



**TOWN OF ALPINE
COUNCIL MINUTES
NOVEMBER 1ST, 2005**

CLERK'S NOTES: THIS COUNCIL MEETING LASTS APPROXIMATELY 5 HOURS AND WITH ANY SET OF COUNCIL MINUTES THEY ARE A SUMMARY ONLY.

Mayor David Lloyd, called the meeting to order at 7:05 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.

A. ACTION ITEMS AND NEW BUSINESS:

(Clerk's Note: Minutes are created from Tape # 1 from this point forward)

- **COUNCIL MINUTES:** Mayor Lloyd called for a motion to approve the October 18th, 2005 Minutes. **D.R. Hutchinson motioned to approve. Don Jorgensen seconded. VOTE: 5– Yes; 0 – No; 0- Abstain; 0- Absent.**
- **Planning & Zoning Minutes:** None Available-pending approval
- **Sled Dog Race-** Kathy Jenkins, local resident, addressed the council in regard to making a more positive sled dog race for Alpine. Most of the participating communities are using the event to promote their area and a positive event for residents and the mushers. Her conceptual idea is to make the start/finish line similar to an iditarod camp with an outfitters tent serving hot drinks and to create a resting place out of the cold. By selling more than the quota of banners, the event may generate more money. Additional promotion exists for Alpine to purchase additional advertisement in the stage stop program and make it equal and comparable to other communities. A committee member will be acting as an area ambassador to Star Valley schools to allow their participation at the race, in the classroom, through assemblies or by downloading classroom material from the website. Last year's committee sold 9 banners at \$200.00 and didn't reach their quota. The Alpine Race Committee received 20% of these sales to donate to the charity of our choice. The committee chose to give \$360.00 for needy children needing immunizations in Alpine.

Ms. Jenkins requested to know if the Civic Center can be used, and will they be charged, will a Town representative give a welcoming to the mushers and residents at a banquet on Tuesday evening January 31st, 2005 at 6:00 p.m. The goal is to have enough money generated from the sale of banners to participate in a full-page advertisement. They need help gathering information and art work to fill a page of advertising. They need ideas for facilitating traffic at the Grey's River Road. They want to seek permission for a banner to stretch across Grey's River Road welcoming the mushers and residents and flagging along a fence line leading to the start/ finish line. Ms. Jenkins asked for these questions to be answered in the near future and will attend the next meeting to give a progress report to the Council.

Last year's event wasn't planned well and she wants to make the event positive. She invited the council to review the racing website. It doesn't cost anything for Alpine to fix this portion of the website. The Mayor feels the ball was dropped last year and there wasn't enough cooperation from Frank Teasley's group. Ms. Jenkins feels a Town representative is crucial and that Mr. Teasley doesn't get involved in Town affairs. Charlene Bucha Gentry, District Ranger, advised that a special use permit from Sid Smith, in the Afton Forest Service Office is in order for the tent. The banner across the road would require a Planning & Zoning

Temporary Sign Permit. The clerk advised that the civic center is available for the banquet at no charge and past advertising and write-up of the community is available for her review.

- **Alpine Confluence Information Center (CIC)/ Wyoming Foundation Grant—Fundraising for matching grant requirements:** CHARLENE BUCHA GENTRY, Grey's River Ranger; Wendy Van Valkenburg and Marilyn Matthews- Alpine Confluence Info. Center: Ms. Bucha Gentry addressed the council that the CIC has been very successful in 2005. Almost \$18,000.00 was generated to run the center in 2005. The Forest Service Fiscal cycle ends 9-30-05 and over 3,700 visitors utilized the center from 10-1-04 to 9-30-05 and over \$4,000.00 in products were sold. The new Fiscal cycle for 2006 started October 1st, 2005 and, to date, in grants and contributions \$17,000.00 is available for 2006. More grants and fundraising will be needed even for Fiscal Year 2007. She thanked the council and town for all the tremendous support of the center and the CIC has become an asset for the community. One of the grants received this year for the CIC is from the Wyoming Community Foundation for \$1,500.00. One of the requirements to receive the grant requires a matching fundraiser. Wendy Van Valkenburg and Marilyn Matthews addressed the Council with a fundraising idea for a Holiday treasure hunt and they would like to go around to all the local businesses and ask for end prizes in the form of items, gift certificates, free service, discount, etc. Mrs. Van Valkenburg advised the donations would be tax deductible as the organization is a non-profit organization. They would sell a list of businesses who will participate in the actual treasure hunt for a \$15.00 donation. The participants would go to each business and pick-up an ornament. The first three people finishing the hunt would receive a gift basket full of several hundred dollars worth of prizes. They would like to conduct the hunt on the first two Saturdays in December. They presented a draft letter to the council and requested the letter be printed on Town of Alpine letter head. They asked for the council's direct help in going around to all the businesses and discuss the fundraiser and ask for donations. They need this information back by November 15th, 2005 in order to sell the lists to the treasure hunt. Marilyn Matthews thanked the council for helping for the grant and discussed the success of the visitor's center.

Steve Fusco discussed supporting the CIC in any way possible. **D.R. Hutchinson motioned to approve the Town's letterhead to be used for the fundraiser and for staff to proceed with their plans. Steve Fusco seconded. VOTE: 5- Yes; 0- No; 0- Abstain 0- Absent.**

Charlene Bucha Gentry advised the CIC winter hours have changed on Sunday afternoons which seem to slow. They will be open Thursday through Monday 9:00 a.m. – 6:00 p.m. every day except Sunday which will be 9:00 a.m.- 3:00 p.m. She praised her staff, Wendy Van Valkenburg and Marilyn Matthews, for making the center so successful. Financial support has strengthened this year from the Lincoln County Commissioners with a \$10,000.00 donation, the Wyoming Community Foundation in the form of \$1,500.00, and \$2,500.00 from the Snake River Fund. The CIC will assume the responsibility for the reservation system for floating permits for the Snake River and along with this responsibility will bring dollars. Approximately, \$ 1,800.00 was left over from the 2005 year for 2006 and \$2,600.00 is available from an internal grant from the Greater Yellowstone Community Committee. Several other grants will be pursued to operate the center.

The Forest Service is sending Ms. Bucha Gentry to another site location in Montana for the Forest Service in December of 2005. She advised Kniffy Hamilton is incredibly supportive of the center. She advised the CIC is one of the proudest moments she has had as District Ranger here and advised the center is a great partnership and a great success story for the community.

- **PUBLIC HEARINGS---2006 LIQUOR LICENSE RENEWALS FOR:**

- 1) Alpine Market – Owners: Familiee Thriftway (Malt Beverage License)
- 2) Bull Moose Saloon- Owners: Rocky Mountain Rogues, Inc. (Retail License)—Jim Lubing, Town's Attorney
to address Council and Mayor
- 3) Gunnar's Pizza- Owners: House of Philly, LLC (Restaurant License)
- 4) Kringle's Café – Owners: J&K Culinary Consultants, Inc. (Restaurant License)
- 5) Red Baron Restaurant- Owners: Red Baron, Inc. (Restaurant License)

6) Snake River Saloon- Owners: Palisades Elkhorn, Inc. (Retail License)

Mayor Lloyd opened the council meeting for public hearings regarding the 2006 Liquor License renewals.

1) ALPINE MARKET: He called for any public comment for the Alpine Market malt beverage liquor license renewal. No comment was received from the public and Chief James Phillips advised there have been no alcohol related incidents with the Alpine Market and that he had no objections to the renewal. **Steve Fusco motioned to approve the Alpine Market's Malt Beverage Liquor License. D.R. Hutchinson seconded. VOTE: 5- Yes; 0 – No; 0- Abstain; 0- Absent**

2) BULL MOOSE SALOON: Mayor Lloyd opened the meeting for public discussion and advised the Town's attorney, James Lubing, has requested to address the council and mayor.

Mr. James Lubing, Town of Alpine Attorney: Mr. Lubing advised the council and mayor of issues regarding the Bull Moose Saloon and that a fair body of information has been compiled. This information has been presented to the police department and his office has dealt with the information. Mr. Lubing, in general, reviewed Wyoming Statute 12-4-104 which governs liquor license renewals for all licenses being heard tonight (see attachment A). Mr. Lubing directed attention to section (b) of this statute which states: "A license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing:

(i) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;

(ii) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;

(iii) The number, type and location of existing licenses or permits meets the needs of the vicinity under consideration;

(iv) The desires of the residents of the county, city or town will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or

(v) Any other reasonable restrictions or standards which may be imposed by the licensing authority shall not be carried out by the issuance, renewal or transfer of the license or permit."

Mr. Lubing advised the council and mayor that if they find any of the above by state law, the council and mayor shall not renew any license. If the evidence does not fall within the above, the council, in-turn, is free to renew any license. The Bull Moose's license was renewed last year at this time as none of the above factors were proven by competent evidence and, therefore, the license was renewed. Mr. Lubing advised the council and mayor they need to be aware that there have been things that have taken place since last year's renewal and he advises the council to take note of them. Mr. Lubing reviewed and characterized the first issue at hand as to how his office sees the situation; the first issue discussed by Mr. Lubing covers the State Fire Marshal's involvement with the Bull Moose Saloon. The Department of Fire Prevention and Electrical Safety got involved with the owners of the Bull Moose Saloon in the spring of 2005 during the time the current liquor license for 2005 was in effect which is still in effect.

On April 28th, 2005, Terry Phillips, the assistant State Fire Marshal for the State of Wyoming, sent Mr. Blittersdorf, one of the owners of the Bull Moose Saloon and Rocky Mountain Rogues, a letter essentially addressing the fire sprinkler plans for the saloon. Mr. Lubing entered a copy of the April 28th, 2005 letter with the Town clerk for the record (see attachment B). Mr. Lubing pointed out a few sections of this letter including the fact Mr. Blittersdorf had an agreement with Pat Westerholm, Plan Reviewer for the Department of Fire Prevention and Electrical Safety, and the agreement was that the Bull Moose would submit fire sprinkler plans for the Saloon/Restaurant when submitting plans for the lodge. The letter indicates the plans had not been received (the plans for the Saloon/ Restaurant) and that they are notifying him their office will not issue a Certificate of Occupancy for the Lodge, or the Saloon/ Restaurant building until the fire sprinkler plans are received and approved, and the fire sprinkler system has passed an acceptance test. The letter stated they had until May 25th, 2005 to meet the requirements outlined above. Mr. Lubing read the following portion of the letter, "Wyoming State Statute 35-9-108 (n) allows this office to require compliance with this request and order the use and occupancy of your building to cease until a Certificate of Occupancy is issued." The letter goes on to read, "The Saloon/ Restaurant building as it stands, without the fire

sprinkler system in place and functioning poses a serious threat to the fire safety and life safety of your customers and employees, recent history has shown us 100 people can die in seconds in an unprotected structure similar in use to yours, and this office will not knowingly allow such an event to occur in Wyoming by allowing an unsafe occupancy to be occupied."

On August 22nd, 2005 months later, well past the May 25th deadline, according to Mr. Lubing an Order was entered by the authority of the Wyoming State Fire Marshal signed by Jim Narva, State Fire Marshal/ Director. Mr. Lubing read portions of the Order including the following quote: "Since no Certificate of Occupancy or Letter of Compliance has been issued, the Bull Moose Saloon/ Restaurant is in violation of Wyo. Stat. § 35-9-108." Mr. Lubing entered a copy of the August 22nd, 2005 Order by the State Fire Marshall into the record of tonight's hearing (see attachment C). According to Lubing, the order spells out the history of the issue and points out that portions of the building have been constructed in a manner not in compliance with the adopted codes of the State of Wyoming that, "despite the statutory prohibition to occupy the facility without a Certificate of Occupancy the Bull Moose Saloon/ Restaurant has been open to the public for business. The lack of a plan review, existence of non-code compliant construction, and the resulting failure to obtain a Certificate of Occupancy poses an unreasonable risk to human life." The order points out that the owners of the Bull Moose Saloon/ Restaurant were notified via telephone on May 5th, 2005 that the facility would need to be brought into compliance with the code no later than May 25th, 2005 because the condition of the building was unacceptable and posed a significant danger to any occupants should a fire ensue.

