



ALBERTVILLE CITY COUNCIL  
JUNE 15, 2009  
MINUTES

ALBERTVILLE CITY HALL

7:00 PM

**PLEDGE OF ALLEGIANCE – CALL TO ORDER**

Mayor Klecker called the regular Albertville City Council meeting to order at 7:03 p.m., which the Pledge of Allegiance was said.

**ROLL CALL**

**PRESENT:** Mayor Ron Klecker, Council members Tom Fay, Larry Sorensen, John Vetsch, and Dan Wagner, City Attorney Mike Couri, City Engineer Adam Nafstad, City Planner Alan Brixius, City Administrator Larry Kruse, and City Clerk Bridget Miller

**ABSENT:** none

**RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS** – no comments

**CITIZEN FORUM**

Mayor Klecker brought to the Council's attention that a resident had a couple of items to discuss with the Council.

Lynda Hughes residing at 11473 – 58<sup>th</sup> Street NE discussed the noise that came from the Full Moon Saloon Bar & Grill on Thursday, Friday, and Saturday. Ms. Hughes contacted the Wright County Sheriff's Dept. regarding the level of noise. The Sheriff on duty visited the establishment and talked to the manager on duty regarding the noise complaint. Ms. Hughes shared that this was not the first time the music was loud. Ms. Hughes was informed by the owner that customers are holding the door(s) open. Yet, when she visited the establishment in late May, she noticed that the door(s) was propped open with a board and not by a customer. Ms. Hughes wanted to know if the City can or would do anything more about the noise. Ms.

Hughes was aware that the Council recently passed an Ordinance regarding noise coming from establishments and would like the City to enforce the ordinance.

Ms. Hughes second concern was Friendly City Days. In previous years, Ms. Hughes would enjoy or put up with the Friendly City Days activities; however, over the last 3-4 years there has been more and more activities scheduled that does not allow her easy access to and from her home. On Friday morning her husband could not get to work because there was a car parked at the end of the driveway. She was able to leave her home on Saturday morning only to come home to the street being roped off for a bed race. Two years ago there was a Western type of event held on Main Avenue, in which shots were being directed towards her home. Ms. Hughes was not informed as to what events or activities were going to take place throughout Friendly City Days.

City Administrator Kruse did contact the Wright County Sheriff's Dept. to obtain a summary of the noise complaints against Full Moon Saloon Bar & Grill. City Attorney Couri stated that the City could administer a fine to the establishment for the liquor license-noise violation. However, Couri recommended inviting the licensee to the next Council meeting to discuss the complaint and set the fine then. Having the licensee present would give him/her the opportunity to defend themselves. If the Council wished, they could administer a stiffer fine or consider suspending the liquor license.

Sorensen brought up the fact that Full Moon Saloon Bar & Grill's liquor license expires on Wednesday, July 1, 2009. Vetsch commented that the next regularly schedule Council meeting is Monday, July 6, which would be after the liquor license expires. Sorensen suggested holding the meeting on Monday, June 29 at 7:00 p.m. Wagner then recommended setting a Special meeting for Monday, June 22 at 7:00 p.m. It was the consensus of the Council to set Monday, June 22, 2009 at 7:00 p.m. as a Special Albertville City Council meeting for the purpose of discussing the Full Moon Saloon Bar & Grill's noise complaints. Council directed staff to send notification to Full Moon Saloon Bar & Grill regarding the Special meeting.

Council directed staff to contact the Friendly City Days Committee to bring it to their attention the problem or concerns that Lynda Hughes has been experiencing over the past 3-4 years with the Friendly City Days events.

### **AMENDMENTS TO THE AGENDA**

There were no amendments to the agenda; therefore, the following motion was made:

**MOTION BY** Council member Fay, seconded by Council member Sorensen to approve the Monday, June 15, 2009 regular City Council agenda as presented. Motion carried unanimously.

## MINUTES

*Monday, June 1, 2009 regular City Council minutes*

**MOTION BY** Council member Sorensen, seconded by Council member Wagner to approve the Monday, June 1, 2009 regular City Council minutes as presented, which will be printed and signed; after signing the minutes will be scanned and the electronic scanned version will be kept on file in the office of the City Clerk that will serve as the official copy. Motion carried unanimously.

## CONSENT AGENDA

### ■ CONSENT AGENDA

All items with an asterisk (■) are considered to be routine in nature by the City staff and will be enacted by one motion. There will be no separate discussion of these items unless a Council member, staff, or citizen so requests. In such event, the item will be removed from the Consent Agenda; a separate discussion will take place during the General Order of Business and considered in its normal sequence on the agenda that will require a separate motion.

