.S. § 6-2-301 (a) between any of the dancers and patrons can occur. Clearly violations have occurred to the public indecency laws and Title 12 according to Lubing based on affidavits submitted by the officers, i.e., lotion rubbing, dancers rubbing crotches in patrons faces, etc. He feels an agreement has been reached with the owners.

5. TITLE 12: The licensee shall comply in all other respects with Title 12 of the Wyoming Statutes and any violation thereof shall be deemed grounds for revocation of the 2006 Retail liquor license by the licensing authority, the Town of Alpine, Wyoming, or a non-renewal of the license by the Town of Alpine in 2007.

In closing, Mr. Lubing advised these are simple conditions which the owners have generally claimed they have been complying with, and plenty debate has occurred whether they were or were not complying. If the Town approves the liquor license based on his minimum conditions, Mr. Lubing feels the council and mayor are well within their bounds of the law to renew the license.

(clerk's note: Tape #2 of 3 switches to side B here)

Mr. Fusco questioned Lubing whether the Bull Moose Saloon has agreed to these conditions. Mr. Lubing stated the minimum conditions outlined are required by the law anyway in his opinion and again the renewal should be subject specifically to these conditions.

**Lenny Sorenson, local resident:** Ms. Sorenson questioned the different types of "live entertainment" and what is the difference between playing a music CD and someone wanting to sing gospel music, Broadway hits, and country western music to entertain. Why is this not allowed but the exotic dancers are allowed as long as they cover their intimate parts. Again, Mr. Lubing added the "no live entertainment" is a requirement currently under the Fire Marshal's office which also disallows exotic dancing at this point. She asked the Town to make a provision in which "good 'ole country music" could be played. Again, Mr. Lubing referred or deferred the issue to the Fire Marshal who is the authority which lifts the restrictions.

**Tom Montoya, Chief Enforcement Officer Liquor Division:** Mr. Montoya reviewed the proposal and advised both attorneys he finds the proposal to be reasonable. There is precedent in this state and he has advised other councils and mayors in different parts of the state to do similar proposals. Casper, Rawlins, and Natrona County for example have opted for similar proposals. The Liquor Division approves the license and the restrictions proposed and reiterated the council and mayor have the ability as the Liquor Licensing authority to place said restrictions.

**Donald Miller, Attorney for the Bull Moose Saloon:** Mr. Miller began by saying, "I want to keep this short, but it's pretty hard for an attorney to listen to allegations which he knows which aren't true or at least knows as I said at the last meeting there is the 'Paul Harvey rest of the story' and I'm going to try and speed through it." He was hopeful he could just introduce the proposal and be done, however, Mr. Miller advised he would like to clarify some points. Mr. Miller proceeded to show the mayor and council a petition containing over 450 signatures of local residents stating they support the Bull Moose Saloon. According to Miller, names of doctors, lawyers, and businessmen can be found on the list and he feels the community is trying to speak to this council. Mr. Miller in his opinion feels many of the residents aren't saying they're in 'love with exotic dancing' rather they are upset with the interference of the Bull Moose trying to run their business. According to Miller, two mayors of this council have stated on the record and in open meetings that what they are doing is "grand-fathered" in.

Mr. Miller defended his clients as being "uncooperative" and described two areas of contention from the renewal of the liquor license last year. Moreover his clients removed the "Families Welcome" sign found below the exotic dancing

sign. He feels they were sensitive to the issue and removed it and he feels his client's first amendment rights give them no obligation whatsoever to have to remove any portion of their signage. The other concern from last year stemmed from the fact that the restaurant portion was exposed to the stage area. The owners never served food in the restaurant to families while the exotic dancing shows were held. This fact never seemed to get through to these "folks" according to Miller; however, his clients were sensitive again to the issue and a full-wall was built. He feels his clients have tried to cooperate with the community and address their concerns. Mr. Miller referenced the constitution in its original form which stated 'in the pursuit of wealth' which was changed to 'happiness'. According to Miller our entire country is based on one thing- money and money gets us what we want and establishes our freedom. Mr. Miller stated, "Our government, our founding fathers didn't want anything to interfere with that including and especially religion. You gotta remember those people were all Christians, there were no Jews, there were no Muslims, there were no Atheists that I know of that signed the constitution. Those people had lived through religious tyranny and what religious tyranny will do to a government. The Church of England ran England. They didn't want that so they made that one of the first parts of the constitution – separation of Church and State." Mr. Miller went on to say the council must ignore the religious arguments raised by the public tonight as a basis to deny the renewal of the license.