Mr. Lubing read from the order which states, "on July 14th, 2005 your identified sprinkler contractor notified us they were doing no work for you at the facility in question. Our locally based Fire Inspector confirmed on several occasions no progress has been made on any of the issues and as recently as August 18th, 2005 confirmed the same." Additionally, the order states, "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." The order also states, "it is hereby ordered by the Wyoming State Fire Marshal, the operation and occupancy of the Bull Moose Saloon and Restaurant located at 91 Highway 89, PO Box 3447, cease and desist immediately upon receipt of this order, failure to comply with this order will result in the recipient being guilty of a misdemeanor." The order allowed for the Bull Moose to appeal the order within forty-eight (48) hours.

The Bull Moose appealed the Order to the Wyoming Council on Fire Prevention and Electrical Safety in Buildings and the Council responded with an Order dated October 25th, 2005 signed by Lisa Hubbard, Chairwoman for the Council on Fire Prevention and Electric Safety (see attachment D). This order was issued after the appeal and generally upholds the order from August 2005. According to Mr. Lubing the litigation division of the Wyoming Attorney General's office received this order on October 27th, 2005 upholding the previous order. The October 25th, 2005 Order is the present order in effect and confirms and ratifies everything in the August 2005 order. Mr. Lubing read from the October 25th, 2005 Order that on August 22nd, 2005 the State Fire Marshal issued an Order upon the Bull Moose to cease and desist operations for non-compliance with the law. Mr. Lubing advised the Order goes on to spell out the history that on September 2nd, 2005 a Petition for Appeal of the Order of the Fire Marshal was served on the Wyoming Council on Fire Prevention and Electrical Safety by the Petitioner Bull Moose's attorney.

The appeal hearing was held in Cheyenne on September 26th, 2005 whether or not to uphold Jim Narva's order of August 2005. All five members of the Council on Fire Prevention and Electrical Safety were present as well as counsel for the Bull Moose Saloon and the owners. This appeal hearing lasted 7.5 hours according to this order and it was unanimously voted by the Council to uphold the Order of the Fire Marshal and to not allow for a variance from the Uniform Building Code (UBC). Mr. Lubing advised he was not involved in this hearing and the counsel for the Bull Moose could elaborate on the hearing. Mr. Lubing quoted paragraph H of the October 25th, 2005 Order which states, "The Council stated their decision was based upon their concern for the safety of the public and that there had been no alternative solution presented by Petitioner which would warrant a variance from the Uniform Building Code." This order according to Jim Lubing could be appealed to the courts. The Order ends by saying, "It is therefore hereby ordered that the Order of the Fire Marshal is upheld and the request for a variance is denied." The August 2005 Order of the Fire Marshal essentially ordered the Bull Moose to cease and desist until such time as

they came into compliance, and according to Mr. Lubing, to date, they are not compliant, however, an agreement exists between the Bull Moose, their attorney, and the Attorney General's office to keep the Bull Moose operating under conditions and certain restrictions.

The restrictions according to Mr. Lubing placed upon the Bull Moose are spelled out in a September 30th, 2005 Order by the District Court of Lincoln County, Wyoming which is based upon an agreement from the Bull Moose Saloon, their counsel, and the Attorney General's office. The general restrictions according to Mr. Lubing are that the Order of the Fire Marshal would not go into full force and effect in other words this Preliminary Injunction restrains the enforcement of the Order of the State Fire Marshal, signed August 22nd, 2005. The Preliminary Injunction was issued by Judge Dennis E. Sandersen from Kemmerer during the time between the Order from the Fire Marshal in August 2005 and the most recent Order received from the Fire Council in October 2005. The restrictions according to Jim Lubing were to:

- 1) not hold live entertainment during the pendency of the injunction, 2) the Petitioner will limit the occupancy of the Bull Moose to 100 occupants and will post the appropriate signs or as the parties agree, 3) the Bull Moose shall employ a 'fire watch' to be on duty starting on September 23rd, 2005 from 5:00 p.m. to closing time whenever time it is open on Friday, Saturday, and Monday evenings, 4) the Bull Moose will complete the installation of a doorway, exiting sign, and lighting in the bathroom corridor, 5) any defects shall be corrected immediately, and 6) the Fire Marshal shall move the Wyoming Council on Fire Protection and Electrical Safety in Buildings to hold an appeal hearing on September 26th, 2005.

This injunction order states, "that this injunction shall remain in full force and effect until the matter is determined by the Council." As of the last week, the Fire Council has upheld the August 22nd, 2005 Fire Marshal Order and according to Jim Lubing, the formalities of the law are that the Bull Moose is currently under a Cease and Desist Order to quit any operations whatsoever. Mr. Lubing went on to say undoubtedly additional appeals will follow and this issue in his opinion is pretty serious. Mr. Lubing entered a copy of the Preliminary Injunction into the record (see attachment E). Mr. Lubing advised the Mayor and Council he sees the litigation continuing and that the Order by the Fire Council upholding the Fire Marshal's Order will now be appealed.

On August 2nd, 2005, Mr. Lubing advised he filed a complaint with the Petitioner being the State of Wyoming, Town of Alpine vs. Rocky Mountain Rogues, d.b.a. the Bull Moose Saloon. Mr. Lubing for the public's sake and to recap for the Council reviewed the allegations for the filing of this complaint. The complaint asks for the Bull Moose's/ Rocky Mountain Rogues liquor license to be revoked. The underlying basis for this complaint was reviewed by Mr. James Lubing.

The first affidavit reviewed by Lubing was from James Noel, a former bartender and waiter for the Bull Moose Saloon and Mr. Lubing entered the affidavit as part of the record (see attachment F). According to Mr. Lubing, Mr. Noel alleges he was fired for stealing from the saloon and claims he didn't do it. Mr. Noel claims Mr. Blittersdorf agrees he didn't steal and acknowledged the false claim as he wanted to hire females. Mr. Noel reports through the affidavit that during the 'exotic dancer' shows there was regular physical contact, between the dancers and the patrons and that during the 'exotic dancer' shows, the dancers were at times completely nude. Mr. Noel also alleges to have witnessed minors under the age of 18 in the dispensing room and that some of the dancers themselves were under the age of 21 and were served alcohol. Mr. Noel alleges he was told by Mr. Blittersdorf he was to serve the exotic dancers regardless of age. Mr. Lubing also entered into the record three (3) cassette-recorded interviews of James Noel and an Amy Erickson (see attachment G – Noel; and attachment H- Erickson).

Mr. Lubing reported that they do not have a signed affidavit; however, the interview cassette tapes were summarized. Amy Erickson alleges that while she was employed at the Bull Moose from February 2004 to August 2005 that she saw regular physical contact between dancers and patrons, allegedly saw Mr. Blittersdorf "spanking one of the dancers on the ass", that allegedly Mr. Blittersdorf served alcohol to two (2) underage drinkers both 20 years of age, and that bartenders including herself were regularly instructed to and did serve underage drinkers. Ms. Erickson alleges exotic dancers from Montana accepting private visits in their motel rooms after the show.

Mr. Lubing went on to describe a letter provided by Jackson Police Officer, Trevor Aitkin, written by Jim Rooks, Principal, of Summit High School in Jackson, Wyoming (see attachment I). Mr. Lubing entered a copy of the letter given to Aitkin by Rooks as well as written information from Mr. Rooks to Chief James Phillips. Mr. Rooks advised he was in Alpine for a child's birthday party and a group of his friends decided to go for a drink and left within 10 minutes due to absolute disgust. According to Rooks in his written statement, he writes that he witnessed three of his current students and over a dozen former students and other teenagers drinking freely in the bar. Mr. Rooks reports and alleges witnessing large groups of teenage kids being allowed into the bar without having to show any form of ID and students were ordering drinks directly from the head bartender whose name was 'Jim'. Mr. Lubing read the following quote from Mr. Rooks' letter, "I immediately asked to speak to the owner and bouncer. I informed them that at least 20 underage kids were currently drinking alcohol in their bar. They both became very aggressive and defensive, insulting me personally and making veiled threats. I communicated that my primary concern was for the kids' safety, as I knew most lived in Jackson and would be probably driving home drunk. They denied any responsibility, blatantly lying about their behaviors, reporting that they 'carded' everyone, etc." Mr. Rooks goes on to report as read by James Lubing, "I cannot overstate the severity of the illegal actions I saw, as the teenagers not only were drinking large amounts of alcohol which they ordered from the bar, but also taking part in sexually related acts in conjunction with the 'Exotic Dancers' show taking place within the bar."

The second correspondence from Mr. Rooks is addressed to Chief James Phillips; Mr. Lubing read directly from the document beginning with the fourth paragraph as follows, "With regards to the serving of minors in a bar, I saw several underage young women order and receive drinks directly from the bartender, who I later discovered was the owner of the establishment. While I saw at least ten former students and youth I knew to be under the age of 21, I also saw three students who were attending Summit High School at the time. Two of these students were 18 and one was 15 years old. I reported, as did student statements by Danielle Kurtti, that she ordered drinks directly from the bartender."

Mr. Lubing entered into the record two voluntary statements from Heather Speckhals, Summit High School (see attachment J), and Danielle Kurtti (see attachment K) into the record for tonight's hearing; both statements are dated May 3rd, 2005. Mr. Lubing summarized in general the two-page statement from Ms. Speckhals and stated she had been in the bar for some time, and that she had not been carded. Mr. Lubing read the following, "One older guy was there that bought me a drink without asking me first and came back to the table and offered it to me. I took it and drank it. I saw a few different people who had underage wristbands on walk up and order drinks." Mr. Lubing clarified the fact that during "exotic dancing" venues people who are at least age 18 are allowed into the show, however, they are given a wristband to show they are underage. Mr. Lubing advised that not all information can be reviewed tonight and that Mr. Phillips may be able to elaborate for the Council to the fact people with these wristbands are running all over and there is no way to prevent an 18 year-old from getting alcohol whether they buy over the bar or not from getting alcohol from someone inside the bar.

The voluntary statement by Danielle Kurtti, dated May 3rd, 2005 was read in its entirety by James Lubing as follows: "On Saturday April 30th, I went down to Alpine to see the strippers at the Bull Moose. As I walked in I was not asked to see ID or if I was even under the age of 18 (which I am. I'm 17). Throughout the night I probably saw at least 20 kids underage that were both allowed into the bar, but were also served alcoholic beverages. I myself was able to personally order drinks from all the waitresses throughout the night." – Danielle Kurtti
A handwritten list of underage minors is attached to Kurtti's statement which Lubing entered into the record for this hearing. Mr. Lubing also entered copies of the driver's licenses of both Ms. Speckhals and Ms. Kurtti into the record for this hearing. The date of birth for Ms. Kurtti is May 4th, 1987 and just turned age 18 this spring and Ms. Speckhals birthday is June 3rd, 1988.

Mr. Lubing reviewed Wyoming State Statute 12-5-204 of the Wyoming Liquor Control statutes titled, "Prohibited acts within dispensing room; violation cause for suspension or revocation of license or permit" (see attachment M). Mr. Lubing quoted the statute as follows, "(a) No license or agent or employee thereof shall knowingly permit prostitution under W.S. 6-4-101, public indecency under W.S. 6-4-201 or gambling as prohibited by W.S. 6-7-102 or shall promote obscenity under W.S. 6-4-302 within any dispensing room, building or premises licensed under this

title." Mr. Lubing stated public indecency is one of the crimes that cannot be permitted under a liquor licensed facility.

Mr. Lubing quoted the public indecency definition under Wyoming § 6-4-201 as follows: "(a) A person is guilty of public indecency if, while in a public place where he may reasonably be expected to be viewed by others, he: (i) Performs an act of sexual intrusion, as defined, (ii) Exposes his intimate parts, as defined by W.S. 6-2-301 (a) (ii); or; (ii) Exposes his intimate parts as defined by W.S. 6-2-301 (a) (ii), with the intent of arousing the sexual desire of himself or another person; or (iii) engages in sexual contact, as defined by W.S. 6-2-301 (a)(vi), with or without consent, with the intent of arousing the sexual desire of himself or another person. (b) Public indecency is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both." Mr. Lubing stated, "you cannot dispense alcohol where there is public indecency taking place anywhere on the premises." Mr. Lubing went on to say in his opinion no one will deny there has been exposure of intimate body parts because in fact there is advertised exotic dancers on the same premises and in the same building where the alcohol is dispensed. Mr. Lubing entered into the record W.S. 12-5-204 and 6-4-201 (see attachment M).

