



**ALBERTVILLE CITY COUNCIL  
JUNE 1, 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 7:02 p.m., at which time the Council and those present recited the Pledge of Allegiance.

**ROLL CALL**

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

**ABSENT:** none

**OTHERS PRESENT:** Finance Director Tina Lannes and Public Works Supervisor Tim Guimont

**RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS**

No comments

**CITIZEN FORUM**

Jeff Lehn of 11558 – 57<sup>th</sup> Street NE expressed his disappointment of purchasing the 30-foot strip of land that lies north of his property from the City. Prior to the consideration of buying the land he did not experience water problems in his backyard. A construction company came in over the past month and dug out a drench or a swale near or through the 30-foot strip cause the water to drain closer to his lot. If Mr. Lehn would have known this is what was going to happen he would not have purchased the land. In 2008, when the transaction of the purchase took place City staff graded the land and it worked great. As was stated earlier, another entity came in a disturbed the work that the City did.

The question arose as to what the City could do to assist in correcting the dredging of the swale or drainage ditch. It was reported that the City has the authority to control or monitor the drainage and utility area throughout the City. If a resident or other company has altered the drainage, the City can do their best to find out who was responsible for the alteration of the drainage and enforce the Ordinance requiring the individual(s) to correct the situation.

Following the discussion, Council directed the City Engineer and Public Works Supervisor to visit the property to evaluate what appears to have transpired since the grading work was done by the City.

### **AMENDMENTS TO THE AGENDA**

Mayor Klecker looked to the Council and staff to find out if there were any changes to be made to the June 1, 2009 agenda. The following items were added:

- 9.I.1. Engineering - CSAH 37 West Utility Extension Project Private Utility Agreement
- 9.J.1. Legal – Dominion Utility Easement
- 9.K.2. Administration – Noise

**MOTION BY** Council member Wagner, seconded by Council member Sorensen to approve the Monday, June 1, 2009 regular City Council agenda adding the following items:

- 9.I.1. Engineering - CSAH 37 West Utility Extension Project Private Utility Agreement
- 9.J.1. Legal – Dominion Utility Easement
- 9.K.2. Administration – Noise

Motion carried unanimously.

### **MINUTES**

*May 18, 2009 regular City Council minutes*

**MOTION BY** Council member Wagner, seconded by Council member Sorensen to approve the Monday, May 18, 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.

**PUBLIC HEARING**

**I-94 DESIGN LAYOUT PRESENTATION; OPEN UP I-94 WESTBOUND COLLECTOR DISTRIBUTOR PROJECT FOR PUBLIC COMMENT; AND, APPROVE **RESOLUTION No. 2009-011** ENTITLED A RESOLUTION FOR LAYOUT APPROVAL**

Mayor Klecker opened the public hearing at 7:14 p.m.

Albertville's preferred I-94 layout has been submitted to the Minnesota Commissioner of Transportation, who has approved the final layout for improvement of the interchange access at CSAH 19 and CSAH 37 to I-94 within the Albertville city limits. City staff held an open house on Monday, June 1 from 4:30 p.m. to 6:30 p.m. to gather input for the general public. Four (4) individuals attended the open house and all had positive comments about the project and inquired when it was going to be constructed.

It was reiterated that this is the layout that MnDOT has approved. The purpose of the hearing to take public comments for and against the proposed layout. Following the hearing, the City Council will be asked to consider a resolution of support.

There were no public comments.

Mayor Klecker closed the public hearing 7:15 p.m.

**MOTION BY** Council member Sorensen, seconded by Council member Wagner to approve **Resolution No. 2009-011** entitled a Resolution for Layout Approval, which will be printed, signed and scanned; the scanned version will serve as the City's official copy. Mayor Klecker, Council members Sorensen, Wagner, and Fay voting in favor of the Resolution. Council member Vetsch opposed approval of the Resolution. Motion carried.

**VACATION OF ALLEY BETWEEN THE PROPERTIES OF 11548 57<sup>TH</sup> STREET NE AND 11558 57<sup>TH</sup> STREET NE WITHIN THE EULL'S ADDITION; OPEN UP VACATION OF ALLEY FOR PUBLIC COMMENT; AND, APPROVE **RESOLUTION No. 2009-020** ENTITLED A RESOLUTION APPROVING THE VACATION OF A PORTION OF AN ALLEY THAT LIES NORTH OF 57<sup>TH</sup> STREET NE AND SOUTH OF THE BURLINGTON NORTHERN RAILROAD WITHIN THE CITY OF ALBERTVILLE**

Mayor Klecker opened the public hearing at 7:16 p.m.