In regard to Mr. Rooks' comments, Mr. Miller stated, "To the extent there was any false allegations – we apologize. But one of the people spoke here said – and I still wonder--if I'm a principal think about this—get those kids outta there. I don't know why it didn't happen but I don't care at this point."

Mr. Miller advised his clients are "grand-fathered" and have no obligation to cover the dancers' bare breasts and stated "tonight we are willing to go with pasties because contrary to what some people believe about the Bull Moose, the Bull Moose wants to do legitimate business and wants to be free to do that business without constant interference." According to Miller the police have always been welcome and he feels Mr. Phillips statements are contradictory in that he states they are not welcome, yet he can call the establishment.

From February to July 2005 the issues and concerns of the Alpine Police Department and Council were held "secret" from the owners; they just want to know immediately and not six months later there were concerns. There was no notice given to the owners of these concerns, and, therefore, Mr. Miller believes Judge Sanderson would agree with him the owners are grand-fathered and no notice was given to the owners. According to Miller the Town's ordinances allow exotic dancing and minors age 18 and above to attend. Mr. Miller stated, "The fact is they {18-year olds} don't spend money and this is about money. The Bull Moose doesn't want 'em in." He feels the "disaster" of April 30th sealed the deal with allowing 18-year olds to be present during the shows. After April 30th, 2005 approximately 10 exotic shows were held in which the owners, on their own, decided not to allow 18 –year olds. The complaint and all the energy put into it seems silly to Mr. Miller.

The Bull Moose will cooperate and has cooperated according to Miller, however, next year Mr. Miller is worried the council will want yet another restriction. He believes they are at their limit on restrictions asked by the Council and Mayor. Again, he reiterated the fact they are not obligation to consent such restrictions. According to Miller he conducted research at the 'Clown's Den' in Cheyenne and describes the establishment to have bare-breasted women. When he posed the question, "Why is this allowed?" to Mr. Montoya, he was told it was "grand-fathered." Miller stated, "The Bull Moose didn't violate any laws. They didn't violate a single law. I didn't want to get into all that, but it came up. There are no violations, there are no citations." Mr. Miller posed a hypothetical question to the Mr. Mangum and Montoya as follows "What would happen if it was proven that there was an exotic dance show, um that the individuals rubbed lotion on the women's breasts, and there was full nudity behind a curtain for private lap dances, and after that several months later there was another exotic show and several individuals who were underage were drinking and – this is important –they got the drinks from a patron?" The Bull Moose didn't know the legal patrons were handing out drinks to 18-year olds who were allowed by Town ordinance. Contrary to Mr. Rooks' statements, none of the affidavits from the minors state they received a single drink directly from a bartender. Mr. Lubing responded by saying the fifteen (15) year-old girl did say she received drinks from the bartender. Mr. Miller disputes this claim.

According to Miller, Mr. Montoya responded that if the claim went to an administrative hearing before a Judge there probably would be an admonition but there probably would not be a suspension. Mr. Miller stated, "And you guys tried to get Judge Sanderson to revoke the license!" This body, according to Miller, has already voted on the issue to revoke the license which is very concerning. Mr. Miller addressed Shirley Brown, council woman, directly and stated, "But Mrs. Brown I am worried because last year you spoke up, which was your right, that you were afraid to ride your bicycle past the Bull Moose. I have concerns." Ms. Brown asked Mr. Miller to read her written statement from last year's hearing. Mr. Miller read the following:

"As a citizen, mother, and grandmother I want to protest the renewing of the Bull Moose Saloon liquor license. As a victim of alcohol and firearm abuse as a teenager I know the dangers of a person spending time in the environment of said establishment. I have heard the problems where our policeman has been called in for problems there. The Town of Alpine is growing in leaps and bounds where the streets were once free of children except in the peak tourist months there are now little people on bicycles, dirt bikes, 4-wheelers, and snow machines. I would like to see safe environment for my grand-children to visit. I want to walk my neighborhood streets or ride my bicycle without fear. I would like to see Alpine a place for families where children grow and prosper. A community where children are free to play and grow in good health without fear they will be hit by drunk drivers or being abused by alcoholic parents. Alcohol is a significant reason for family abuse and divorce as our population grows in Alpine and with long winters we'll see more domestic violence problems. As a victim of alcohol and fire arm abuse as a teenager I know the dangers. With these thoughts in mind, I ask you not to renew the liquor license of the Bull Moose Saloon-Shirley Brown."