Mr. Lubing reviewed an affidavit signed May 1st, 2005 from Officer Brian Gardner, former officer of Teton County and now employed by the Alpine Police Department (see attachment N). Mr. Lubing reviewed the content of this affidavit and stated that Mr. Gardner on February 5th, 2005 that after the renewal of the liquor license last year he was employed as a deputy sheriff of the Teton County Sheriff's Office. That on February 5th, 2005 Mr. Gardner assisted the Alpine Police Department with an investigation of James Blittersdorf of the Bull Moose Saloon. Mr. Gardner in this affidavit states they were investigating alleged Prohibited Acts within a Dispensing Room. According to Lubing, Mr. Gardner states that on February 5th, 2005 he and another Teton County Law Enforcement Officer, Darrin Bingham, met with Chief Phillips and then went to the Bull Moose Saloon. Mr. Gardner states he witnessed 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. He observed approximately fifty to sixty people including his group inside the Bull Moose Saloon observing the promotion of indecent acts by Bare Necessities, a topless entertainment business, from Idaho. According to Lubing, Mr. Gardner through his affidavit states that his 'sidekick' Mr. Bingham purchased a private dance for Mr. Gardner; Mr. Gardner went into a room and was met by a completely nude female who instructed him to sit in a chair and relax. During the course of the dance, this nude female exposed all intimate parts to Gardner and pressed her breast to his face and chest; the dance lasted approximately 5 minutes.

Mr. Lubing stated, "it is important to keep the distinction between any claimed 1st Amendment right to have public nudity and to have strip bars and exotic dancing. It is important to keep the distinction in mind that whether or not that's true that it is something that is just allowable by constitutional right, the liquor laws violate dispensing liquor on the same premises that's what is going on." Mr. Lubing entered into the record Mr. Gardner's May 1st, 2005 affidavit (see attachment N).

Darrin Bingham, Teton County Sheriff's Office, has also completed an affidavit dated May 1st, 2005. Mr. Lubing reviewed this affidavit beginning with paragraph #10 which states, "That after arriving at the business, I observed three (3) different females. The females were either on the round tables, approximately five (5) feet in diameter or walking amongst the people in the bar. These females at the time we entered, were wearing only a small g-string panty and high heel shoes. All three (3) women were topless, baring their breasts. That while on the top of the round tables, the dancers would wrap their legs around the necks, waist and heads of those sitting at the tables. While the dancer's legs were around the necks and faces of the people watching, the dancers would push their crotches into the faces of the people watching the dancers. I also observed the women rub their bare breasts on the heads, faces and necks of the people sitting at the tables."

Mr. Lubing went on to quote sections of this affidavit as follows by Mr. Bingham (see attachment O), "That while at the business, personal friends of the affiant, who were also observing told the affiant that one of them had been approached and solicited to perform a sex act for money. She was told he would pay her one hundred (100) dollars if she would have sexual intercourse with him. She told me the male appeared extremely intoxicated." Mr. Lubing

advised again the distinction is between what is legal and what is not legal on a premises containing a liquor license. Mr. Lubing advised the council and mayor the question is not whether someone should be deprived of the right to have exotic dancers, but whether it is appropriate to renew the liquor license based on those five (5) premises contained in state statutes. Local resident, Diana Taylor, asked Mr. Lubing whether these laws are strictly for Wyoming as exotic dancers exist in Las Vegas, Nevada. Mr. Lubing advised the law is the Wyoming State Law and the laws differ from state to state. For example, prostitution is legal in Nevada and isn't in Wyoming.

Mr. Lubing also offered a statement completed by Officer Steve Van Valkenburg, former Alpine Police Department Officer in which he interviewed principal Jim Rooks of Summit High School on May 3rd, 2005. Attached to this statement from Mr. Van Valkenburg is a list of several minors and their birth dates as reported by Jim Rooks, Principal. Mr. Lubing advised he wasn't going to read the entire interview. Mr. Lubing for the record officially entered Darrin Bingham's affidavit dated May 1st, 2005 (see attachment O).

Advising the council and mayor, Mr. Lubing stated that there are three primary issues facing this council with the primary issues being alleged serving of minors alcohol, alleged serving of alcohol with statutorily defined public indecency taking place, and whether any of these issues would amount to the areas defined in W.S. 12-4-104 (b) which prevents the mayor and council from reissuing the license. Mr. Lubing advised it is not his decision to make but rather the council's and mayor's decision. Mr. Lubing advised the council to focus on the welfare of the people residing in the vicinity of the permit premises that may or may not be adversely and seriously affected by the renewal of this license and whether the desires of the residents of the town will not be met by the renewal of this license.

Mr. Lubing advised there was some innuendo last year in regard to the renewal of the license and the council did renew the license which the council did not have any concrete evidence to revoke the license at that time. In Mr. Lubing's opinion the license should have been renewed last year. Mr. Lubing advised the Town Council to closely look at the Fire Marshal issue because he has grave concern an Order is still in effect from the Fire Marshal advising there is a risk to human life.

Chief Phillips advised he had nothing to add to the record.

Donald E. Miller, Attorney for the Bull Moose Saloon: advised the council and mayor they had no more evidence than they had last year when the allegations were made. Moreover, Mr. Miller stated that the fact the Town's counsel read into the record hearsay evidence it is not supportive of taking away the Bull Moose Saloon owners' livelihood. Mr. Miller advised that the Town's counsel has only reported what people have appeared to have said and in fact the claimants are not present tonight to say it themselves. He stated he found it interesting that the claimants were not present at the public hearing. Mr. Miller reports Mr. Rooks, Summit High School Principal, has given a statement to his private investigator which Mr. Miller hired when the allegations were made. What Mr. Rooks has said to this private investigator is totally different. According to Mr. Miller, Principal Rooks heard through his students that there would be a party down here and that he had come to go to the party. Mr. Rooks also told the private investigator that one of the dancers was 17 and one of the students. According to Mr. Miller this is untrue and he contacted the dance company to find out who was dancing that night and he found the company to keep meticulous records. There are records of everyone that bought a lap dance that night and records of everyone that used lotion that night by name. Mr. Miller asked the council and mayor "Would a principal come down here and watch a student of his dance naked? Would a principal really do that?" He feels a principal wouldn't do this and stated, "Mr. Rooks is going to have to do some answering to me now because its become public." Mr. Miller stated he did not have any clue that the 'trial' was going to be today.

Mr. Miller advised Louis Abel, Bull Moose Saloon employee, is present tonight and was present the night Mr. Rooks was there. According to Mr. Miller everyone was carded that night and the people that got in used fake IDs or they would not have gotten in. The private investigator has interviewed in the last three days some of the people that Mr. Rooks has said were present in the Bull Moose and that some of them were present. Mr. Miller reports that not one of them will say under oath that they got alcohol from the Bull Moose Saloon that they got alcohol from some middle aged gentleman who was handing it out. The statutes according Miller state the establishment has to serve

the alcohol. If Mr. Blittersdorf saw this transaction going on he would have kicked them out. According to Mr. Miller, Mr. Rooks approached Jim Blittersdorf and told him that he had people in his establishment drinking under the age of 21. Mr. Blittersdorf asked Mr. Rooks to point the people out to him to which Mr. Rooks refused to identify the individuals. According to Miller, Mr. Blittersdorf became angry and told Rooks "If there are people here that are putting my license at risk point them out" to which Mr. Rooks refused. Mr. Blittersdorf then handed Rooks the telephone to call the police and Mr. Rooks left the establishment. Mr. Miller stated, "this is why you can't have information just piling in on you like this because its hearsay that I have no chance nor does Mr. Lubing to cross examine the witness and this is serious business. This is plain, 100% unreliable hearsay. There are so many sides to this story." Mr. Miller states the point is that the students that were there that night were not served (alcohol) and that maybe they saw someone that was served. He asked, "Why don't they just say they were served? Because they weren't and what they may have seen or what they think they have seen may not be the same thing." Again, Mr. Miller reported apparently there was 'some guy' buying and giving drinks to people and the high school students didn't turn the drinks down. Mr. Millers stated, "Of course they took them. They are always out looking for free booze and getting booze illegally." Miller reports the Bull Moose Saloon has a pile of fake IDs they have managed to confiscate over the years and that many bars keep the fake IDs almost as a badge of honor.

The real truth according to Mr. Miller which is not hearsay is that the Sheriff's Office of Lincoln County has completed many 'stings' on the Bull Moose and not once have they failed which is the real record. What may have happened on one night out of entire year which is based on hearsay and people protecting themselves, Mr. Miller believes this information cannot be trusted, and the real record comes from the Lincoln County Sheriff's office. According to Mr. Miller he conducted a deposition of Chief Phillips last week in which Mr. Phillips stated the Liquor Commission wouldn't get involved. Mr. Miller asked, "why is that? Could it be there is nothing there for them to get involved with?" Chief Phillips, according to Miller, attempted to get the Lincoln County Prosecutor to prosecute the Bull Moose for these actions and for the Texas Hold 'Em issue and according to Phillips' deposition the prosecutor refused and nothing has come of it. According to Miller, Chief Phillips after getting no where with the county prosecutor came to the council who in turn decided to file a complaint based on hearsay. The complaint was filed according to Mr. Miller illegally and advised the council they did not have an open meeting and didn't take an open vote.

(Clerk's Note: Minutes are created from Tape #2 from this point forward)

Mr. Miller reports that Mr. Rooks has been convicted of two felonies and asked the council to consider when looking at his testimony. Mr. Miller stated, "how he became a principal is beyond me, but he admitted to our private investigator." According to Mr. Miller the Town didn't get to know about this complaint and didn't get to hear the vote. He advised the council and mayor what they are essentially being asked to do is to step beyond the complaint and be judges of the statutes and make a decision on hearsay. Again, the information is mere allegations and hearsay according to Miller.

In regard to Officer Gardner's testimony from his deposition, Mr. Miller reported that Gardner said he did get a lap dance from a fully nude woman behind a curtain and the bouncer was standing right there. Mr. Gardner advised he was told to keep his hands at his side and to not touch the dancer. Mr. Gardner didn't touch the dancer and according to the dance company records Mr. Bingham purchased the lap dance for Mr. Gardner so the dance was all above board. According to Mr. Miller exotic dancing and public indecency are not the same thing. If they were the same thing according to Miller it wouldn't be allowed in Wyoming yet it is according to Miller. Referencing several other companies who have exotic dancing in Wyoming, Mr. Miller referred to the Mast in Rock Springs, the Oasis Bar in Torrington, the Green Door, and the Clown's Den. All of these places have fully nude dances behind curtains and allow patrons to apply lotion to the dancers. What bothers Mr. Miller the most is the fact that these same things occurred last year in the Bull Moose Saloon and the Town Council had granted a renewal of the license. It has not been made clear for where the issue begins and ends for the Town and Mr. Miller advised the council passed an ordinance that says these things are not allowed yet the Bull Moose Saloon doesn't get sanctioned, cited, and nothing is done until their livelihood is on the line to say, 'foul'. Mr. Miller stated, "that is not fair, that is not fair. No elected body should treat another business that way. Why haven't they been cited? Your police people are here. Why haven't they been cited? Why weren't they cited for the Texas Hold 'Em?"