Staff demonstrated to the Council and public the location of the alley that the applicant is asking to be vacated. The alley is no longer in use for access to the property; therefore, is no longer needed.

Staff researched and reviewed the legal description, and following Council approval new legal descriptions will be drafted. After approval and new legal descriptions prepared, staff will

ensure that the new calculated legal description(s) will be recorded at the Wright County Government Center.

There was concern from the Council as to how the legal description(s) would be drafted. Staff would contact the resident or residents to schedule a time for a surveyor to visit the site to obtain the proper location of the alley and how it would be divided.

Mayor Klecker asked if there was anyone in the audience regarding the vacation of a portion of an alley way near the property of 11548 – 57<sup>th</sup> Street NE.

Kurt Neidermeier of 11548 – 57<sup>th</sup> Street NE confirmed that there are monument markers currently in place in the rear of his lot. Mr. Neidermeier was okay with staff's recommendation:

1. The portion of the alley being vacated shall be divided among the properties that abut the alley, based on parcel frontage to the alley;
2. New parcels and legal descriptions shall be established by adding the appropriate portion of the alley to the existing parcels;
3. New property markers shall be placed in the appropriate locations, at the expense of the property owners;
4. City Council shall approve a lot consolidation with the new legal descriptions;
5. The property owners shall record the new properties and legal descriptions with the County. The City shall receive copies of the recorded documents for their files;
6. The City shall retain a drainage and utility easement over the entire alley width; and
7. The City Clerk shall execute the necessary paperwork to complete the vacation of said portion of the alley.

Mayor Klecker closed the public hearing 7:21 p.m.

**MOTION BY** Council member Vetsch, seconded by Council member Fay to approve **Resolution No. 2009-020** entitled a Resolution Approving the Vacation of a Portion of an Alley that Lies North of 57<sup>th</sup> Street NE and South of the Burlington Northern Railroad within the City of Albertville as presented, which will be printed, signed, and scanned; the scanned version will serve as the City's 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.

Items

- **9.B.1. Public Works – Kalland Avenue NE Sidewalk**
- **9.B.2. Public Works – Accept PW Supervisor Report**
- **9.D.1. Building Dept. – Accept Building Officials Report**
- **9.E.1. Finance – Semi-monthly Payment of Claims (bills)**

No items were pulled from the June 1, 2009 Consent Agenda.

**MOTION BY** Council member Vetsch, seconded by Council member Fay to approve the Monday, June 1, 2009 Consent Agenda that included the following items:

- 9.B.1.** ● Approve the Parks and Recreation Committee's recommendation to accept the bids from French Lake Curb Co. to install approximately 800 feet of five foot wide side walk located on the west side of Kalland Avenue NE between 57<sup>th</sup> Street NE and Kantar Court NE in the amount not to exceed \$20,419
- 9.B.2.** ● Accept the Public Works Supervisor's Report dated May 27, 2009
- 9.D.1.** ● Accept the Building Official's Report dated May 26, 2009
- 9.E.1.** ● Authorize the Monday, June 1, 2009 Payment of Claims (bills) for check numbers **027088** to **027125**

Motion carried unanimously.

## **DEPARTMENT BUSINESS**

**FIRE DEPARTMENT** – no comments

### **PUBLIC WORKS DEPARTMENT**

● *Approve the Parks and Recreation Committee's recommendation to accept the bids from French Lake Curb Co. to install approximately 800 feet of five foot wide side walk located on the west side of Kalland Avenue NE between 57<sup>th</sup> Street NE and Kantar Court NE in the amount not to exceed \$20,419*

**MOTION BY** Council member Vetsch, seconded by Council member Fay the Parks and Recreation Committee's recommendation to accept the bids from French Lake Curb Co. to install approximately 800 feet of five foot wide side walk located on the west side of Kalland Avenue NE between 57<sup>th</sup> Street NE and Kantar Court NE in the amount not to exceed \$20,419.  
Motion carried unanimously.

