



**ALBERTVILLE CITY COUNCIL
SEPTEMBER 21, 2009
MINUTES**

ALBERTVILLE CITY HALL

7:00 PM

PLEDGE OF ALLEGIANCE – CALL TO ORDER

The September 21, 2009 regular City Council meeting was called to order at 7:00 p.m., in which the Pledge of Allegiance was recited.

ROLL CALL

PRESENT: Mayor Ron Klecker, Council members Tom Fay, Dan Wagner, John Vetsch, and Larry Sorensen

OTHERS PRESENT: City Administrator Larry Kruse, City Engineer Adam Nafstad, City Planner Alan Brixius, City Attorney Mike Couri, Public Works Supervisor Tim Guimont, and City Clerk Bridget Miller

ABSENT: none

RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS

STMA Women of Today – Presentation of Proclamation (to be distributed at the meeting)

Lisa Thomas of 11011 Frankfort Parkway NE of St. Michael presented a Proclamation to the Mayor and Council members. Mayor Klecker read the Proclamation that proclaimed Sunday, September 20 to Saturday, September 26, 2009 as Women of Today week.

Following the reading of the Proclamation, Ms. Thomas thanked the Mayor and Council for allowing them to come before the Council and proclaiming the week for Women of Today week.

CITIZEN FORUM – no comments

AMENDMENTS TO THE AGENDA

The following amendments were made to the agenda:

Remove:

8.H.1. Planning – Sprung Building Presentation (STMA Arena)

Add:

8.B.2. Public Works - Weeds

8.H.2. Planning – 152 Club CUP Re-review

8.K.2. Administration – New Library Branch

8.K.3. Administration – Guardian Angels Update

8.K.4. Administration – Full Moon Saloon and 152 Club Noise Complaints

MOTION BY Council member Sorensen, seconded by Council member Fay to approve the Monday, September 21, 2009 regular City Council agenda to remove item 8.H.1. Planning – Sprung Building Presentation and to include the following five (5) items: 8.B.2. Public Works – Weeds; 8.H.2. Planning – 152 Club CUP Re-review; 8.K.2. Administration – New Library Branch; 8.K.3. Administration – Guardian Angels Update; 8.K.4. Administration – Full Moon Saloon and 152 Club Noise Complaints. Motion carried unanimously.

MINUTES

September 8, 2009 regular City Council minutes

MOTION BY Council member Fay, seconded by Council member Sorensen to approve the Tuesday, September 8, 2009 regular City Council minutes as amended with the City Attorney's recommendations that will be incorporated into the minutes to reflect the correct update on the Prairie Run Development, that will be printed and signed; following 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.

There were four (4) items listed on the Consent Agenda that included the following: 8.B.1. Accepting the Public Works Supervisor's Report dated September 14, 2009; 8.E.1. Authorize the Monday, September 21, 2009 Payment of Claims (bills) for check numbers **027466** to **027520** as presented except the bills specifically pulled, which are passed by separate motion; 8.E.2. Approve the 2010-2011 Wright County Sheriff Department Contract for Police Protection for the City of Albertville; 8.F.1. Approve a Minnesota Lawful Gambling License for the St. Michael Lions Club to sell Raffle tickets throughout the Albertville city limits from January 1, 2010 to March 1, 2010, in which a drawing will take place on March 5, 2010 at St. Albert Parish Center located at 5700 Lander Avenue NE within the Albertville city limits.

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve the September 21, 2009 Consent Agenda that included the following items: 8.B.1. Accepting the Public Works Supervisor's Report dated September 14, 2009; 8.E.2. Approve the 2010-2011 Wright County Sheriff Department Contract for Police Protection for the City of Albertville; 8.F.1. Approve a Minnesota Lawful Gambling License for the St. Michael Lions Club to sell Raffle tickets throughout the Albertville city limits from January 1, 2010 to March 1, 2010, in which a drawing will take place on March 5, 2010 at St. Albert Parish Center located at 5700 Lander Avenue NE within the Albertville city limits, the following item 8.E.1. Authorize the Monday, September 21, 2009 Payment of Claims (bills) for check numbers **027466** to **027520** as presented except the bills specifically pulled, was pulled for further discussion and required separate motion. Motion carried unanimously.

