



**ALBERTVILLE CITY COUNCIL**

**June 7, 2010**

**MINUTES**

**ALBERTVILLE CITY HALL**

**7:00 PM**

**CALL TO ORDER – PLEDGE OF ALLEGIANCE**

Mayor Klecker called the meeting to order and led in the Pledge of Allegiance.

**ROLL CALL**

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

**OTHERS PRESENT:** City Administrator Larry Kruse, City Engineer Adam Nafstad, City Planner Al Brixius, City Clerk Bridget Miller, and City Attorney Mike Couri

**ABSENT:** none

**AMENDMENTS TO THE AGENDA**

The Monday, June 7, 2010 agenda was amended as follows:

Council member Fay requested to add item 9.K.3. under Administration – Wright County Economic Partnership discussion

CMs Fay/Vetsch **motioned** to approve amendments made to the June 7, 2010 agenda adding item 9.K.3. Administration – Wright County Economic Partnership as a discussion item. 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 or citizen so requests. In such event, the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.

There are seven (7) items listed on the June 7, 2010 Consent Agenda, of which three (3) items were pulled. A motion was made approving the remaining five (5) items.

CMs Vetsch/Sorensen **motioned** to approve the June 7, 2010 Consent Agenda item 8.E.1. Authorize the Monday, June 7, 2010 Payment of Claims (bills) for check numbers **028428 to 028502** (check no. 028453 was duplicate); 8.F.2. Approve a One-Day 3.2% Malt Liquor License application that has been submitted by the STMA Women of Today for a Beer Tasting Membership Drive Event to be held on Friday, June 18, 2010 at the Country Inn & Suites located at 6554 Lamplight Drive NE in Albertville from 6:30 p.m. to 9:30 p.m.; 8.F.4. Accept the St. Albert Catholic Church request to semi-block off Lander Avenue NE; the portion that runs between the St. Albert Catholic Church and St. Albert Parish Center for the annual Parish Festival celebration that will be held on Saturday, July 17 from 5:00 p.m. to 10:00 p.m. and Sunday, July 18 from 6:00 a.m. to 7:00 p.m.; and, 8.F.5. Approve two (2) One-Day 3.2% Malt Liquor License Applications have been submitted by the St. Albert Catholic Church for the annual Parish Festival celebration that will be held on Saturday, July 17 with the hours of operation from 4:00 p.m. to 10:00 p.m. and Sunday, July 18 from 10:30 a.m. to 5:00 p.m. Motion carried unanimously.

## **DEPARTMENT BUSINESS**

### **BUILDING DEPARTMENT**

*Accept the Building Official's April 2010 Building and Zoning Department Report dated May 24, 2010*

Building Official's April 2010 Report was acknowledged with no comments heard from the Council.

### **FINANCE DEPARTMENT**

☛ *Authorize the Monday, June 7, 2010 Payment of Claims (bills)*

CMs Vetsch/Sorensen **motioned** to authorize the Monday, June 7, 2010 Payment of Claims (bills) for check numbers **028428 to 028502** as presented that will be scanned with supporting

documents; the electronically scanned version will be kept on file in the office of the Finance Director that will serve as the City's official record. Motion carried unanimously.

*Approve **Resolution No. 2010-016***

This item was pulled from the Consent Agenda to give any individual an opportunity to dispute the proposed Certification to Real Estate Taxes. City Attorney Couri acknowledged there was no one in the audience. At this point of the meeting the only citizens present were the City Council, City staff and Consultants.

CMs Sorensen/Fay **motioned** to approve **Resolution No. 2010-016** entitled a Resolution Certifying the 2010 First Quarter of Uncollected Utility Bills and Uncollected Invoices to Wright County for Collection with Real Estate Taxes as presented, the signed copy will be scanned and retained as the official City record. Motion carried unanimously.

**CITY CLERK**

*Approve May 17, 2010 regular City Council minutes*

Mayor Klecker pulled the minutes from the Consent Agenda as he was not present; therefore, should not be voting on the approval of the minutes.

CMs Sorenson/Fay **motioned** to approve the May 17, 2010 regular Council minutes as presented, the signed copy will be scanned and retained as the official City record. Council members Sorenson, Fay, Wagner, and Vetsch voted aye. Mayor Klecker abstained. Motion carried.