Regarding the Texas Hold' Em tournament, Mr. Miller advised that Texas tournaments are being held all over Wyoming and especially in Cheyenne, Wyoming. The tournaments are based on the fact each player puts in their own money and they are not actually making money from the other players. According to Miller based on the ESPN airings of these tournaments, the game itself is a game of skill by the people who play it. The issue of Texas Hold 'Em Tournaments are still being argued by our state legislature and may very well be allowed. What is very clear according to Miller is that the State Liquor Division notified the authorities throughout Wyoming that they think it may be gambling because Pat Crank from the Attorney General's office wrote them a memorandum. The Bull Moose Saloon stopped their tournaments. According to Miller two complaints in particular came out of the public hearing last year; the first complaint was that the patrons of the café could see into the bar as a only a half-wall existed. The second issue was that the 'families welcome' sign was below the 'exotic dancing' marquis. According to Miller, a full wall now exists between the café and the bar and the 'families welcome' sign was removed. He feels the owners of the Bull Moose are trying to accommodate the concerns of the community without cutting off the exotic dancing completely. Again, he reiterated that courts all over the land have ruled that 'exotic dancing' is not public indecency and questioned how all of the bars across Wyoming could be opened if it were illegal and many of these clubs are exclusively 'strip clubs' which the Bull Moose Saloon is not. Mr. Miller advised the council they are not judges and have no legal experience to interpret the law and make a legal conclusion. He feels this is a part of the problem and that many first amendment issues are present and the issue isn't cut and dried. Mr. Miller advised that his partner is a member of the 1st Amendment Association and has a bookshelves full of treatises and documents about this issue.

Mr. Miller advised that he needed to correct the record regarding something Mr. Lubing reported earlier. Mr. Lubing reported earlier that Chief Phillips would say that people given separate armbands at the exotic dancing shows are not able to be controlled with alcohol use. Mr. Miller advised this simply isn't true and Mr. Phillips testified in his deposition he has never been in the Bull Moose during any of the exotic dancing shows. Mr. Miller stated he didn't think Mr. Lubing was lying rather he wanted to correct the record. The wristbands are florescent orange and yellow and the law allows for anyone age 18 and above to go to these venues they just cannot drink alcohol. The Bull Moose Saloon has no legal obligation to police the patrons with alcohol. Mr. Blittersdorf again demanded Mr. Rooks point out whose doing this so he could have them arrested. Mr. Miller presented the council and mayor a flyer which is posted all over the Bull Moose Saloon which reads:

"ATTENTION MINORS: No one under the age of 21 may purchase alcohol or be served alcohol. No one under the age 21 years of age is permitted in the dispensing room area beyond this wall. Individuals caught violating, or attempting to violate this law will be prosecuted under state law, and will be sued civilly by this establishment." (see attachment #1)

Mr. Miller stated, "I guarantee you that I have a list of names given to me by Mr. Rooks laid out. Somebody's going to get sued because this is over the top. These people are making allegations that can shut a business down and when they're confronted none of them will say they drank because they got the alcohol from the Bull Moose." Again, Mr. Miller indicated the testimony given to the council and mayor is not trustworthy. In regard to the fact young patrons are not carded, Mr. Miller pointed out the fact that Mr. Gardner was carded and stated everyone is carded. Mr. Miller advised Louis Abel will testify to how the front door bouncers card everyone and that he taught the bouncer working the night of April 30th, 2005 how to card patrons.

In regard to allegations of public indecency Mr. Miller stated, "Nobody got into the bar without buying a ticket; this wasn't open to the public. You had to buy a ticket to come in, you had to be carded to come in, and as far as the full nudity you had to go behind a curtain to get that show." Mr. Miller admitted 'lotion rubbing' is allowed and is very common around the state. Mr. Miller advised the council the two prior lawyers representing the Town, Frank Hess and John Bowers, advised the Town exotic dancing is allowed and the Bull Moose was told they could proceed. In regard to prostitution allegations, Mr. Miller stated, "there was no prostitution, I'm just going to tell you flat out. When I told her {owner of exotic dancing company} there was an allegation of prostitution, she went over the top." The owner of the exotic dancing company denies any prostitution and denies anyone that dances for her being under the age of 18 as they must provide proof of their age. The statutes do not require any owner or operator of a bar or dispenser of

alcohol to verify that an ID is real. Mr. Miller advised the owners of the Bull Moose are immune from being responsible legally when, for example, parents buy wine and give it to their 19 year old child. If the statutes placed responsibility on the bar owner then bars "would be shut down all over the place." According to Miller, the statutes are very specific that the owner has to serve the alcohol.

Mr. Miller addressed the concerns over the Fire Marshal issue and obtained a copy of W.S. Title 35. According to Miller the Council of Fire Prevention and Electrical Safety had no authority to hear the action and the Fire Marshal, Jim Narva, had no authority to issue the Order. According to Miller this is why the hearing lasted 7 hours.

Everyone agrees that the U.B.C. (Uniform Building Code) applies to the 'sprinkling' of the Bull Moose Saloon without fail. Everyone agreed at this hearing, according to Miller, any law that applied to the Bull Moose had to be applied in 2003. Mr. Miller states the new statute states that the Fire Chief has the authority to issue orders and shut down a project. The older statute that applies to this situation gives the Fire Marshal no authority to shut anybody down and the Fire Marshal's Order references W.S. 35-9-108 (n) (see attachment # 2); according to Miller there is no section "n" and asked councilman Steve Fusco to review the statute. Mr. Fusco found an "n" section and Mr. Miller apologized that he was mistaken and again reiterated he didn't realize the hearing would be a 'trial'. According to Mr. Miller the building permit for the Bull Moose Saloon was issued long before 2003. The new statutes also contain the new international code requirements. This new statute didn't exist at the time. Mr. Miller referenced section "p" which states the Fire Prevention Council will hear any appeals and that statute didn't exist either. According to Miller while at the appeal hearing he attempted to explain that they {Fire Marshal and Fire Council} didn't have the authority to do what they did. A question was raised from the audience and posed to Miller. The question according to Miller was "if they didn't have the authority to do what they did, why was it upheld?" Mr. Miller stated in response, "What they said was and I swear on my mother's eyes that this is the truth. They said they didn't have the authority to determine their authority. That is what they said at the hearing."

Mr. Miller advised they have a right to appeal this Order and in his opinion the preliminary injunction is still effective and will be effective during the appellate process. Currently, just an agency ruling has been made upholding the Fire Marshal's Order. Miller reports it took over a month to get the decision in writing because they didn't think they had the authority and in order to appeal the case Mr. Miller needed their decision in writing. Mr. Miller stated, "they are volunteers. They are good people, but they have never had an issue like this come before and they were having to make legal decisions, which they weren't ready/ didn't want to make." The Order {dated October 27th, 2005} was written by agreement between Mr. Miller and their attorney.

The history regarding the Preliminary Injunction was reviewed by Mr. Miller. Mick Finn, Attorney General which covers the Fire Marshal's office. Mick Finn, the Fire Marshal, and Mr. Miller agreed that at minimum the Fire Marshal believed the public is protected if the provisions in the Preliminary Injunction are met. Louis Abel is the 'fire watcher' for the Bull Moose Saloon as it is required in the injunction order; he has experience in firefighting from the air force and is there every night for the 'fire watch' when requested. The new addition has been closed off to the public so there is no public access even though that part is 'sprinkled.' The Bull Moose Saloon has done everything requested of them by the Fire Marshal's office who has visited the saloon twice in the recent past. The Fire Marshal asked for a fire escape door to be installed at the end of the hall and additional lighting in the hall; they complied. Occupancy signs are installed as requested and 18 fire extinguishers are on-site. Mr. Miller stated, "They have done every single thing the Fire Marshal has asked them to do except sprinkle the old part of the building because this is really where it gets twisted- because it will cost them \$50,000.00." The sprinkler plan itself is \$15,000.00; during the appeal hearing they learned the Fire Marshal's office had a sprinkling plan all along from the beginning which was completed by Old Faithful Fire Sprinklers. Now it will not cost as much to begin sprinkling the building as plans already exist.

As far as the renewal of the liquor license is concerned, in Mr. Miller's opinion, the Preliminary Injunction is the best proof for the Council and Mayor the building is safe. Mr. Miller stated, "the Bull Moose is safe or we wouldn't have gotten that Preliminary Injunction." The appeal with the Fire Marshal's issue will be filed tomorrow (November 2nd, 2005) according to Miller.

In regard to interviews of Mr. Noel and Ms. Erickson clarification was given by Miller. Mr. Miller stated, "this is why hearsay is so dangerous. I would love to have the opportunity to have Mr. Noel in front of me today. Mr. Noel stole from the Bull Moose. He had been stealing from the Bull Moose. He got caught. He got embarrassed and he got mad. Where was he before? I didn't see him running down here to sign any affidavits until he got fired." According to Miller there is a lot of rumor regarding Ms. Erickson. Mr. Miller stated, "How do I put this. She had outside activities which were not conducive with the keeping of the Bull Moose and she was told that. For whatever rumors are worth it appears she is on the lamb because apparently the authorities agree with the Bull Moose." Mr. Miller questioned the reliability of both. Additionally, he offered that if the Council and Mayor truly wants to get to the 'root' of all this full-blown hearing is necessary with witnesses. He offered that the witnesses will not admit these things under oath and that he is prepared for these witnesses and their testimony. He advised the Council and Mayor they are left with the same situation as last year- a lot of innuendo and no proof. He summarized the fact that the two issues from last year have been corrected, the Preliminary Injunction proves the Bull Moose is safe, the 'exotic dancing' is allowed, and the Town's two prior attorneys have advised the Town and the Bull Moose the 'exotic dancing' is allowed. He feels the license needs to be renewed and dialogue should be created with the Town. He stated, "Silence is killing everybody. It has cost the Town a lot of money and certainly cost the Bull Moose a lot of money. We need to talk about these things and not just file complaints and take things to court and do undercover investigations. If Chief Phillips would have walked in there he would have seen exactly what Officer Gardner saw."

A brief moment was taken by Mr. Miller. Mr. Miller presented Town of Alpine Council Minutes from March 5th, 2002. Mr. Miller read an excerpt from the minutes as follows, "Troy Johnson acting as mayor pro tem while Mayor Perry was out of Town said the issue of "exotic dancers" was brought to him and then reviewed by Town Attorney Hess as well as discussed with the Liquor Division, State of Wyoming and there are no statutes prohibiting such entertainment." According to Miller no amendments to the law have been added since 2002. Mr. Troy Johnson, according to these minutes, advises another Wyoming Town went to court over the same issue and lost the case with a settlement of \$35,000.00.

Mr. Miller went back to the Fire Marshal's issue briefly at this point and stated, "I want to give you a document. This is one of the bone of contentions we had with the Fire Marshal and I forgot to mention it.... I don't have copies. This is basically the bone of contention, this gives me a date of April 16, 2003 and that statute was enacted July 2003." (see attachment # 3). According to this document from the Fire Marshal's office it states, "Fire Sprinklers: Yes – in Addition". According to Miller, the plan reviewer at the time indicated that the sprinklers were required but only in the addition and it wasn't until they were done that the rest of the building that the Fire Marshal wanted them to add it to the old section of the building. This document is dated April 16th, 2003. Mr. Miller presented for the record a Department of Fire Prevention and Electrical Safety Certificate of Occupancy granted for Phase I (New Addition First Floor- see attachment # 4). He also presented the original Certificate of Occupancy issued to Jeep's Bar dated June 20th, 1994 by the Fire Marshal's office (see attachment # 5) when there was no requirement for fire sprinkling in the old portion of the building and only required sprinkling in the basement.

Mr. Steve Fusco, councilman, questioned whether signed affidavits are considered 'hearsay' or are they admissible as evidence. According to Don Miller the affidavits are hearsay and according to Jim Lubing the affidavits are 'sworn' affidavits and what the council must bear in mind that this proceeding is not a trial. Jim Lubing stated to the council and mayor, "If we were going to have a trial with a bunch of witnesses and we were trying to prove somebody guilty beyond a reasonable doubt in a criminal case or something to that effect you would be here for 2-3 days. That is not your job. We have provided you with a significant body of documentation. I guess the allegation is everybody is lying and everybody is out to get the Bull Moose. But I do want you to realize that and it is in the record that nobody got sand bagged here and nobody has been taken by surprise." Mr. Miller specifically asked to withdraw their request to table the public hearing and obviously knew it was going forward, according to Lubing; the evidence presented tonight is appropriate for this type of forum under the statute. Mr. Lubing stated, "A liquor license is a privilege not a right. This isn't a standard of where you are revoking something that they have. They do not have a 2006 Liquor License and it is a privilege you have to earn and you {council and mayor} do not get reversed if you don't renew it unless you act arbitrarily and capriciously. It is your job as a governing body of this town to do what you think is right; the guidance being the 5 factors in that statute."