DEPARTMENT BUSINESS

FIRE DEPARTMENT – no comments

PUBLIC WORKS DEPARTMENT

☛ *Accept the Public Works Department Report dated September 14, 2009*

MOTION BY Council member Wagner, seconded by Council member Sorensen to accept the Public Works Department Report dated September 14, 2009 as presented on the September 21, 2009 Consent Agenda. Motion carried unanimously.

Weed Concern

Council brought up the weeds near Culvers and Perkins, which do not appear to be maintained on an ongoing basis. Council also brought up the silt fence near Perkins that appears to need some attention.

Staff reported that Culvers has mowed the weeds a number of times this season, but not on a regular basis; it has been more on a relaxed/slow schedule. As for Perkins area goes; they have mowed a few times and City staff has mowed a few times.

Staff stated that the Perkins Development has been completed for a while and does not appear to have been kept up. Public Works Supervisor Guimont informed the Council that staff will meet with the owner's to discuss the two concerns.

UTILITIES DEPARTMENT (WWTP) – no comments

BUILDING DEPARTMENT – no comments

FINANCE DEPARTMENT

*Authorize the Monday, September 21, 2009 Payment of Claims (bills) for check numbers **027466** to **027520** as presented except the bills specifically pulled, which are passed by separate motion*

Council had a basic question in regards to check no. 027511 made payable to ROY C., INC in the amount of \$450.00, which was for repairs to the front doors at City Hall. The warranty period has expired and the locking mechanism was sticking. The company is familiar with the doors and is rather local.

Council then had a general question in regards to check no. 027517 made payable to WEIDNERS PLUMBING & HEATING CO in the amount of \$473.55 for repairs to a few thermostats at City Hall. Since Weidners Plumbing & Heating Co was familiar with the heating system, staff felt it was in the best interest to continue with them for repairs and maintenance.

MOTION BY Council member Fay, seconded by Council member Sorensen to authorize the Monday, September 21, 2009 payment of the claims that includes check numbers **027466** to **027520** as presented except the bills specifically pulled, which are passed by separate motion. Motion carried unanimously.

☛ Approve the 2010-2011 Wright County Sheriff Department Contract for Police Protection for the City of Albertville

MOTION BY Council member Wagner, seconded by Council member Sorensen to authorize the 2010-2011 Wright County Sheriff Department Contract for Police Protection for the City of Albertville as presented on the September 21, 2009 Consent Agenda, that will be signed and forwarded onto the Wright County Government for approval and signature. Motion carried unanimously.

CITY CLERK

☛ *Approve a Minnesota Lawful Gambling License for the St. Michael Lions Club to sell Raffle tickets throughout the Albertville city limits from January 1, 2010 to March 1, 2010, in which a drawing will take place on March 5, 2010 at St. Albert Parish Center located at 5700 Lander Avenue NE within the Albertville city limits*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve a Minnesota Lawful Gambling License for the St. Michael Lions Club to sell Raffle tickets throughout the Albertville city limits from January 1, 2010 to March 1, 2010, in which a drawing will take place on March 5, 2010 at St. Albert Parish Center located at 5700 Lander Avenue NE within the Albertville city limits as presented on the September 21, 2009 Consent Agenda. Motion carried unanimously.

CITY COUNCIL

Oral Update on the STMA Ice Arena Board meeting

Council member Wagner reported the main topic at the STMA Ice Arena Board meeting was the demonstration from the Sprung Building representatives. Apparently the representative will be at the next Council meeting presenting the type of structure the STMA Ice Arena wants to put up

Oral Update on the Albertville Planning and Zoning Commission meeting

Council member Wagner informed the Council that the Commission did a little housekeeping with a couple ordinance amendments that will be on the next agenda. The concerns regarding rezoning and setbacks for the homes along 54th Street NE was tabled to the October meeting; therefore, it won't be presented to the Council until November.