☛ *Accept the Public Works Supervisor's Report dated May 27, 2009*

**MOTION BY** Council member Vetsch, seconded by Council member Fay to accept the Public Works Supervisor's Report dated May 27, 2009. Motion carried unanimously.

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

**BUILDING DEPARTMENT**

☛ *Accept the Building Official's Report dated May 26, 2009*

**MOTION BY** Council member Vetsch, seconded by Council member Fay to accept the Building Official's Report dated May 26, 2009. Motion carried unanimously.

**FINANCE DEPARTMENT**

☛ *Authorize the Monday, June 1, 2009 Payment of Claims (bills) for check numbers **027088** to **027125***

**MOTION BY** Council member Vetsch, seconded by Council member Fay to the authorize t the Monday, June 1, 2009 Payment of Claims (bills) for check numbers **027088** to **027125** as presented. Motion carried unanimously.

**CITY CLERK**

*Staff is looking for a Council member who would be available to attend the upcoming 2009 Local Board of Appeal and Equalization Training Session to be held by the Wright County Assessor's Office on **Tuesday, September 8, 2009**, from **1:00 p.m. - 4:00 p.m.** at the Wright County Government Center, 10 2nd St. NW in Room 120, Buffalo, MN 55313*

Council member Vetsch and Sorensen volunteered to attend the 2009 Local Board of Appeal and Equalization Training Session that will be held at the Wright County Government Center on Tuesday, September 8, 2009.

**CITY COUNCIL**

*Oral Update on the Joint Powers Water Board meeting (if applicable)*

A brief oral update was given on the May 26, 2009 Joint Powers Water Board meeting.

## **PLANNING AND ZONING**

Approve **Resolution No. 2009-021** entitled a Resolution Denying a Variance to the Side-yard Setback of 10 feet and Approving a Conditional Use Permit (CUP) for a Second Accessory Building over 150 square-feet located at 10690 56<sup>th</sup> Street NE within the City of Albertville

Council and staff were aware of the fact that a resident constructed a 216 square foot detached accessory building that is located seven feet from the west property line. According to the 2005 Albertville City Code, a Conditional Use Permit (CUP) and a Variance for the side-yard set back are required. The structure was constructed without prior approval; however, the applicant has submitted such application for review.

Below is a list of findings that were given as it pertained to the variance:

- Undue hardship will not result if the variance is denied because the parcel provides alternative locations for the shed to be located.
- The applicant is responsible for the current location of the detached accessory building.
- The building was constructed without prior building permit approval from the City.
- Staff and Planning Commission have recommended denial of the variance request.

The Findings of Facts relating to the Conditional Use Permit (CUP) are as follows:

- There is a demonstrated need and potential for continued use of the shed and storage.
- The shed has an evident function related to the principal use.
- The exterior finish of the shed is similar to the house.
- The request is compliant with Section 400.2F.
- Staff and Planning Commission have recommended approval of the conditional use permit.
- The following conditions are suggested to be placed upon the approval:
  - Applicant shall receive building permit approval;
  - The detached accessory building shall meet all setback requirements;
  - No commercial or home occupations may be conducted in either accessory buildings; and
  - Screening from the accessory building shall be provided on the side yard with a six foot privacy fence, running from the front of the garage to the back of the shed, and to be completed within one year of the conditional use permit approval.

There was discussion as to the type of screening from the front that should be used. Three (3) trees were recommended to breakup the view of the structure from the street. The applicant would like to install a 6-foot maintenance free privacy fence that would be connected up with the neighboring chain link fence.

The structure's intended use as of today is for storage of lawn and winter equipment; otherwise, storage of the resident's motorcycle. There was concern with future property owners who might turn the structure into a Home Occupational business, which the home owner would need to apply for a Home Occupational Permit that would be reviewed by the Building Official/Zoning Administrator to ensure it meets all the requirements.

**MOTION BY** Council member Vetsch, seconded by Council member Wagner to approve **Resolution Number 2009-021** entitled a Resolution Denying a Variance to the Side-yard Setback of 10 Feet and Approving a Conditional Use Permit (CUP) for a Second Accessory Building over 150 Square Feet located at 10690 56<sup>th</sup> Street NE within the City of Albertville as presented, that will be printed, signed, and scanned; the scanned version will serve as the City's official record. Motion carried unanimously.