Mayor recessed the council meeting at 8:50 p.m. and reconvened at 9:06 p.m.

Mr. Miller approached the council and mayor presented the statute which was in place at the time and reiterated they plan to move forward on their appeal based on the fact the Fire Marshal and Fire Council doesn't have authority to issue the Order or uphold the Order. The issue he feels is whether the building is safe and obviously it is safe or they would have shut it down according to Miller. Mr. Fusco questioned whether the Fire Marshal's office in fact tried to shut it down by filing the cease and desist Order. Mr. Miller again reiterated all concerns noted by the Fire Marshal were corrected with the exception of fire sprinklers being installed in the old portion of the building because of the cost right now and a compromise was reached with the approval of the Fire Marshal through the Preliminary Injunction. The Bull Moose voluntarily cut down the space of the building. Additionally, the building became a "non-smoking" building since July 2005.

Juline Christoffersen, Bull Moose Owner: Ms. Christoffersen began with giving a history of the Bull Moose back to the saloon being operated as 'Jeep's Bar'. According to Christoffersen a suspected arson fire occurred at Jeep's and as a result of that fire a fire sprinkling system was required to be placed in the basement of the building in 1994. A plan review was conducted by the Fire Marshal's office in 1994 and during that time the business was closed. There was no requirement that the remainder of the building be 'sprinkled' – only the basement required fire sprinklers. In 1995 Harvey Ritter had another plan review completed for the overbuild of the building and the Fire Marshal's office had a second opportunity to require complete sprinkling of the building which they did not require this. In 2003 when the Bull Moose initially made a building application and made application initially with the State Fire Marshal's office who initially said 'no sprinklers required in the addition' and 'if you don't sprinkle the building fire wall breaks are to be installed.' The Bull Moose agreed to install fire sprinklers in the new addition as it was cheaper. As a result of the Fire Marshal's Plan review at this time only the new addition was required to have fire sprinklers. Subsequently, a letter was sent from Old Faithful Sprinklers with a set of fire sprinkling plans. According to Christoffersen the fire sprinkling plans sat in Riverton without their knowledge. The Bull Moose received correspondence from Pat Westerholm of the Fire Marshal's office within a year later requesting to know when the owners were going to 'sprinkle' the building. According to Christoffersen they do not have a requirement to install fire sprinklers in the building, so they didn't and Dave Gustafson got involved and indicated the owners of the Bull Moose could not get a building permit from the Town on the addition. At this time only the new addition was being built and there was no additional remodeling on the existing building. Suddenly, according to Christoffersen, everyone is saying 'sprinkle' the existing building." Juline Christoffersen stated, "On what authority? The Uniform Building Code didn't require it. The plan review didn't require it. We had no obligation to do so." During this time Christoffersen reports that James Stevens had inspected their building and requested they post occupancy notices, add additional fire extinguishers, etc.; at no time did Mr. Stevens say 'you have a huge problem with your building and it is unsafe.'

Mr. Stevens did advise that when the portion of the new deck was built the access for the Fire Department was covered up and the Bull Moose Owners corrected it with the approval of Terri Potter, Fire Dept. President. On the day they received an occupancy permit on the new addition from the Town that is the day they received a letter from Terry Phillips, Fire Marshal's office. According to Christoffersen Terry Phillips came into their building one time in which he stated, "Oh my goodness there was a fire in Rhode Island several years ago and it took the lives of many people and your use is similar to theirs." When the appeal hearing was held the Fire Marshal's Order was reviewed and the Order claims there was no certificate of occupancy. Again, Christoffersen advised there was an occupancy permit on the existing building as it had been issued to Jeep's Bar from the Fire Marshal's office.

The only time the owners of the Bull Moose met the requirements to complete a plan review from the Fire Marshal's office was when the new addition was built. The Order also alleges there were no building permits; the Town of Alpine issued the building permit as the Fire Marshal's office does not. According to Christoffersen there was one instance when an additional building permit was in order for the roof overbuild to correct the ice flow which was sliding off the metal roof. Again the Bull Moose Owners obtained the necessary building permit.

According to Christoffersen the Fire Marshal's order doesn't relate to the building; for example, the order alleges there was a lack of a plan review; a plan review by their office reports only the new addition required sprinkling. The order also alleges non-compliance code construction and Christoffersen states, "Jim Stevens has been through that building

probably ten times in the last two-three years and he has never once cited us for non-compliance code construction." At the Fire Council's review hearing the non-compliance code construction was in regard to the fact the Bull Moose Saloon has paneling on the walls and according to the Fire Marshal the paneling is covered with polypropylene. According to Christoffersen the Fire Marshal didn't even know what he was talking about when identifying the substance applied to the paneling. Also the Fire Marshal, Terry Phillips, questioned the locations of several posts in inside the building and was concerned in the event of a fire people would bump into the posts. Ms. Christoffersen pointed out to Mr. Phillips 11 emergency exits, egress windows, fire extinguishers, exit signs, etc. Mr. Phillips final conclusion according to Christoffersen was when the new addition was built it increased their occupancy and makes the rest of the building unsafe. Ms. Christoffersen stated, "That isn't fair, that isn't right, and there was no basis and this stuff isn't in the Order."

Ms. Christoffersen advised the council and mayor the building is safe and the full wall was reinstalled where the pool tables are and the main part of the upper restaurant as they plan on moving the liquor store. According to Christoffersen the Fire Marshal's office was opposed to reinstalling the wall and that they are back to their pre-2003 status with the new addition being closed, which she feels is ridiculous as it is sprinkled and totally code compliant.

In regard to the exotic dancer issue Ms. Christoffersen reminded the council and mayor that Frank Hess (former Town of Alpine attorney) reported that exotic dancing was legal. John Bowers (former Town of Alpine attorney) also discussed the exotic dancing with the board when the new ordinances were put in place. Troy Johnson (former council person) has been to a number of the exotic dancing shows, according to Christoffersen, and he discussed the extent of the nudity. According to Christoffersen, John Bowers said to the council and to the Bull Moose the new ordinance does not apply to the Bull Moose Saloon and they are 'grand-fathered.' Ms. Christoffersen advised they relied on this information and stated to Shirley Brown, "Ms. Brown in your own statement last year in the record you say 'we know there is nothing we can do about the exotic dancers'. Now I know that you're looking at the public indecency law as Don pointed out there is a wide variety of cases and first amendment issues." The dances are conducted in private and tickets are purchased. Patrons are told they will see nudity when entering the saloon and this is done to protect a class of innocent unsuspecting people who may not know what the show is about. On any other night when the bar is not closed off to the public, then the law would apply according to Christoffersen. They state the exotic dancing show is private, it is posted as a private show, and the personnel at the door checks every ID. The public indecency law does not apply to this situation.

In regard to the issue of 18 year olds, Ms. Christoffersen stated, "I think you need to look at your own statute. When you define 'public cabarets' I believe you initially identify them as places that have nudity, you then to go on later in your statute make full nudity illegal. One of the things you specifically do in that statute is you state that no one under 18 years old can be there. Anyone 18 years old and above can be there." There may have been people under the age of 18 attending the night Mr. Rooks was present, according to Christoffersen; she guaranteed that the kids under age 18 that were present by using a fake ID or a borrowed ID and allowed to be there under the Town's own ordinance.

In regard to the underage drinking in her establishment, Ms. Christoffersen stated she drafted and posted the warning to all underage children that they will be sued civilly. Ms. Christoffersen stated, "I know Phillips has not made any effort to prosecute anybody, but I can sue them civilly as well." According to Christoffersen, Mr. Rooks went through his school files and pulled out private information which includes student's social security numbers and driver's licenses, date of births, etc. On Mr. Rooks' list according to Christoffersen are many kids who have never even heard of the Bull Moose and she reported that Mr. Rooks statement is public record and if she were a parent "some heads would roll and some law suits would be filed." Ms. Christoffersen feels the situation was handled poorly and that she wanted the mayor and council to know about Mr. Rooks' sealed juvenile record. Ms. Christoffersen stated, "I will not divulge anything that I know about that. I do know he was convicted of two felonies. You can find those as a matter of public record. He is somebody who probably shouldn't be a principal. He is one of your key proponents who is not here tonight by the way." Ms. Christoffersen urged the council to renew the liquor license. If the real issue is exotic dancing that she would like to sit down and talk about whether it is legal in Wyoming. Ms. Christoffersen stated, "It is a huge issue. I don't think I have the money and I'm not sure this Town doesn't really want to go all the way

where I could see this going to the Supreme Court of the United States." She encouraged them to think through the questionable validity of the evidence before them.

Jim Blittersdorf, Owner of the Bull Moose: In regard to the Jamie Noel's interview, Blittersdorf reported Noel stole \$2,000.00 on the last Saturday night while working at the Bull Moose. Mr. Noel was confronted regarding the theft and Noel said, "If you don't trust me anymore, I guess I won't work here anymore." The Noel affidavit is laughable to Blittersdorf and represents someone 'sore' about being fired. In regard to Amy Erickson's affidavit Mr. Blittersdorf stated, "Early on Amy Erickson was a great employee but she got hooked up with a boyfriend who right in the Town of Alpine was producing methamphetamine. He tore up a town house he was living in and was evicted out of there. Amy became a drug user right along with him. I fired her got her out of our business as we do with all drug users—we kick there asses out. We have no tolerance for the drugs."

In regard to the night Jim Rook's was present in the saloon Mr. Blittersdorf reports he was bar tending that night and there were no minors served alcohol. Mr. Blittersdorf stated, "Our private detective in talking with several of those girls they absolutely will say there was no alcohol purchased at the bar." Mr. Rooks apparently came to the doorman that night, 'Nate' and asked to speak with the bartender. Mr. Blittersdorf talked with Rooks who claimed some of his present or former students were drinking and Blittersdorf asked him to point the kids out at least a dozen times. Rooks stated he would call the police and Blittersdorf responded by giving him the Sheriff's Department phone number telling him "Do it. Let's deal with it." According to Blittersdorf, Mr. Rooks declined to call and stated he didn't want to cause any trouble. Mr. Blittersdorf stated, "I don't even think he'd been drinking. He acted more like he was probably on some drugs. I know Rooks has a pretty good record of a grand larceny and burglary. I know he has a drug use record and for being a 33 year old man who's a principal of a school I think he has no business doing that. I was told by two of the girls in there that night that Rooks was simply there hoping that he could pick up a couple girls and go to a private party. My opinion of Jim Rooks is pretty poor. He wouldn't cooperate." Mr. Blittersdorf reports basically begging Rooks to identify the minors. According to Blittersdorf, Mr. Rooks' parting comments to him where that he knew the owners of the Bull Moose really well and that he was going to talk to them the next day. Mr. Blittersdorf advised Rooks he was only the bartender. "Obviously Mr. Rooks doesn't know who the owners of the Bull Moose are," Blittersdorf stated. Mr. Rooks' statement and affidavit regarding the situation that night is not what went on that night according to Blittersdorf.

Mr. Blittersdorf reports being in business for seven (7) years and stated, "If we're guilty of all of this wrong doing where are the citations?" According to Blittersdorf he has been commended by Sheriff Lee Gardner for running a tight ship in his business and 40% of the businesses in Star Valley failed the Sheriff's Department's sting operation in November 2004. The Bull Moose has never failed any of the sheriff's department sting operations. Mr. Blittersdorf stated, "I know we have had undercover people in there from DCI. I know we've had undercover people from Jackson/ Teton County. It's like where are the citations? I really don't take any stock in any of this." According to Blittersdorf Chief Phillips attempted to get Scott Sargeant, County Attorney, involved and he wouldn't even consider it. Mr. Blittersdorf reports no citations have been issued for any of the exotic dancing, alcohol issues, or the Texas Hold 'Em tournament. Mr. Blittersdorf stated, "I really resent the campaign and the vendetta against us. I know you don't like to hear that word. But it certainly has been that way. It's just been a Bull Moose bashing and I really do resent it."