STMA School Grand Opening Ceremony

Mayor Klecker attended the STMA High School's Grand Opening, which was a very nice ceremony.

Monthly Mayor's meeting

Mayor Klecker and Council member Fay recently attended the monthly Mayor's meeting. The main topic of discussion was on Safety Preparedness. Klecker and Fay both felt the meeting was

very educational. Klecker noted that Albertville was recognized for the successful job of handling the bus accident in 2008 and the recent tanker accident in 2009.

Council member Fay reiterated what he mentioned earlier this year, which was to get the Albertville Mall more involved or more aware of the potential safety of the general public. Fay wants to be assured that the Albertville Premium Outlets management is prepared for the potential of a major incident.

Mayor Klecker wanted to make sure that staff was prepared in the case of an H1N1 potential outbreak. Staff acknowledged the Mayor's request to be prepared.

PLANNING AND ZONING

Sprung Building Presentation (STMA Arena)

Apparently there was an error in communication with Sprung Building Company and the presentation will be scheduled for the October 5, 2009.

Re-review of the 152 Club Conditional Use Permit

City Planner Brixius brought up the fact that City Hall staff has received an e-mail and a few phone calls regarding the downtown establishments. Brixius noted that according to the 152 Club CUP, the CUP is supposed to be re-evaluated in a year to see how things were going or progressing and whether conditions of the CUP need to be addressed.

As shared earlier, there have been a number of phone calls and an e-mail regarding the downtown establishments and installing a fence. In the CUP one of the conditions was to install or construct a fence along the property if the need arose. There is a resident who has had an increase in trash on their property since the re-development of the downtown. The owner has also experienced glaring headlights through the owner's windows.

Brixius continued by informing the Council that staff is strategizing and preparing a letter to the two (2) businesses that were part of the Downtown Re-development. Staff has been in contact with Deb Holm, the owner of the 152 Club, and is aware that a letter is forthcoming.

Brixius was basically looking for Council direction on how to proceed. Mayor Klecker and the Council were on board with staff doing their best to enforce the fence portion of the CUP.

ENGINEERING

Written Update on Kalland Avenue NE Sidewalk and Adopt one (1) of the four (4) Options

City Engineer Nafstad drafted four (4) options per Council direction at the September 8, 2009 Council meeting. Below are the four (4) options for Council to consider regarding the Kalland Avenue NE sidewalk issue/concern.

Option 1: Remove and Replace Sidewalk at an estimated cost of \$46,400. This is the staff recommended option that will provide the desired walkway and achieve accessibility compliance. This option assumes the Contractor is paid \$20,400 for the original walk and \$12,000 for the replacement walk. It is estimated that approximately \$14,000 of driveway patching will be required with this option. It is also assumed Public Works will be responsible for all removals, yard grading, topsoil and turf restoration, and their associated costs. It should be noted that this option will require modification to driveway and yard grades. To accommodate the required sidewalk grades, driveway slopes will have to be increased. This option will require close coordination with the effected residents, whom may not like the necessary impacts to their driveways and yards. Costs associated with overhead and engineering have not been included in the above estimate.

Option 2: Remove Sidewalk and Restore Boulevard with Turf at an estimated cost of \$27,400. This option assumes the entire sidewalk is removed and standard residential concrete aprons are installed at all driveways. It is also assumed Public Works will be responsible for all removals, yard grading, and topsoil and turf restoration, and their associated costs.

Option 3: Remove Portions of the Sidewalk at an estimated cost of \$24,400. This option addresses the sidewalk in front of the driveway closest to 57th Street, which has a cross-slope that exceeds 12%. This option assumes that the entire driveway will have to be replaced, as well as, approximately 100' of walk. This option will require yard grading and assumes Public Works will be responsible for all removals, grading, and turf restoration. This option does not achieve accessibility compliance.