*Approve **Ordinance No. 2009-010** entitled an Ordinance amending Section 11-9-4 (Agreement for Installation) and Section 11-9-5 (Financial Guarantee) of the Albertville Subdivision Regulations (Title 11) of the 2005 Albertville Municipal City Code, relating to deposit or security amounts required by the city and requirements of a bank issuing a letter of credit as presented, which a final copy will be printed and signed; the signed copy will be scanned; the electronic scanned version will be kept on file in the office of the City Clerk and serve as the official record*

Due to a recent incident staff has prepared an Ordinance Amendment to Section 11-9-4 (Agreement for Installation) and Section 11-9-5 (Financial Guarantee) of the Albertville Subdivision Regulations (Title 11) of the 2005 Albertville Municipal City Code, relating to deposit or security amounts required by the City and requirements of a bank issuing a letter of credit. The amendment proposed the following revisions:

1. To add language to the Subdivision Ordinance detailing the deposit or security amount required to be submitted by the applicant in a Developer's Agreement for the improvements involved in the platting process, whether through an escrow deposit, an irrevocable letter of credit, or a certified check to the City (Section 11-9-4B); and
2. To add language to the Subdivision Ordinance detailing the requirements if an irrevocable letter of credit is called for by the City (Section 11-9-5B).

The Ordinance Amendment was presented to the Planning and Zoning Commission at the Tuesday, March 10, 2009 regular meeting, in which they expressed concerns with restricting it to a bank that has a branch within 100-miles of the Albertville City Hall. The Commission felt this may discourage national developers from proposing projects in the Albertville city limits. Staff proposed and added language to the amendment, allowing the City council to make an exception to this requirement, which was presented to the Planning and Zoning Commission at the Tuesday, May 12, 2009 meeting.

Below is an additional revision that was recommended during the meeting.

The irrevocable letter of credit must be from a bank which is insured by the FDIC and which has a branch within 100 miles of the Albertville city hall where the letter of credit can be drawn upon, unless an exception TO THE 100 MILE LIMIT is approved by the City Council. All letters of credit must automatically renew annually unless the issuing bank sends the city a letter via certified mail at least 60 days prior to expiration notifying the city that the letter of credit will not be renewed upon its stated expiration date.

**MOTION BY** Council member Fay, seconded by Council member Wagner to approve **Ordinance No. 2009-010** entitled an Ordinance amending Section 11-9-4 (Agreement for Installation) and Section 11-9-5 (Financial Guarantee) of the Albertville Subdivision Regulations (Title 11) of the 2005 Albertville Municipal City Code, relating to deposit or security amounts required by the city and requirements of a bank issuing a letter of credit as amended adding “to the 100 mile limit” language, which a final copy will be printed and signed; the signed copy will be scanned; the electronic scanned version will be kept on file in the office of the City Clerk and serve as the official record. Motion carried unanimously.

#### **ENGINEERING**

*Authorize City staff to enter into an Encroachment Agreement with Xcel Energy regarding the installation and operation of municipal sewer and water systems within the CSAH 37 right-of-way, conditioned upon the review of the City Attorney, and to;*

*Authorize City staff to revise/amend the previously approved CSAH 37 Utility Extension plans such that the plans reflect the requirements of the existing electrical utility easement and can be constructed in accordance with the recorded easement documents. Potential revisions may include shifting the proposed utility alignments and/or eliminating the proposed 12-inch watermain. Revisions that increase the total construction contract amount shall be approved by the City Council.*

It was noted that Mr. Niemeyer completed his requirements for the Niemeyer Trailer Sales. The plat and other documents were brought to Wright County Government Center for recording on Thursday, May 28, 2009.

Following the recording, it was brought to staff’s attention that the utility extensions proposed, as part of the CSAH 37 Utility Extension project, are located in an easement Xcel Energy acquired by condemnation proceedings in 1992. Xcel Energy also informed the City that the work being proposed would require an encroachment and would be subject to the conditions of the recorded easement documents.

The Council approved construction plans have been reviewed by Xcel Energy. Xcel will permit the work and proposed locations of the utilities provided they are constructed in accordance with the terms of the easement and Xcel's encroachment agreement.

The contractor has been very patient during the process in working with the applicant as well as City staff as various issues arise. In addition to the recent knowledge of the recorded easement documents, the contractor has been very cooperative in assisting the City with the Xcel Energy situation.