Mayor Klecker inquired if there were any items to be pulled from the Consent Agenda for further discussion; upon hearing no comments the following motion to accept the Consent Agenda was made:

**MOTION BY** Council member Fay, seconded by Council member Vetsch to approve the Monday, June 15, 2009 Consent Agenda that included the following items:

- Accept the Building Official's Report dated June 9, 2009; and
- Authorize the Monday, June 15, 2009 Payment of Claims (bills) for check numbers **027130** to **027185** as presented except the bills specifically pulled, which are passed by separate motion; and
- Approve **Resolution No. 2009-022** entitled a Resolution Accepting Low Bid for 2009 Sealcoat Project; and
- Accept the City Attorney's Report dated June 10, 2009

No items were pulled that required a separate discussion and motion. Motion carried unanimously.

## DEPARTMENT BUSINESS

**FIRE DEPARTMENT** -- no comments

**PUBLIC WORKS DEPARTMENT** – no comments

**UTILITIES DEPARTMENT (WWTP)** – no comments

**BUILDING DEPARTMENT**

☛ *Accept the Building Official's Report dated June 9, 2009*

**MOTION BY** Council member Fay, seconded by Council member Vetsch to accept the Building Official's Report dated June 9, 2009. Motion carried unanimously.

**FINANCE DEPARTMENT**

☛ *Authorize the Monday, June 15, 2009 Payment of Claims (bills) for check numbers 027130 to 027185 as presented except the bills specifically pulled, which are passed by separate motion*

**MOTION BY** Council member Fay, seconded by Council member Vetsch to the authorize the Monday, June 15, 2009 Payment of Claims (bills) for check numbers 027130 to 027185 as presented except the bills specifically pulled, which are passed by separate motion. Motion carried unanimously.

**CITY CLERK** – no comments

**CITY COUNCIL**

*Oral Update on the STMA Ice Arena Board meeting (if applicable)*

Council member Wagner gave an overview of the STMA Ice Arena Board meeting that was held on Monday, June 8, 2009. Wagner displayed the Innovative Structure, which is an alternative building structure (fabric covering) that is being considered for the expansion of the STMA Ice Arena. There was discussion during the Arena meeting about raising the fees at the arena. It is still unknown as to where the funds for the expansion are going to come from. It will basically be up to the two cities to finance the project. It is the STMA Board's impression that the STMA School District will, most likely, not be financially supporting the expansion.

*Oral Update on the Planning and Zoning Commission meeting (if applicable)*

Council member Wagner reported that the Planning and Zoning Commission meeting was cancelled; therefore, there is nothing to report at this time.

**PLANNING AND ZONING**

*STMA Hockey Arena Expansion – Innovative Structures (discussion)*

City Planner Brixius displayed the information on Innovative Building Solution structures that was forwarded to him, which the STMA Hockey Board is considering using for the expansion of the ice arena. According to the 2005 Albertville Municipal City Code, there are building standards that require a certain amount of brick and face on structures constructed within the Albertville city limits. The proposed structure does not meet the building standards.

As stated in Appendix A: Zoning Ordinance; Chapter 1000: General Building and Performance Requirements, Section 1000.1: Purpose: The purpose of this chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the city. Furthermore, in Section 1000.4: Accessory Buildings, Uses and Equipment: Subsection I: Building Type and Standards: Part 1. The same or similar quality exterior building material shall be used in the accessory building and in the principal building. All accessory buildings shall also be compatible with the principal building on the lot. "Compatible" means that the exterior appearance of the accessory building is not different from the principal building from an aesthetic and architectural standpoint as to cause: a. A difference to a degree to cause incongruity as determined by the city council.

In Chapter 1100: General Yard, Lot Area and Building Regulations; Section 1100.1: Purpose: This chapter identifies yard, lot area, building size, building type and height requirements in each zoning district. Section 1100.4: Building Type and Construction: A. Exterior Materials: No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel, shall be permitted in any zoning district, except in association with farming operations or as allowed by section 1000.4 of this ordinance; and, B. Architecture and Aesthetics: Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare; and, C. Exterior Finishes: Exterior building finishes shall consist of materials comparable in grade and quality to the following: 1. Brick. 2. Natural stone. 3. Decorative concrete block. 4. Cast in place concrete or precast concrete panels. 5. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood or cypress. 6. Curtain wall panels of steel, fiberglass and aluminum (nonstructural, non-load bearing),

provided such panels are factory fabricated and finished with a durable non-fade surface, and their fasteners are of a corrosion resistant design. 7. Glass curtain wall panels. 8. Stucco. 9. Vinyl. 10. Other materials determined to be acceptable by the city council; and, D. Wall Area Calculation: For purposes of calculating exterior building material requirements, the total wall area of structures shall be calculated by taking the total solid surface area. The solid surface area shall encompass all exterior surfaces including any portion of overhead garage doors with windows but excluding all other windows and doors; and, E. Business Districts: Building type and construction requirements within business districts shall be governed by the applicable provisions of the respective zoning district in which a use is located; and, F. Industrial Districts: In industrial districts, all buildings constructed of curtain wall panels or finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or precast concrete panels on all wall surfaces. Except for walls that face a public right of way, the required wall surface treatment may allow a maximum of seventy five percent (75%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design. For building walls which face public rights of way or abut residential uses, the required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design.