Option 4: Accept Sidewalk As-Constructed at an estimated cost of \$20,400. This option assumes the sidewalk is accepted as-constructed and does not achieve accessibility compliance.

After listening to staff's options, evaluating the situation and taking into account the potential liability the majority of the Council wanted to correct the sidewalk concerns as soon as possible. The Council realized there were no funds in the budget to correct the sidewalk, but did not want to take a risk that the sidewalk issue would be forgotten if they corrected it in the near future.

Having discussed the options and taking into consideration of potentially putting the general public at risk of injury the Council made the following motion:

MOTION BY Council member Vetsch, seconded by Council member Wagner to approve **Option 1:** Remove and Replace Sidewalk at a cost not to exceed \$46,400. This is the staff recommended option that will provide the desired walkway and achieve accessibility compliance. This option assumes the Contractor is paid \$20,400 for the original walk and \$12,000 for the replacement walk. It is estimated that approximately \$14,000 of driveway patching will be required with this option. It is also assumed Public Works will be responsible for all removals, yard grading, topsoil and turf restoration, and their associated costs. It should be noted that this option will require modification to driveway and yard grades. To accommodate the required sidewalk grades, driveway slopes will have to be increased. This option will require close coordination with the effected residents, whom may not like the necessary impacts to their driveways and yards. Costs associated with overhead and engineering have not been included in the above estimate. Motion carried unanimously.

Written Update on Four Season Parks Tennis Court(s)

City Engineer Nafstad gave an update on the Four Season Park Tennis Court, in which staff obtained quotes from various vendors for park improvements that included removing and replacing the bituminous surface of the tennis court and color surfacing of both the tennis court and basketball court. Upon removal of the old tennis court pavement, unsuitable soils and very wet conditions were encountered. In order to correct the soil condition and minimize potential costs associate with construction delays, staff directed the Contractor to correct the unstable soils to a depth of 30-inches and construct pavement section that included drain tile, geotextile fabric, sand and aggregate base. The additional work added approximately \$34,000 to the project cost.

Nafstad concluded by informing the Council that to date, the soil correction has been completed and the first lift of bituminous has been placed. It is anticipated that the second lift of pavement will be placed during the week of the 14th, with fence and turf restoration to follow immediately. The colored topcoat for both the tennis and basketball courts will be painted in the spring 2010.

No action necessary as this was an update on the Park Improvement within the Four Seasons Park.

LEGAL

*Approve City of Albertville **Resolution No. 2009-033** entitled Consent to Charter Restructuring*

City Attorney Couri implied that this is a technical matter requiring formal City approval of the change in ownership of Charter. Charter Cable Company filed for federal bankruptcy protection under Chapter 11 of the bankruptcy code in March 2009. As part of its restructuring in bankruptcy, Charter is issuing new stock to its former bondholders. Technically, this constitutes a change of ownership which requires the City's consent under state law and the City's franchise

agreement. The change of ownership has no impact on Charter's franchise obligations with the City.

The following motion was made:

MOTION BY Council member Fay, seconded by Council member Sorensen to approve a City of Albertville **Resolution No. 2009-033** entitled Consent to Charter Restructuring as presented, that will be printed, signed, recorded, and kept in the office of the City Clerk.. Motion carried unanimously.

*Approve **Ordinance No. 2009-016** entitled an Ordinance Requiring Registration of Vacant Buildings*

Staff reported there is an increasing number of foreclosures has resulted in a number of problems that have impacted the City, including lawns not mowed, homes not secured due to vandalism, disrepair, decay, etc., and frozen pipes with large volumes of water dumping into the home resulting in severe damage to the home. When these problems occur, it consumes staff time and resources in trying to locate the owner, coordinating repairs with the owner or bank that may be in the process of foreclosing, and dealing with complaints from neighbors.

The proposed vacant building registration ordinance requires the property owner to register a vacant building with the City, and pay a \$100 annual registration fee to cover the City's costs in inspecting the property and dealing with ordinance issues that arise related to the property.