The Texas Hold 'Em Tournament was held twice at the urging of Camp Creek who's conducted the tournaments for 56 weeks non-stop. Mr. Steve Fusco advised that Camp Creek Inn is not in the council's jurisdiction to which Mr. Blittersdorf responded by pointing out they are not in their jurisdiction but it's a state law that is being discussed not Town of Alpine statutes. According to Camp Creek Inn, off-duty law enforcement officers play in their Texas Hold 'Em Tournaments. After being told by Scott Sergeant not to hold the tournaments, the tournaments stopped. The Bull Moose owners are waiting for the State to clean up their gambling laws. The Federal Court of Appeals in Denver this Summer told the State of Wyoming that Wyoming laws were vague and unenforceable. The legislature is cleaning up language in regard to Texas Hold 'Em Tournaments, shake-a-day, and football boards which are held in bars and restaurants all over Wyoming.

In regard to the non-compliance allegations with the State Fire Marshal's Office, Mr. Blittersdorf reports the State had three chances and complete plan previews. Terry Phillips admitted in the hearing that in 1994 the only require for fire sprinkling was for the basement of the structure. In all of the subsequent plan reviews no other fire sprinkling was required other than the new addition section. Again, Mr. Blittersdorf reviewed the fact that Terry Phillips admitted under oath that the plan reviews didn't require sprinkling of the Bull Moose. The building permit was issued April of 2003 under the UBC Code and the International Building Code wasn't adopted until July 2003 at the state level according to Blittersdorf. The Fire Marshal's Order will be appealed. The safety of the building is documented by Jim Blittersdorf who maintains he has kept records in which Jim Stevens has been in their building 23 times since September of 2003.

Mr. Blittersdorf compared his businesses with other bar/ restaurants in the valley. Mr. Blittersdorf stated, "If you go down here to Dad's Bar they got a front door and a back door. The front door is a in-swinging door which is illegal in any public building. They have no windows; they have no other fire escapes. We have 11 approved fire escape doors that have emergency lighting and signs, have fire extinguishers mounted by the doors, we have 26 egress windows, and ironically the addition is fully sprinkled, but we can't use it because they feel that makes the rest of our building more dangerous which I don't see the logic. I think that's an incredible observation." Mr. Blittersdorf hopes Judge Sandersen will put some sense into all of this and meanwhile at some point they will sprinkle the Bull Moose. The fire sprinkling plan has been sitting in Riverton's Fire Marshal's office since September 13th, 2003 and according to Blittersdorf, the Riverton office never acknowledged these plans. The Bull Moose hired another company to engineer blue prints and a \$ 54,000.00 bid for the project; now they will be able to reduce the \$15,000.00 out of the bid. Mr. Blittersdorf stated, "At some point we will sprinkle the building, but were gonna sprinkle it because we want it sprinkled."

Mr. Steve Fusco asked if any building over 5,000 sq. feet is required to be sprinkled. According to Mr. Blittersdorf, Pat Westerholm only required the fire sprinklers in the addition. Mr. Fusco remembers from being on the Town's Planning & Zoning Board that 5,000 sq. feet of commercial space requires a fire suppression system. According to Mr. Blittersdorf, Terry Phillips and Jim Narva both testified under oath that only the addition of the Bull Moose required fire sprinklers. As far as being code compliant and safe, Mr. Blittersdorf reports no other building in Lincoln County compares. According to Mr. Blittersdorf Terry Phillips visited their business after driving by several business on his way and only came to see the Bull Moose. Dave Gustafson, Town of Alpine Planning & Zoning Chairman requested Mr. Phillips visit the Bull Moose due to the saloon having excessive crowds and is a hazard. Mr. Blittersdorf would like Gustafson to explain this more to him directly. The bottom line for Mr. Blittersdorf is "where are the citations?" According to Blittersdorf he was told by Mr. Montoya, "you've got a bull's eye on your back". Mr. Blittersdorf stated, "Bring it on! Scrutinize us to death."

Robert Walker, local resident: Mr. Walker began by stating, "For the record I am damn mad! I'll tell you why. I think is all a bunch of garbage. A lot of hearsay a lot of rumors. You want to hear some hearsay, I've got something to say and you're gonna hear. Personally Mayor I think you are behind this vendetta and it's been over a year and you've been trying to close these people down and I think it's totally wrong."

Mr. Walker went on to say that he is not for the Bull Moose and he is not against the saloon, but what he is against is all these rumors and accusations. Mr. Fusco interceded to state the mayor didn't start any rumors. Mr. Walker advised this is his personal opinion. Mayor Lloyd swung his gavel and stated that this is his personal opinion, however, the council is the one who makes the rules and he doesn't dictate to the council. Mr. Walker believes someone is behind these accusations. Clerk Matthews stopped Mr. Walker to change the tape at this point.

(Clerk's note: Tape # 3 of 4 begins here)

Mr. Walker stated, "It is a vendetta and you can see its not, but bullshit it is." The Mayor advised Walker to please watch his language. Mr. Walker advised he had already been warned once tonight for his language. At this point Officer Gardner advised this was his second warning and the next time he uses profanity he will receive a citation to which Mr. Walker replied, "You would love it wouldn't you." Mr. Gardner advised he is just doing his job. Mr. Walker stated, "Keystone cops that's what you guys are." Mayor Lloyd struck his gavel a second time and warned Mr. Walker

he was out of order and if he carried on in this manner he would be asked to leave. Mr. Walker offered a solution to the mayor and council to buy the Bull Moose Saloon and turn it into a library. Mr. Walker then questioned Mr. Phillips as to how many of the children he has arrested who were allegedly drinking underage in the Bull Moose. Mr. Phillips advised he has arrested none of the minors. The clerk intervened at this point and indicated that Mr. Walker is engaging someone who isn't near a microphone and in order to do the minutes the microphone must be passed back and forth or it wouldn't be on the record.

Mr. Phillips stated the following, "Mayor and Council you may remember that the case involving these particular individuals was originally handled by Officer Steve Van Valkenburg and I can't speak for him as to why he chose to or not to write any citations, arrest or otherwise. I don't know the answer to that. I didn't get the case until it was already over a month old when Officer Van Valkenburg left and that's where I picked it up. I didn't feel it was appropriate to start arresting people a month after the things had happened." Mr. Walker again questioned Mr. Phillips that he now has affidavits they were drinking and questioned why he hasn't arrested them. Mr. Phillips advised it is now even further out. He questioned why Mr. Phillips hasn't arrested the bartenders who have allegedly served the minors alcohol and Mr. Phillips replied that he has not for the same reasons. Mr. Walker then said, "It's a bunch of bullshit and you know it!" Mr. Gardner then advises Mr. Walker that he is done at the public meeting and to meet him up front and to step outside with him. Mr. Gardner asks for the man's ID.

Robert Meikle, local resident: Mr. Meikle advised that when he sits with his family he can turn on prime time television he can watch Terri Hatcher having sex on T.V. He has cancelled cable due to what comes across the T.V. He also referenced comic programs such as Jay Leno and the incident involving our own former president, Bill Clinton. He feels that America is in a different place and that it is easy to be angry. He is angry sometimes when he sees the Bull Moose's Marquis reading "Exotic Dancers." However, he went on to say that he has thought about it very carefully and he frequents their establishment on the nights they are not holding the shows. He finds the place to be friendly, and he has invited people there for business closings, and he thinks it is a first-class operation. Mr. Meikle referenced his own history of running a ski area for 25 years and his lodge would receive 1,000 people for lunch and that building was about the same size. He feels the Bull Moose is safer than 90% of the ski lodges in America. He stated, "To attack this thing on any sort of basis about fire safety is just silly if you are using common sense about it. It really is and I think you all know that." According to Meikle he was sued 15 times and experienced 6 full jury trials. He doesn't feel any of the evidence will stand the test of a court.

Mike Mosby, Lincoln County Resident: He has frequented the Bull Moose for lunch and dinner. He sees it be the cleanest place. He stated that this is not a trial and a court of law and that basically this hearing is a liquor license renewal. He asked if any citations have been issued and if any of the situation has been changed since last year's renewal. He reminded the council and mayor the Fire Marshal could have charged the owners with a misdemeanor according to Jim Lubing if they stayed open. Mr. Mosby asked, "Did this happen? Why?" Because he feels it is gray area. "Have there been any citations written for the exotic dancing?", Mosby asked again and indicated in his opinion this area is also a gray area. He questioned why no citations were issued for underage drinking on the night in questions and any other night. He responded by saying he feels the reason to be is that it didn't happen. The point is that they have not been found 'guilty' of anything by their peers in the operation of their business. Mr. Mosby stated, "If that has not happened, how can you deny them a renewal of their liquor license that you renewed last year. You can't. You have to renew it again." Until the courts review the allegations, he feels they cannot deny them their livelihood. Mr. Mosby used the analogy that Driver's Licenses are also a privilege and questioned the mayor and council how they would like their driver's licenses revoked without having their day in court, without a trial of their peers. Mr. Mosby urged them to renew the license as it is the only right thing to do.

Larry McKenzie, part-time resident: He questioned the council and mayor how much time they are going to waste persecuting the Bull Moose Saloon. Mr. Miller stated to Mayor Lloyd, "People think that this might be true that you are puppet there is somebody behind you pulling strings to put the Bull Moose Saloon out of business. People have quoted you at your hunting camp that you've got him and your going to put him out of business." Mr. McKenzie acknowledged this may be hearsay. He then stated he wasn't sure how the other council members stand about nudity. He advised that he is from a big city and that nudity isn't a big deal and he can understand why a small town may have an issue with nudity. He advised the exotic dancing bores him to tears personally. Mr. McKenzie stated,

"This is what they're doing is a thousand cuts Jim. They're going to cut you a thousand times until your business just bleeds to death."

(Clerk's Note: Tape #3 Side A stops abruptly during Larry McKenzie's testimony and resumes later in the meeting when the Mayor has resumed the council meeting at approximately 11:22 p.m. which is after the short recess from the Bull Moose's public hearing. The following minutes are based on the clerk's notes from this public hearing).

Mr. McKenzie also stated that this vendetta has caused him personally to lose money as he is employed as a musician and entertainer for the Bull Moose. He feels the mayor has used the police officers in his own vendetta. He advised the Council to 'do it legally' and put the issue before a judge and jury; this issue is dividing the community according to McKenzie.

Tammy Pellen, local resident: Ms. Pellen raised concerns regarding the 'legal ease' being talked about tonight without anyone being found guilty and that no one has been charged. She feels the information hasn't been found to be true.

Ted Lloyd, local resident: Mr. Lloyd advised his not a relation to Mayor Lloyd but is friends with he and his son. He advised that the only thing he has heard the mayor to say is that he wants the Bull Moose owners to comply.

Patrick Mulligan, local resident: Mr. Mulligan advised he has been a resident of Teton County Idaho and Wyoming, and Sublette County. He acknowledged never being in the Bull Moose Saloon and feels the exotic dancers sign is offensive advertising in the community and that it doesn't look good for this town. He has never saw any other bar advertise like this.

Louis Abel, Bull Moose Employee: Mr. Abel advised he has worked for the Bull Moose Saloon full-time for the past 1 ½ years and has been a customer since 1999. He initially worked with Jim Blittersdorf doing the construction and remodeling of the business. He feels the Bull Moose is the stoutest, safest business around and referenced an incident in which the grill caught fire at Dad's Bar in Thayne. He feels the license should be approved tonight and if any information is found at a later date, it be dealt with at that time. He feels the information and evidence tonight that is presented is hearsay and that many of the things have not been proven. Councilman Fusco questioned where he learned to 'card' people which Abel responded by stating he worked in the Air Force in various clubs reviewing ID's and that he taught others in the Bull Moose Saloon to properly 'card' patrons and to scan for fake IDs.

Jim Blittersdorf, Bull Moose Owner: Mr. Blittersdorf advised that all bar employees are TIPS trained which means they are trained to identify false IDs. The stings conducted by the L.C.S.O. office were on only retail sellers of alcohol. He again stated he fired his cocktail waitress Amy Erickson for drug abuse issues. He has offered for the mayor and council to visit his bar to see the set up and tour the building. Again, he advised the 'Families Welcome' sign was removed. Mayor Lloyd advised Mr. Blittersdorf that other Town representatives from the Police Department visited his building and were treated poorly. Mr. Blittersdorf maintains that Mr. Sender called him a 'prick'. He advised the Mayor he would like to sit down and talk with him at some point.