Mr. Miller apologized to Mrs. Brown for paraphrasing, however, expressed concerns from the letter anyway as now she sits on the council. Mrs. Brown again clarified when this letter was written she was not on the council and stated, "I feel I took an oath saying I would make choices and decisions according to the best of my ability to the evidence or the things that are presented...to the State of Wyoming Laws and Constitution."

According to Miller responsibility must lie with the teenagers who decided to come to the Bull Moose and enter the door in the first place. Again Mr. Miller referenced the freedom of our country to choose and referenced the many that have died for our freedoms. Mr. Miller stated the council must have the courage to "bow out" of the vote if there are religious and moral principles which one cannot set aside.

In closing, Mr. Miller stated, "We enter into this agreement because we're tired. You know? It's just enough. But this is the line. We can't keep getting pushed. We have cooperated in the past." According to Miller he attempted to explain at the last meeting that the order restrained the Fire Marshal not the Bull Moose.

Steve Fusco asked Mr. Miller to read the high-lighted areas of W.S.S. 6-4-201, specifically #2 and #3 which he complied. He also asked that he read #2 and #6 as he has dilemmas and questions whether to renew or deny the liquor license at this time. Again, Miller complied and replied to Mr. Fusco's dilemmas.

(clerk's note: meeting was stopped at this point to change to Tape #3 of 3—Side A)

Mr. Miller advised that the Bull Moose has been allowed to avoid these statutes by this Town's agreement – that is the grand-fathering in his opinion. Mr. Fusco stated the council cannot override state law. The statute is dated and enacted in 1983. Mr. Miller spoke to Jeep Molnar, prior owner, who began having exotic dancing in 1979. Mr. Fusco clarified the Town wasn't incorporated until 1989 and, therefore, jurisdiction at that time would have been Lincoln County. Mr. Lubing stated that Mr. Fusco is correct and that his position would be that the exotic dancing could not be "grand-fathered." Again, Mr. Miller doesn't agree with this point. He questioned whether the Bull Moose Saloon intentionally went against the law, which he feels they did not. Mr. Fusco advised as a council they took an oath to uphold the laws of Wyoming which the statutes he read are the laws of the State of Wyoming not the Town's laws. Mr. Fusco went on to say that he must interpret these laws as they were written and intended for use in 1983 not 1979.

Mayor Lloyd stated that Mr. Lubing's proposal allows the council to abide by those laws. Mr. Fusco stated that why he is bringing these issues to the front is to once again state why the lawsuit was filed in the first place and why he

approved a lawsuit being filed. Mr. Fusco wants the public to understand the decision was based on law and not an arbitrary decision as it seems they have perceived the lawsuit as such. Mr. Fusco referenced a letter dated November 8th, 2005 from Mr. Miller which states, "One thing must be made clear probably by me at the meeting, the Bull Moose is agreeing to do this so that they can continue business without anymore hassles. They do not admit to any wrongdoing." Mr. Fusco simply stated he questioned whether the license should be renewed or not as the owners have broken the law in his opinion.

Mr. Miller advised Mr. Fusco that the Town's own attorneys (in the past) advised the Bull Moose they could continue to operate as they had. Mr. Miller stated that this council made decisions based on the attorneys' advice and didn't revoke the license in the past. The clerk interjected at this point to clarify the record that three (3) new council people were not apart of the decision to renew the license a year ago. Mr. Miller stated that this "body" allowed the owners to proceed with their operation as is and now with new members are wanting to change the rules. Mr. Fusco reminded Mr. Miller that at the time the license was renewed there were no affidavits claiming any sexual contact between dancers and patrons; the evidence a year ago was all hearsay and accusations. According to Miller everything presented in this year's renewal process is still hearsay and accusations. Mr. Miller referenced the way a court would conduct a review of this case, for example, witnesses would be called and cross-examined. Mr. Jorgensen advised Miller he wanted to make it very clear this is not a trial and is a public hearing as he often has referred to the hearing as a trial. Mr. Miller stated that if his livelihood was threatened and that he didn't have a chance to cross-examine witnesses, he would conduct himself the same as it feels like a trial.