In summary, the council needs to decide whether they want to amend the Albertville City Code to allow this type of structure or not. What is unknown is how durable the material used for the structure is – how will the sun affect the material – how does it hold up to various weather conditions. Another consideration to take into account is the cost of the structure and wondering how long the building last will. It was discussed as to whether or not a public facility should be held to the same standards as a private or commercial.

It is the general consensus of the Council that the City must be held to the same standard or higher than other commercial development. Knowing that redevelopment will be forthcoming, the proposed arena expansion should conform to the City's code.

No formal action was taken at this time as the Innovative Building Solutions was for discussion only.

## **ENGINEERING**

■ Approve **Resolution No. 2009-022** entitled a Resolution Accepting Low Bid for 2009 Sealcoat Project

**MOTION BY** Council member Fay, seconded by Council member Vetsch to approve **Resolution No. 2009-022** entitled a Resolution Accepting Low Bid for 2009 Sealcoat Project.

## **LEGAL**

☛ Accept the City Attorney's Report dated June 10, 2009

**MOTION BY** Council member Fay, seconded by Council member Vetsch to accept the City Attorney's Report dated June 10, 2009 as presented. Motion carried unanimously.

*Recommendation to offer \$24,143.50 to Hoey Advertising for Relocation Costs of the Billboard sign*

In 2007, the City of Albertville purchased property from Gerhard Knechtl in connection with planning for an interchange at CSAH 19 and Interstate 94. There was a billboard owned by Hoey Advertising located on that property, which had a lease on the Knechtl property that expired in September 2008. The City obtained an estimate from Scenic Sign Corp. to relocate the sign. Scenic Sign Corp. indicated that the sign was in good shape and could be relocated for \$22,150.00. At the time, the City planned for a three party agreement that would provide \$22,150.00 to Hoey Advertising to move the billboard to additional property owned by Knechtl. That agreement fell through when Hoey Advertising and Knechtl could not agree on the new location for the billboard and Hoey was never paid.

When city staff initially researched the issue, they concluded that since the City was not terminating Hoey's lease, but rather letting it expire according to its terms, Hoey was not entitled to relocation assistance and damages. However, after conferring with representatives from MNDOT, city staff now concluded that under the applicable Federal Uniform Relocation Act, Hoey does qualify for relocation benefits even if the City does nothing to impair Hoey's existing lease rights.

Hoey does qualify as a displaced person under the Federal Uniform Relocation Act. 42 USC 4601(6) states that a displaced person is any person who moves personal property from real property due to acquisition of that real property as part of a federally funded project. Hoey has now submitted a claim, through its attorney Marc Manderscheid, for payment of relocation expenses. The claim is for \$82,438.02, which Hoey seeks as reimbursement for tearing down the old sign, scrapping it, and erecting a new monopole sign with new sign faces. According to the 2005 Albertville Municipal City Code, the City's ordinances do not require that the new billboard signs be erected on a monopole sign.

Under the Federal Uniform Relocation Act, the City must now make a determination of relocation benefits Hoey is entitled to and make an offer to Hoey for relocation expenses under the Federal Uniform Relocation Act. Pursuant to 42 USC 24.10, Hoey can then either accept the City's offer or appeal the City's decision. The appeal goes to the City and the City must appoint an administrative hearing officer. In this case we would recommend that the City use an Administrative Law Judge from the Office of Administrative Hearings in St. Paul. They are independent of the City, have procedures in place to hold such a hearing and have held these types of hearings for government agencies in the past. By law, the City would have to pay the costs of the Administrative Law Judge (we were unable to get a cost estimate at this time). Once

the hearing officer made a determination as to the amount to be paid, either party could appeal to the Court of Appeals through a writ of certiorari.

The amount of payment is determined under federal regulations. Hoey's claim is for the relocation of a billboard. Under 49 CFR 24.301(f) the relocation of an advertising sign requires a payment of "the lesser of: (1) the depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or (2) the estimated cost of moving the sign, but with no allowance for storage." The City has an estimate that qualifies under (f)(2) and can be used as a basis for payment. The cost found by the estimate was \$22,150.00. However, the estimate was given in January 2006 and the sign was not moved until October 2008. Therefore, it should be adjusted for inflation. According to the consumer price index, the adjustment from January 2006 to October 2008 is approximately 9%. Therefore, the total amount suggested by the estimate and inflation is \$24,143.50.