Mark Manfredi, Former Bull Moose Employee: Mr. Manfredi advised he worked for Jim and is 31 years old. Mr. Manfredi maintains that he has 'carded' everyone at the door.

(Clerk's note: Tape # 3 Side A stops at discussion of 4- Wheeler enforcement and Side A flips to testimony given by Officer Brian Gardner of the Alpine Police Department. Any summary past this point is based from the audio cassette).

Brian Gardner, Alpine Police Dept.: Mr. Gardner addressed the council, mayor and residents to state that he works for them and that overall he doesn't enjoy writing tickets and encouraged anyone to check his history with Teton County Sheriff's Department. He advised the Police Department is there to serve and protect the community including their businesses, houses, their kids, their well-being, etc. He advised he doesn't sense an overall support of the police department for what they do for this community.

D.R. Hutchinson, council: Mr. Hutchinson advised that he took an oath as an elected councilman to support the laws of the State of Wyoming. Mr. Hutchinson stated the following questions to Don Miller, "Based on what I've heard tonight at this point exotic dancing, serving the minors, and all of this stuff is out the window. OK? Exotic- will come into a little bit but our Town Attorney, Mr. Lubing, brought up something that states a 'license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing.' All right now in the Order from the Fire Marshal it does not say anything in there that they do not have the authority to issue that. All right so part of the first question is how do I as an elected official get around that when I've got a statement here that says I cannot do it if evidence is produced." Mr. Hutchinson also stated, "Second part of the question - it says that when exotic dancing is going on liquor cannot be served on the premises; now that was not addressed. Now did I misunderstand?"

In response to Mr. Hutchinson's questions Mr. Miller responded by saying,

"There are two pieces to the answer. The first one is that as I tried to explain with the Statutes and as all the witnesses or all the people that have come up hear and spoke tonight tried to point out --the difference we're having with the Fire Marshal is real. It isn't that we're 'pie in the sky' kind of arguments; these are very real and significant arguments. There is a significant difference of opinion between the Fire Marshal and the Bull Moose as well as the Fire Prevention Council and whether they have authority. That issue will be in front of Judge Sandersen as fast as I can possibly scramble it. What this council I think needs to rely on is (Clerk's note: Tape #3 Side A switches at this point to Side B) The timing of this is kinda complicated; the order did not get to my desk until yesterday. I am in the process of filing an appeal, but as you guys probably know I spent the whole day driving to get here. So tomorrow we sit down and we put the appeal together and part of that appeal will be a request for extension of the Preliminary Injunction which I believe Judge Sandersen will grant. I don't know that I read it as tightly as Mr. Lubing does but that's why two lawyers always end up in front of a judge because it's the English language. So that's answer # 1."

Mr. Miller asked D.R. Hutchinson to read to him the section again from the State Statutes which he has questions on; D.R. Hutchinson stated the following, "A license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing. O.K. I brought up two points and I'm trying to figure out and I'm told that I can't do it based on this and based what is in existence right now. Because what it says, it doesn't say a 'cotton pickin' word about the fact they didn't have the authority not to issue that."

Mr. Miller responded to Councilman Hutchinson by stating, "What I am saying is this. The issue is not final. The issue is in litigation. There is no final decision."

Mr. Hutchinson questioned whether the Council should post-pone this public hearing after approximately 3 ½ hours to which Mr. Miller replied, "No! No! No!" Mr. Hutchinson advised Mr. Miller he isn't helping him get past these issues.

Mr. Miller stated, "I don't know how else to say it except this way. Right now there is nothing that has been presented about the Fire Marshal issue that fits that language in my opinion because everything is still up in the air. If the mere allegation from the Fire Marshal was 'whatever' – fill in the blank – then that doesn't make you/ doesn't put you in a position to violate that. That's just the Fire Marshal's opinion and the council is just the appellate step that you take when you oppose what the Fire Marshal has said."

Mr. Hutchinson questioned Mr. Miller to respond to his second point. Mr. Miller spent a quick moment with his client, Juline Christoffersen, and then reported she makes a valid point that in 1994 the building was closed for 6 months but the license was renewed and from 1996 -1998 the building was closed but the license was renewed. For Mr. Miller the issue really is about renewing the license and he feels this answers part of Mr. Hutchinson's question. Mr. Miller stated, "Here is the connection. The Liquor License is separate from the building – it truly is. If the building puts people into jeopardy then it really becomes an issue of the building. The acts of what is going on in the building I don't see as applying to the liquor license."

Mr. Miller reviewed some documents at this point, and stated, "The welfare #1 (this was the one brought up about the building) the welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely or seriously affected. Sorry that's not the right one because obviously no evidence or discussion has come up about the vicinity." Mr. Miller continues to quote the statute and stated, "The purpose of the title shall not be carried out by the issuance, renewal or transfer of license or permit. Quite frankly I have a difficult time understanding what that is. I think even Mr. Lubing will admit that a lot of this liquor license law is not very well crafted. So I don't belabor the point, show me where you're at. I really just want to answer your question directly because I know its late."

D.R. Hutchinson began to read and quote W.S. 12-4-104 beginning with 'the welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely or seriously affected.' Mr. Hutchinson stated, "If the building burns down and there are a bunch of people in it based on what was said tonight, based what is in action right now, based on the temporary injunction from Judge Sandersen and the fact that nothing else was said. What are we supposed to do?"

Mr. Miller at this point takes and reviews the statute and states, "It is difficult to explain to statutory construction to people who it's easy to explain it to a judge because we know the code. It is difficult to explain the code and explain the statute at the same time. The code is this, W.S. 12-4-104 deals with one issue—liquor licenses. People can have a liquor license without even having a building. Right Jim?" At this time, James Lubing advises he doesn't think this is true.

Don Jorgensen, councilman, references and quotes W.S.S. 12-4-104 which discusses the welfare of the people in the vicinity of the license. According to Jorgensen there are children that live within 100 yards of the proposed license. Mr. Jorgensen stated, "If this Bull Moose is not in compliance with the Fire Marshal and it catches on fire does it not put these children in danger? How do I vote and rest at night if it says I am not supposed to issue this license if these conditions are not met?"

Mr. Miller responded to Jorgensen's statements by stating, "First of all the conditions are met. The conditions are met. I'm going to say it one more time, the conditions are being litigated. The conditions have been met. I have provided to you all of the permits. This Town granted a permit of occupancy to the Bull Moose in August or July of 2004 right? For the addition. Prior to that they had granted a certificate of occupancy for the old portion. The new portion fell under a different plan review which is right here. This plan review was approved. This Town has given the Bull Moose certificate of occupancy. You have said this building meets all our requirements. Now the Marshal has come in and thrown a wrench in the system. But it is in the system. It is in the system. It has not been finally adjudged. It is not final."

Mr. Miller went on to say, "So what you are doing is you're saying 'we're going to rely on the evidence presented of the Fire Marshal who says this even though we have contradictory evidence over here'. That's what I am trying to say. I don't think you're violating this section because nothing has been finalized. It is being hotly contested. The only reason why I explained it to you wasn't to take up your time, it was so that you would know that these are legitimate issues before the court. If the Bull Moose was safe without sprinkling in the upper part of the building according to the Fire Marshal prior to the addition, it wouldn't have had its certificate of occupancy, which it did."

According to Mr. Miller the Fire Marshal advised they would approve the plan review of the addition as long as it is sprinkled. Mr. Miller stated, "The marshals then came back on August 19th, 2004 and this is signed by James Stevens 'occupancy granted for Phase I, New Addition, First Floor'. We are only in the first floor; we never left the first floor. They granted us the occupancy it is when this new Fire Marshal, Juline was explaining, he walked in and he wants the whole thing sprinkled. Now – not when we can get to it. Not telling us there are plans. What we learned in that hearing was amazing. But if we'd had the plans if we'd known we'd had the plans two years ago, we'd probably wouldn't be here. But we didn't even know the plans even existed. They had the plans."

Mr. Jorgensen read from the document from the Fire Marshal's office dated August 19th, 2004 (see attachment #4). Mr. Jorgensen stated, "The way I am reading this it says 'Occupancy granted for Phase 1, New Addition, first floor'.

That just tells me that the occupancy permit or occupancy has been granted just the new addition. I am in the building trades and when you get an inspection like that that means that specific area."

Mr. Miller responded by indicating that this is the only place the public is allowed. Mr. Miller stated, "What it goes on to say is 'Phase II, New Addition, second floor' and the problem with that was, the problem with that was that the hand rails weren't up. 'Phase III- Phase III – Sprinkle system existing building'. That's Phase III. I'm going to tell you and under oath or whatever that there is no Phase III. They have never given us what a Phase III is. This is the only evidence of a Phase III. This is the only thing. This was the first time that they mentioned sprinkling the existing building. They came up with Phase I, Phase II, Phase III. But what's significant and the only thing that is important for this council right now is to recognize that this building was granted occupancy by the Fire Marshal at one time for the first floor- new addition First Floor. The First Floor, minus the new addition, already had an occupancy certificate."

Mr. Miller went on to say, "Not from August 2004 until this latest thing came up did they ever say, 'you gotta get out of the building'. Not once. So then we um. All Right just for your. This is the Fire Marshal's certificate of occupancy for the portion that was called Jeep's Bar. In the final analysis, the Fire Marshal, the Bull Moose, both being represented by counsel, and the Fire Marshal being on the telephone with Judge Sandersen agreed that this building is safe as long as we do the things that are in the Preliminary Injunction. Everybody agreed this building is safe." He also went on to state, "We have complied. So this building is not dangerous to the people in the vicinity or the people in the premises. If it was dangerous we wouldn't have a Preliminary Injunction. Do you think the Marshals would have said after all this fighting, 'yeah go ahead we'll just risk it.' No. They said, 'we want a fire watch and we want the occupancy down' and that's what we've done. So that building under those conditions, as far as the Fire Marshal is concerned, is safe and he signed the document through his attorney. He signed the document saying it was safe. That's the proof that it is safe."

The proof is in the Preliminary Injunction according to Mr. Miller. Don Jorgensen questioned councilman Steve Fusco whether if someone remodels their home and whether the owners have to get a new certificate occupancy for the whole house. Mr. Fusco believes that is true.

Roger Salvi, local resident: Mr. Salvi advised that if you do an addition, the new part of the house is not required to be brought up to codes. It is just the new addition that must be to code. So the only thing that Mr. Blittersdorf is his new stuff; older things are grand fathered.

Donald Miller, Attorney for the Bull Moose Saloon: Again, Mr. Miller advised Jorgensen that the city {Town of Alpine} granted an occupancy permit in April 2004. The issue with the Fire Marshal according to Miller is recent as of May 2005. Mr. Miller stated, "If you fail to issue the liquor license it won't matter about the building. As I have said in the past this Town Council has allowed the Bull Moose to have a Liquor License when the Bull Moose itself was shut down for remodeling and repairs or whatever and Jeep's Bar also. So it's unprecedented to say 'your building's not safe so were going to jerk your liquor license. {vs.} We'll give your liquor license but you gotta comply with the building code'. That's different."

In regard to serving alcohol during times that the exotic dancing is being performed. Mr. Miller responded by saying, "This issue came up once before. Actually it came up with Mr. Montoya, the liquor commissioner and what the Bull Moose had been doing at that time is they were having the dancers dance on the bar in this area. You would have to see the Bull Moose to understand what I am trying to explain." Mr. Miller described the dispensing area and stages and where the dancers actually dance. Mr. Miller stated, "Now think about this if that weren't the case, then every bar in this state that has nude dancing would be acting illegally. The statute says in the dispensing area." When the Bull Moose owners learned they could not have dancers on the bar in 2002, they moved them out of the dispensing area and Mr. Montoya was fine with it, according to Miller. He does not feel the owners are violating any laws by having exotic dancing and alcohol being served at the same time. Mayor Lloyd questioned that he thought the statute read 'on the premises' as well and not just the dispensing area.

Mr. Steve Fusco interjected at this point and advised there are 22 items on the agenda and only 4 have been completed and the time was 11:00 p.m. Mr. Fusco questioned whether a continuance could occur.