There was concern from the Council regarding the \$100 registration fee and who would be responsible for paying this fee. Council expressed another concern regarding the Public Works employees utilizing city time to mow these vacant properties instead of tending to daily city maintenance and operations. Council felt Public Works or Utilities Department employees could better utilize this time towards other city projects.

MOTION BY Council member Fay, seconded by Council member Wagner to approve **Ordinance No. 2009-021** (originally presented as Ordinance No. 2009-016) entitled an Ordinance Requiring Registration of Vacant Buildings as presented. Upon approval of Ordinance No. 2009-016, staff realized that the Planning and Zoning Commission was in the process of approving an ordinance number Ordinance No. 2009-016; therefore, staff did their best to correct the numbering of the ordinance and renumbered the ordinance to be Ordinance No. 2009-021 that will be printed, signed, recorded, and kept in the office of the City Clerk. Motion carried unanimously.

Approve Agreement for Waiver of Objection to Special Assessment for SAC and WAC Charges

City Attorney Couri informed the Council that Albertville Marketplace, LLC (Phil Morris) has applied for a building permit to construct a gas station/convenience store/restaurant on lot 2 of Albertville Marketplace. The City Engineer has calculated the SAC charge to be \$50,600.00 and the City-portion of the WAC charge to be \$10,450.00. The Developer is now requesting that the City special assess the combined \$61,050.00 in SAC and WAC charges to the property as a means of making it easier for the Developer to cash flow the start-up costs of the project (the Developer has paid the \$20,702 Joint Powers portion of the WAC fee). The City has special assessed SAC and WAC fees to other restaurants and buildings in the past, including Perkins, D. Michael B's and the Country Inn and Suites. The attached agreement requires the Developer to waive its right to appeal the special assessment to District Court.

Couri noted the key issues relating to the special assessment of SAC and WAC, which included:

- The assessment is proposed to be over a three year period at 6.2% interest.
- The assessment becomes a lien on the property collectible with the taxes, and thus has priority over all mortgages and other liens that may come onto the property.
- The proposed 6.2% interest rate represents a much better rate of return than what the City can earn on its investments

MOTION BY Council member Vetsch, seconded by Council member Fay to approve the Albertville Marketplace (Lot 2, Block 1) Agreement for Waiver of Objection to Special Assessment for SAC (\$50,600) and WAC (City-portion \$10,450) Charges; in which the Developer has requested that the City Special Assess the combined \$61,050 in SAC and WAC charges to the property known as Lot 2 of Albertville Marketplace and be it known that the Developer has paid the \$20,702 Joint Powers Water Board portion of the WAC charges; in addition, the approval of this agreement will delay payment of the \$61,050 over a three-year period at 6.2% interest. Motion carried unanimously.

Accept the City Attorney's Report dated September 16, 2009

City Attorney Couri asked the Council if they had any questions or wanted additional information relating to the information or topics in the Attorney's report. There were no questions or comments from the Council.

City Attorney Couri then asked the Council to make a motion correcting the motion regarding the Amendment to the Planned Unit Development Agreement for Towne Lakes 6th Addition. The motion should be reversed.

MOTION BY Council member Sorensen, seconded by Council member Wagner to correct the Tuesday, September 8, 2009 regular Council minutes relating to the *approval of the AMENDMENT TO PLANNED UNIT DEVELOPMENT AGREEMENT TOWNE LAKES 6TH ADDITION; and approve AGREEMENT RELATING TO COST OF UTILITY INSTALLATION*, which should read as follows: approve the AGREEMENT RELATING TO THE COST OF UTILITY INSTALLATION; and, the AMENDMENT TO THE PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT

FOR TOWNE LAKES 6TH ADDITION subject to the city receiving a temporary and or permanent easement for the trail on Outlot B, and subject to any minor technical changes by M & I Bank. Motion carried unanimously.