Therefore, based on the analysis, staff recommends offering \$24,143.50 to Hoey Advertising for relocation costs. This amount is sufficient under any of the sections in the federal regulations.

**MOTION BY** Council member Wagner, seconded by Council member Sorensen to find that Hoey Advertising does qualify as a displaced person under the Federal Uniform Relocation Act for the relocation of its billboard that was on City purchased property and to authorize payment of \$24,143.50 in relocation compensation based upon Scenic Sign Company's estimate to move the Hoey billboard of \$22,150 and the remaining amount being an adjustment to this estimate for the increase in the consumer price index from the time the estimate was obtained in January, 2006. Motion carried unanimously.

*Charter Communications, Inc. Restructuring Update (for your information)*

Charter Communication, Inc. sent a written notification to the City regarding the restructuring of the business. Charter Communications, Inc. has filed a pre-arranged financial restructuring document under Chapter 11 of the Bankruptcy Code ("Reorganization"). Charter and its subsidiaries have continued to provide services to their customers as usual. Charter obtained authority from the Bankruptcy Court to continue paying franchise fees and amounts due under its Franchise Agreements, to use its cash for normal business operations, to continue to honor all of its current customer programs and to pay all of its vendors in the normal course of business.

According to the notice, Charter is asking the Albertville City Council to adopt a Resolution Consenting to the Reorganization. Staff would like to obtain additional information as to how this would affect the Albertville Franchise Agreement.

**MOTION BY** Council member Sorensen, seconded by Council member Wagner to table Resolution entitled Consent to Charter Restructuring that was submitted by Charter Communications, Inc. to allow City Attorney Couri time to obtain additional information and

details as to what is expected of the City of Albertville regarding the proposed filing of bankruptcy and the Cable Franchise Agreement. Motion carried unanimously.

#### **ADMINISTRATION**

##### *I-94 Westbound Collector-Distributor Road Final Design - Project Update (for your information)*

There was no discussion on the I-94 Westbound Collector-Distributor Road information.

##### *Accessory Building/Conditional Use Billing (discussion item)*

In April 2009, a resident of Albertville submitted a Development Application for a Detached Accessory Building, which required a Conditional Use Permit (CUP). It was brought to the Council's attention that the resident was questioning a recent invoice, in which they were billed for consultant fees for a variance.

It was brought up that the resident did not apply for a variance; therefore, the applicant felt they should not be charged for the review of a variance. However, staff acknowledged that the accessory building did not meet the 10-foot side-yard setbacks. The applicant was aware that they needed to move the structure prior to submitting the application.

By consensus, the City Council denied the applicants request to remove the consultant's fees for reviewing the variance.

#### **ANNOUNCEMENTS and or UPCOMING MEETINGS**

Mayor Klecker asked the Council to review the upcoming meetings and calendar of events, in which they added a Special meeting to be held on Monday, June 22 at 7:00 p.m. regarding the Noise Ordinance Violation against Full Moon Saloon Bar & Grill.

##### **June 2009**

**22 6:00 p.m. Joint Powers Water Board meeting**  
**29 7:00 p.m. Committee of the Whole Workshop (tentative)**

##### **July 2009**

**2 all day Independence Day observed – City Offices closed**  
**6 7:00 p.m. City Council meeting**

- 13 6:00 p.m. STMA Ice Arena Board meeting
- 14 7:00 p.m. Planning and Zoning Commission meeting
- 20 7:00 p.m. City Council meeting
- 26 6:00 p.m. Joint Powers Water Board meeting
- 26 7:00 p.m. Committee of the Whole Workshop (tentative)

**August 2009**

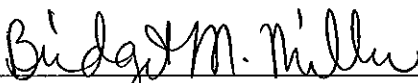
- 3 7:00 p.m. City Council meeting
- 10 6:00 p.m. STMA Ice Arena Board meeting
- 11 7:00 p.m. Planning and Zoning Commission meeting
- 17 7:00 p.m. City Council meeting
- 24 6:00 p.m. Joint Powers Water Board meeting
- 31 7:00 p.m. Committee of the Whole Workshop (tentative)

**September 2009**

- 7 all day Labor Day observed – City Offices closed
- 8 7:00 p.m. City Council meeting **(TUESDAY)**
- 9 7:00 p.m. Planning and Zoning Commission meeting **(WED.)**
- 14 6:00 p.m. STMA Ice Arena Board meeting
- 21 7:00 p.m. City Council meeting
- 28 6:00 p.m. Joint Powers Water Board meeting

**ADJOURNMENT**

**MOTION BY** Council member Wagner, seconded by Council member Sorensen to adjourn the Monday, June 15, 2009 regular City Council meeting at 9:20 p.m. Motion carried unanimously.

  
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Bridget Miller, City Clerk (recording secretary)