Juline Christoffersen, Bull Moose Owner: Ms. Christoffersen advised she has talked with Tom Montoya of the Liquor Division and the Wyoming Liquor Statutes are 'muddy' in her opinion. There are different kinds of liquor licenses with restaurant liquor licenses, the entire premise is licensed and with their retail liquor license only the dispensing area is licensed, according to Christoffersen. The statutes references the 'licensed' premises and this was thoroughly discussed with Tom Montoya. According to Christoffersen, Mr. Montoya advised the owners that as long as they are not having the dancers in the dispensing room the Liquor Commission does not have jurisdiction over it. Mayor Lloyd advised W.S. 12-5-204 states, 'with any dispensing room, building or premises licensed under this title'. Ms. Christoffersen pointed out the statute uses the word 'or' in that sentence. The Bull Moose dispensing room is a very small area. According to Christoffersen the dispensing area was listed as the whole building initially and they restricted it to a smaller area with the sanction of Tom Montoya. Ms. Christoffersen advised they have two separate dispensing areas. Ms. Christoffersen, "The reason that Texas Hold 'Em was being conducted at Camp Creek in their dispensing premises, Tim Mangum I think from the Wyoming Liquor Commission, went up and said 'you can't do that because you have a restaurant license and you have to move it outside your restaurant licensed premise.' So they actually do it in another building right outside the restaurant." The Liquor Commission questioned the Bull Moose owners whether Texas card night was being held in the dispensing area and the owners advised it was outside their licensed dispensing areas. Ms. Christoffersen advised the mayor and council they must read the statutes for language that covers the different types of licenses.

Mr. James Lubing, Attorney for the Town of Alpine: Mr. Lubing advised, "Mr. Wilkinson tells me he has talked to Mr. Montoya and Mr. Montoya interprets it the way it's logically interpreted that you cannot have public indecency on the premises in the building where a licensed facility is. That is our understanding on the position." Mr. Lubing advised the council and mayor to not spend a lot of time on the Texas Hold 'Em issue as the owners have stopped the tournaments. He advised the mayor and council they could continue the meeting to their next council meeting.

Jim Blittersdorf, Bull Moose Owner: Jim Blittersdorf stated, "In my conversations with Tom Montoya and he referenced 'Al's Green Door' on 16th Street in Cheyenne its virtually in the shadow of the capitol since 1975 they do exotic dancing, they do it in the same building as do all of the other 8 clubs in Wyoming. Tom says he knows how our building is set-up with defined dispensing rooms." According to Blittersdorf, Mr. Montoya advised them they cannot do dancing or the Texas Hold 'Em tournaments in their dispensing areas. Again Mr. Blittersdorf referenced the differences between restaurant and retail liquor licenses. Mr. Blittersdorf also referenced the March 5th, 2002 Council minutes in which the exotic dancing venues were allowed as reviewed by the then Town's attorney, Frank Hess.

Don Miller, Attorney for Bull Moose: Mr. Miller offered after talking with Jim Lubing the hearing needs to be continued and agreed they had insisted the public hearing proceed but the hour of the night being 11:00 p.m. has been factored in now.

D.R. Hutchinson reminded Mr. Miller that last year's public hearing for the liquor license renewal was only post-poned to benefit the owners of the Bull Moose Saloon who were not present that night when the complaints and objections were being received by the council. In order to be fair, Jim and Juline needed to be present at the hearing, according to Hutchinson.

The Mayor asked Garren Stauffer, Star Valley Independent, to list it in the paper as the public hearing has been continued rather than tabled. Carter Wilkinson advised for the record that this public hearing is in regard to the owner's 2006 liquor license which they have not received yet and doesn't affect their current 2005 liquor license in any way which expires December 31st, 2005.

Mayor Lloyd called for a motion to continue the public hearing until the next council meeting. Don Jorgensen moved to continue the liquor license application for the Bull Moose until the next Council meeting. D.R. Hutchinson asked to have the motion amended to include 'with permission of the Bull Moose's owners and lawyer.' D.R. Hutchinson seconded. D.R. Hutchinson requested Garren Stauffer please put in the newspaper this way. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent

The mayor advised the meeting will be continued to November 15th, 2005 at 7:00 p.m. and the public is welcome.

Mayor Lloyd recessed the meeting at 11:05 p.m.

(Clerk's Note: This section below is contained on Tape 3 – Side A)

CONTINUATION OF 2006 LIQUOR LICENSE RENEWALS

The Mayor called the meeting back to order at 11:22 p.m. regarding the remainder of the agenda beginning with the renewal of the 2006 Liquor Licenses. D.R. Hutchinson suggested that Chief Phillips review the remainder of the liquor licenses and if there are no concerns that the renewals of these liquor licenses be renewed as a whole. Chief Phillips reported no alcohol related incidents with Kringle's Café, the Red Baron Restaurant, or Gunnar's Pizza. Mr. Phillips reported five (5) alcohol-related incidents from the Snake River Saloon consisting of fighting, larceny, and some other things. He reports the Alpine PD expect some challenges with any retail liquor license and feel the operators of the Snake River Saloon are working with them and that they do a good job overall with their license. **D.R. Hutchinson motioned to approve Gunnar's Pizza, Red Baron Restaurant, Kringle's Café, and Snake River Saloon.** Carter Wilkinson intervened and advised the Liquor Licenses should be approved individually.

Steve Fusco questioned whether their dispensing area is the same for Gunnar's Pizza. The clerk advised that all dispensing areas for each of the licenses has not been altered with the exception of the Red Baron because they remodeled the hangar area.

According to Steve Fusco the motion was already made to approve Gunnar's Pizza liquor license. The Mayor called for a second. Don Jorgensen seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent

Mayor Lloyd called for any discussion for Kringle's Café. **D.R. Hutchinson motioned to approve the renewal of Kringle's café. Don Jorgensen seconded. VOTE: 5- Yes; 0 –No; 0- Abstain; 0- Absent**

Mayor Lloyd called for a motion to renew the Red Baron Restaurant. D.R. Hutchinson so moved. Steve Fusco asked if the dispensing area has changed. Steve Fusco seconded. VOTE: 5- Yes; 0- No; 0- Abstain 0- Absent

Mayor Lloyd called for a motion to approve the renewal of the Snake River Saloon. D.R. Hutchinson so moved. Don Jorgensen seconded. Steve Fusco questioned whether the dispensing area has changed, which it has not. VOTE: 5-Yes; 0- no; 0- Abstain; 0- Absent

- Carter Wilkinson - advised council of an issue regarding Lot # 39 of River View Meadows regarding Josh Daigle's property. Mr. Wilkinson requested a special meeting for next Tuesday at 6:30 p.m. prior to the Planning & Zoning's meeting as Mr. Daigle's is filing his building permit application. A 4-inch water pipe extends through Daigle's property and the issue needs to be resolved prior to the building permit moving forward. Mr. Carter Wilkinson advised he would like a public notice for the special meeting posted in the post office. **D.R. Hutchinson motioned to approve the council having a special meeting in regard to Lot #39 on November 8th, 2005 at 6:30 p.m. Shirley Brown seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent**
- **LEVEL II WATER STUDY UPDATE-** Bob Ablondi- Rendezvous Engineering: Mr. Ablondi advised there has been some minor additions and changes in regard to the grant application to the WWDC (Wyoming Water Development Commission) and wanted to review the changes. The amount of Level II funding request has been increased as the WWDC is interested in mapping, aerial photography mapping, which would be a real asset to the Town of Alpine. Mr. Ablondi reports the property ownership mapping which Marlowe Scherbel is conducting can be women into this mapping as well. The WWDC may help pay for this and may pay for a portion's of Scherbel's mapping. This increased the Level II funding request; the Level II request will still cover the exploratory well drilling and testing only. The well becomes owned by WWDC then they have to through legislation turn the well over to the Town which wouldn't occur until 2006. The upgrading of the pumps will occur now. They have

added into the Level III Construction Funding request the stand-by power sources (generators). That is one issue that will come up during the select water development commission meeting on the 17th and 18th of November at the Casper Events Center. Dave Lloyd, Mayor, plans to attend this meeting and Alpine will be on both agendas for both days. The Level III Construction request with the WWDC will include the upgrades of the two existing wells, control systems, and stand-by power. Because the Town doesn't technically own well # 3 (exploratory well) it will not be included in this year's Level III Construction request. According to Ablondi, the Level II request stands at \$184,000.00 which is all grant money and the Town has no matching portion, however, the Level III funding request is \$426,000.00 in which ½ of that is a grant request and the other ½ is loans through the State Land and Investment Board at 2 ½ interest for 20 years. The net impact for all current water users is approximately \$ 2.85 per water tap. The last meeting the council advised that this \$2.85 increase could be absorbed without raising the monthly standard water fees. The WWDC have asked for a resolution for the Council to approve tonight. All information funding information for Level III funding is based on a 50% grant. Mike Besson is going to request that the grant portion, due to the cost and price increases, go to 67%, which may assist the Town. All numbers tonight are based on 50% grant requirements. The legislature has to approve this increase. Explaining the request for stand-by power may be more difficult to get funding as the WWDC doesn't always fund for stand-by power.

- **240- Resolution No. 1-11-01-2005: Participating in the Wyoming Water Development Project-** Mayor Lloyd read the resolution in its entirety. **Steve Fusco motioned to approve 240-Resolution No. 1-11-01-2005. Don Jorgensen seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent**
- **2nd Reading – 130 Ordinance No. 2005 -20 -- Rezoning Lot:** Mayor Lloyd read the ordinance through its title and through the first two paragraphs. **D.R. Motioned to approve the 2nd reading of 130-Ordinance No. 2005-20. Steve Fusco seconded. VOTE: 5- Yes; 0- No; 0- Abstain; 0- Absent**
- **Wyoming Business Council Award Letter –** *Town of Alpine has been selected as one of the recipients of the State of Wyoming grant year 2005 Community Development Block Grant Funds for \$291,000.00 to build a Child Development Center in Alpine!*

B. DEPARTMENT UPDATES:

- **STREETS & ROADS:**
- **SEWER DEPARTMENT:**
- **WATER DEPARTMENT:**
- **PARKS & RECREATION DEPARTMENT:** Chief Phillips and Bryant Brown finished the climbing wall last Saturday.
- **PLANNING & ZONING COMMISSION:**
- **POLICE DEPARTMENT/COURT:** October 2005 Court Report
- **PERSONNEL/ ADMINISTRATIVE:**

C. ON-GOING BUSINESS/ INFORMATION:

- **4- Wheeler Issue:** After discussing the issue with the Town's legal council, Chief Phillips believes the issue should be left to the Police Department to enforce and the council and mayor remove themselves from enforcement.

D. INFORMATION DISTRIBUTED TO COUNCIL:

- PRELIMINARY INFORMATION—Alpine Development Group, LLC—Damien Mavis
- W.A.M. Newsletter - October 21st, 2005
- Letter Jerry Mower – Bedford Resident Requests Grey's River Road Speed Limit Change to 35 m.p.h. – The Mayor reviewed this letter and advised D.R. Hutchinson feels the speed should be raised. Chief Phillips advised it is entirely up to them. The majority of complaints for speeding occur on Grey's River Road for speeding. The Police Department write citations until the driver is at least going 35 m.p.h. Shirley Brown feels if you set the speed at 35 mph they will go 45 mph. The clerk advised, after growing up on Grey's River Road, that it is one of the busiest areas this Town has and cautioned the council not raise the speed limit when much more pedestrian traffic (especially children) are using the road and the fact that the Town's major business (Alpine Market) for traffic exists on this road. Mr. Mower may not be aware that Forest Meadows, Grey's River Village #1 and #2 Subdivisions exist on the lower bench out of sight when traveling Grey's River Road. Brian Gardner advised it takes 1.5 seconds to react and stopping distance at 20 mph is 70 feet. Mr. Phillips advised he dealt with three (3) accidents alone at the junction of Grey's River Road and Highway 89 alone and he doesn't feel they need to be going any faster. Don Jorgensen advised the speed limit on Grey's River Road has been posted for a long time clear back into the 1990s. The consensus of the council is to keep the speed limit as posted.

E. FINANCIALS/ UNPAID BILLS:

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

Meeting adjourned at midnight on November 1st, 2005.

David H. Lloyd, Mayor

Date

ATTEST:

Tracy Matthews, Clerk

Date