**MOTION BY** Council member Wagner, seconded by Council member Fay to authorize City staff to enter into an Encroachment Agreement with Xcel Energy regarding the installation and operation of municipal sewer and water systems within the CSAH 37 right-of-way, conditioned upon the review of the City Attorney, and to; authorize City staff to revise/amend the previously approved CSAH 37 Utility Extension plans such that the plans reflect the requirements of the existing electrical utility easement and can be constructed in accordance with the recorded easement documents. Potential revisions may include shifting the proposed utility alignments and/or eliminating the proposed 12-inch watermain. Revisions that increase the total construction contract amount shall be approved by the City Council. With staff's recommendation:

1. Continue to work with Xcel Energy and the City's Contractor to coordinate, pole supporting, and de-energize of the lines to facilitate safe installation of the trunk water and sewer mains as proposed, and or with minor adjustments to their alignments if necessary.
2. If it is determined that the cost or timing of the installation of the municipal utilities, as proposed, is not feasible, eliminate the extension of the 12-inch trunk watermain and proceed with the single 8-inch watermain extension.

As previously approved, the City will initially fund the project in its entirety by issuance of a bond or an inter-fund loan. Any increase to the construction contract amount will be presented to Council for review. Other than the City's contribution to the lift station (\$48,592), which will be paid with sewer trunk funds, all project costs, including financing, will be paid through connection charges and or reimbursement by Niemeyer Trailer Sales. Motion carried unanimously.

## **LEGAL**

### *Dominium Management – Utility and Easement*

It was reported that the Dominium Management office contacted staff regarding the Utility Easement for the Albertville Meadows Townhomes located within Westwind 3<sup>rd</sup> Addition. Two (2) issues were raised; one involved an error in the legal description that was given to the City; second dealt with the Developers Agreement, in which some of the patios encroached over the easements by approximately twelve inches.

Staff looked to the Council to set the first meeting in July as a Public Hearing to deal with the two issue in the Westwind 3<sup>rd</sup> Addition.

**MOTION BY** Council member Fay, seconded by Council member Sorensen to set Monday, July 6, 2009 or a meeting soon thereafter to hold a Public Hearing relating to the Dominion Management Utility and Easement. Motion carried unanimously.

#### **ADMINISTRATION**

*Accept the City Administrator's Written Report dated May 27, 2009*

Council accepted the City Administrator's written report with no additional comments.

#### *Noise – Disturbing the Peace*

The topic of loud vehicle noise was brought up. Council would like the Wright County Sheriff's Department to be notified that Albertville residents are experiencing loud excessive vehicular noise around 57<sup>th</sup> Street NE and CSAH 19 area. Staff will inform the Sheriff's Department to issue a citation if possible to the individual violating the City Code. There was discussion about possibly ordering signage to be placed along CSAH 19 to let the general public know that the City will be enforcing the Noise Ordinance, which may or may not discourage residents from creating the excessive noise.

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

Mayor Klecker asked the Council to review the upcoming meetings and calendar of events. Klecker brought to the Clerk's attention the July meeting for the Joint Powers Water Board should be July 27, which will be corrected.

#### **June 2009**

<b>8</b>	<b>6:00 p.m.</b>	<b>STMA Ice Arena Board meeting</b>
<b>9</b>	<b>7:00 p.m.</b>	<b>Planning and Zoning Commission meeting</b>
<b>11-14</b>	<b>varies</b>	<b>Albertville Friendly City Days</b>
<b>12</b>	<b>5:00 p.m.</b>	<b>Albertville vs. St. Michael friendly challenge "Game On"</b>
<b>14</b>	<b>1:30 p.m.</b>	<b>Albertville FCD Grande Day Parade</b>
<b>15</b>	<b>7:00 p.m.</b>	<b>City Council meeting</b>
<b>22</b>	<b>6:00 p.m.</b>	<b>Joint Powers Water Board meeting</b>
<b>29</b>	<b>7:00 p.m.</b>	<b>Committee of the Whole Workshop (tentative)</b>

**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**

**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 mtg. (WEDNESDAY)**
- 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 Vetsch, seconded by Council member Wagner to adjourn the June 1, 2009 meeting at 8:48 p.m. Motion carried unanimously.

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Bridget Miller, City Clerk (recording secretary)