Mr. Fusco stated he is simply trying to get both attorneys to answer his questions in order to make the right decision as he is not a lawyer. Mr. Miller stated, "I don't mean this as a threat. This is the procedure. If you rule that they violated these statutes when they have been given permission by this body then the appeal to Judge Sanderson is going to include, among other things, that this body is a stop from changing their rules on a dime without any prior notice. That is my only answer to you."

Mr. Miller believes the laws surrounding exotic dancing are applied "all over map" and are very vague which contradicts Mr. Lubing's perception of the same laws. Mr. Hutchinson interjected to remind everyone a proposal has been presented which seems to resolve the issues. He feels his job is to forget the moral issues and get the Town on its feet. Mr. Hutchinson stated his objections regarding the newspaper articles which have stated that he may have possibly had a vendetta against the Bull Moose. Mr. Hutchinson made the motion last year to approve the liquor license based on the fact the evidence presented was second and third-hand information. He feels a motion to renew the license based on the proposal presented. He asked that people play by the rules, follow the laws, and quit putting "crap" in the paper alleging they have a vendetta.

Mr. Miller asked for any questions and none were received. Mr. Lubing asked that his yellow, bond colored proposal be the actual agreement attached to any motion which may be made. Mr. Miller advised he and his clients approve of the document in which Mr. Lubing made his hand-written change to.

The clerk asked to speak the council in regard to sexually oriented businesses. The clerk reminded the mayor and council they have the responsibility and authority to regulate any sexually oriented business in their Town. A year ago the clerk requested the council and mayor address the fact there is no licensing or regulatory process attached for any sexually oriented business and other communities have this in place. As the clerk, Ms. Matthews asked the council and mayor to separate the two issues in the next year (liquor licensing and exotic dancing) and establish a licensing process for the sexually oriented businesses. The owners and the Town would then be reading off the same sheet of music essentially. She asked the licensing process for sexually oriented businesses be very similar to liquor licensing in which the owner is required to submit a renewal application, define to the square inch what is allowed and what isn't, etc. Ms. Matthews implored the council to create this written regulatory process in the next year to safeguard the Town and any owners if they continue to allow any type of sexually oriented businesses. Mayor Lloyd recognized that Mr. Montoya agreed with Matthews' statements.

**Jerry Vassar, local resident:** Mr. Vassar expressed concerns regarding the fact he asked a few weeks ago for the laws regarding 4-wheelers to be enforced and assumes the public hearings, at heart, are to safeguard children in our

community. He feels the issue of ATV and 4-wheeler safety to be more of a concern for child safety than if a woman is wearing "pasties" or not. He asked the mayor and council to get real and prioritize. Mr. Jorgensen agreed the issues are separate. Mr. Vassar asked that if the mayor and council is going to enforce all laws, to enforce all laws—don't "cherry pick."

**Tom Montoya, Chief Enforcement Officer Liquor Division:** Mr. Montoya clarified liquor licensing rules as requested by local resident Richard Jenkins. Essentially, there are several kinds of liquor licenses according to Wyoming Statutes and one type is a retail liquor license; Wyoming does not separate this as on-premise or off-premise licensing. An owner can sell on or off premise alcohol. If an owner of a retail license wants to have a restaurant that is allowed as well. But there is also a separate license called a "Restaurant Liquor License" which Mr. Montoya describes as a very restrictive license. This license was created as a compromise resulting from the high-level of tourism in Teton County in 1979. The license allows the serving of any kind of alcoholic, liquor or malt beverage with a meal, however, the licensee cannot have a lounge environment if they are a restaurant. The dispensing area is usually a small closet of sorts in the restaurant. A restaurant liquor license also has a "60/40" rule in which 60% of the gross profits must come from the sale of food. In the last legislative session the "merlot to go" bill was passed which allows the resealing a bottle of wine and placement in a plastic bag to take home. The issue was more for public safety. The malt beverage permit owned by the Alpine Market is a grand-fathered license. The travel, recreation, and wildlife committees are looking at the gambling laws. Requests to adjust the population requirements are also being considered along with a new license called a "bar and grill license" which would allow the big chain restaurants to come into Wyoming easier. The license would have the same restrictions as a restaurant license, however the license would allow a lounge.