ADMINISTRATION

Oral City Administrator's Update

Noise Complaints

City Administrator Kruse updated the Council on the 'Downtown' business establishments. Kruse was pleased to report that the door prompting is being handled; as well as the direction of the band is being taken care of. The current situation that has arisen may have to deal with the "Clean-Air" act that went into effect in October 2008, in which patrons or customers are not allowed to smoke within a restaurant or other type of business establishment.

Over the past months, it has been noticed that more and more customers are out on the sidewalk, street or in the parking lot areas enjoying a cigarette with a possible alcoholic beverage in hand. Staff reported that Full Moon Saloon & Bar has constructed a handicap ramp/deck, in which people are congregating on. Staff has notified the owner that a Building Permit is required for the deck.

There was discussion between staff and the Council as to whether the Council would like to get stronger with enforcing the noise complaints. There was no specific direction given from the Council as to whether or not to have staff get more forceful in enforcing the Albertville City Code.

Staff will basically continue to monitor and research more as to why individuals are outdoors and if the customers have an alcoholic beverage in their hand or not.

ANNOUNCEMENTS and or UPCOMING MEETINGS

Mayor Klecker acknowledged the upcoming meetings and calendar of events. There was a recommendation to set a meeting to discuss, review, and approving the Memorandum of Understanding Between St. Michael, Albertville, and Hanover for Construction and Maintenance of a New Branch Library.

MOTION BY Council member Sorensen, seconded by Council member Wagner to set a Special Council meeting for Wednesday, September 30, 2009 following the Joint STMA School Board, City of Albertville, and City of St. Michael meeting to discuss, review, and approve the Memorandum of Understanding Between St. Michael, Albertville, and Hanover for Construction and Maintenance of a New Branch Library. Motion carried unanimously.

September 2009

- 28 6:00 p.m.** Joint Powers Water Board meeting
- 28 7:00 p.m.** Committee of the Whole Workshop (tentative)
- 30 6:00 p.m.** Jt. Cities of Albertville & St. Michael and STMA School Board mtg (new STMA High School)

October 2009

- 5 7:00 p.m.** City Council meeting
- 12 all day** Columbus Day observed – City Offices closed
- 12 6:00 p.m.** STMA Ice Arena Board meeting
- 12 7:00 p.m.** Family-Youth Community Cooperative (FYCC)
- 13 7:00 p.m.** Planning and Zoning Commission meeting
- 19 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)

November 2009

- 1 2:00 a.m.** Daylight Savings Ends
- 2 7:00 p.m.** City Council meeting
- 9 6:00 p.m.** STMA Ice Arena Board meeting
- 10 7:00 p.m.** Planning and Zoning Commission meeting
- 11 all day** Veterans' Day observed – City offices closed
- 16 7:00 p.m.** City Council meeting
- 23 6:00 p.m.** Joint Powers Water Board meeting
- 26 all day** Thanksgiving Day observed – City offices closed
- 30 tentative Jt. City of Albertville; City of St. Michael and STMA School Board meeting** (location to be determined)

December 2009

- 7 6:30 p.m.** Truth-in-Taxation Hearing
- 7 7:00 p.m.** City Council meeting
- 8 7:00 p.m.** Planning and Zoning Commission meeting
- 14 6:00 p.m.** STMA Ice Arena Board meeting
- 21 6:30 p.m.** Truth-in-Taxation Hearing (if necessary)
- 21 7:00 p.m.** City Council meeting
- 23 1:30 p.m.** Christmas Day observed – City offices closing early
- 24 all day** Christmas Day observed – City offices closed
- 26 6:00 p.m.** Joint Powers Water Board meeting
- 26 7:00 p.m.** Committee of the Whole Workshop (tentative)
- 31 1:30 p.m.** New Year's Day observed – City offices closing early

ADJOURNMENT

MOTION BY Council member Sorensen, seconded by Council member Wagner to adjourn the Monday, September 21, 2009 regular City Council meeting at 9:13 p.m. Motion carried unanimously.

Bridget Miller, City Clerk (recording secretary)