**Shirley Brown, council:** Ms. Brown discussed her appreciation for living where she does and that she realizes laws are put into place to create commonality as people have many different beliefs. She believes a liquor license is a privilege and that one must obey the laws of the State of Wyoming. Ignoring the facts will not make the facts disappear in her opinion.

The mayor called for any motions to approve the license. **D.R. Hutchinson motioned to approve the 2006 Retail Liquor License for the Bull Moose with the inclusion of the proposed "Bull Moose Retail Liquor License Conditions" which include 5 areas of: 1- Fire Marshal, 2- minors, 3- Law Enforcement, 4- Exotic Dancing, and 5- Title 12 which will be on-file in part of the minutes tonight and part 2- based on what the Town Attorney has advised would be that on approval that we drop the pending lawsuit. Don Jorgensen seconded the motion. VOTE: 5-Yes; 0- No; 0- Abstain; 0- Absent**

**The mayor recessed the meeting at 10:16 p.m. for a break and reconvened at 10:30 p.m.**

- **LEGAL NOTICE –PUBLIC MEETING TO BE HELD DECEMBER 2ND, 2005 AT 7:00 P.M. at the Alpine Town Hall – Council Chambers-** Regarding the North Alpine Developments, annexation, and water and sewer infrastructure. Lincoln County Commissioners, Alpine Meadows Project/ Meridian Group, Abi Gharaman, Clarence and Dorothy Reinhardt, and the Alpine Development Group will attend.
- **3rd Reading – 130 Ordinance No. 2005 -20 -- Rezoning Lot #646 of Lakeview Estates Tract C Subdivision at 144 Trail Drive – (OWNER'S NAME: OHANESIAN):** Shirley Brown read the ordinance through the title. Mayor Lloyd called for any discussion and none was received. **Don Jorgensen motioned to approve 130-Ordinance NO. 2005-20 as a third reading. D.R. Hutchinson seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent**
- **PROPOSAL TO COMMEMORATE MARGE GROVER –** Letter dated 10-26-05 from Diana Taylor and Burke Shaw which proposes the civic center be renamed to the "Marge Grover Civic Center." The proposal already has someone who will donate the sign and work. Shirley Brown asked whether they could approve the sign before – hand. Steve Fusco questioned whether a sign permit would need to be arranged. The clerk advised, to her knowledge, only if the size of the sign is larger than the existing sign. Steve Fusco asked that as a courtesy the council is allowed to review the sign. **Don Jorgensen motioned to approve the "Marge Grover Civic**

Center" Alpine, Wyoming pending the approval of the Planning & Zoning. Steve Fusco seconded.  
VOTE: 5-Yes; 0- No; 0- Abstain; 0- Absent

**B. DEPARTMENT UPDATES:**

- **STREETS & ROADS:**
- **SEWER DEPARTMENT:**
- **WATER DEPARTMENT:**
- **PARKS & RECREATION DEPARTMENT:**
- **PLANNING & ZONING COMMISSION:**
- **POLICE DEPARTMENT/COURT:**
- **PERSONNEL/ ADMINISTRATIVE:**

**C. ON-GOING BUSINESS/ INFORMATION:**

**D. INFORMATION DISTRIBUTED TO COUNCIL:**

**E. FINANCIALS/ UNPAID BILLS:**

**D.R. Hutchinson motioned to pay the bills. Don Jorgensen seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0-Absent**

Mayor Lloyd called for a motion to enter into executive session under state statute to discuss a letter to the council regarding an employee. D.R. Hutchinson questioned how they could enter into executive session when they had agreed only to enter into executive session with the Town's attorney present which already had left. Mayor Lloyd felt they could proceed. Steve Fusco motioned to enter into executive session to talk about personnel. Don Jorgensen seconded. VOTE: 5-Yes; 0- No; 0- Abstain; 0- Absent

Mayor Lloyd adjourned the regular meeting at 10:40 p.m.

\_\_\_\_\_  
David H. Lloyd, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Tracy Matthews, Clerk

Date