☀ *Approve a One-Day 3.2% Malt Liquor License Application*

CMs Vetsch/Sorenson **motioned** to approve a One-Day 3.2% Malt Liquor License application that has been submitted by the STMA Women of Today for a Beer Tasting Membership Drive Event to be held on Friday, June 18, 2010 at the Country Inn & Suites located at 6554 Lamplight Drive NE in Albertville from 6:30 p.m. to 9:30 p.m. Motion carried unanimously.

*Approve the St. Albert Catholic Aid's Minnesota Lawful Gambling LG240B Application*

Mayor Klecker requested to pull this gambling permit from the Consent Agenda for clarification on the number of times bingo would be played at the St. Albert Parish Center during the 2010 calendar year.

Council member Vetsch informed the other members that the St. Albert Catholic Church has held two (2) bingo games throughout the year. The application is deceiving as it appears there is the potential of more than four (4) events where bingo is going to be played from June 12, 2010 to November 14, 2010. As Vetsch interprets the application, it reads there will be two (2) games played: one (1) in the spring June 12, 2010 and one (1) in the fall November 14, 2010.

CM Fay/Mayor Klecker **motioned** to approve the St. Albert Catholic Aid's Minnesota Lawful Gambling LG240B application to Conduct Excluded Bingo on Saturday, June 12, 2010 and Sunday, November 14, 2010 at the St Albert Parish Center located at 5700 Lander Avenue NE and or 11458 – 57<sup>th</sup> Street NE within the Albertville city limits. Motion carried unanimously.

■ *Accept the St. Albert Catholic Church request to semi-block off Lander Avenue NE*

CMs Vetsch/Sorenson **motioned** to approve the St. Albert Catholic Church request to semi-block off Lander Avenue NE; the portion that runs between the St. Albert Catholic Church and St. Albert Parish Center for the annual Parish Festival celebration that will be held on Saturday, July 17 from 5:00 p.m. to 10:00 p.m. and Sunday, July 18 from 6:00 a.m. to 7:00 p.m.

■ *Approve two (2) One-Day 3.2% Malt Liquor License Applications*

CMs Vetsch/Sorenson **motioned** to approve two (2) One-Day 3.2% Malt Liquor License Applications that have been submitted by the St. Albert Catholic Church for the annual Parish Festival celebration that will be held on Saturday, July 17 with the hours of operation from 4:00 p.m. to 10:00 p.m. and Sunday, July 18 from 10:30 a.m. to 5:00 p.m.

## **PLANNING AND ZONING**

*Adopt (approve) **Resolution No. 2010-015***

City Planner Brixius began by stating there are three (3) conditional use permits that were submitted by Steve Mruz of Pro-Tech Marine. There was a need for three (3) permits to meet the applicant's intended use of the site. The main purpose of the property will be for outdoor storage of boats; however, there will be a small dedicated concrete area for outdoor retail display. The applicant is fully aware that the display is to be contained within the concrete slab of cement.

The Planning and Zoning Commission reviewed the application at the May 11, 2010 meeting and determined that the amount of parking is sufficient for the site. When Pro-Tech Marine was located off of MacKenzie Avenue NE the parking lot was generally vacant.

Brixius briefly went over the seven (7) key issues that included:

1. Pro-Tech Marine relocated to 5720 Barthel Industrial Drive NE without obtaining proper zoning and building approvals.
2. Upon notification by the City, Pro-Tech Marine submitted application and plans for the necessary development applications to allow their occupancy.
3. The site is zoned I-1, Limited Industry. This district allows major auto repair as a permitted use. This use will include marine and boat repair.
4. The applicant is pursuing a conditional use permit for outdoor sales display to utilize an existing improved display area.
5. Within the I-1 Zoning District accessory retail sales requires a conditional use permit.
6. Boat storage is integral to Pro-Tech Marine operations. Outdoor storage is a conditional use in the I-1 District. All outdoor storage must be fenced and screened.
7. The site currently has a paved parking area large enough to accommodate eight to nine parking stalls. Based on historical parking demand, the Planning Commission recommended an exception to the required 11 parking stalls, rather than requiring paving for two to three additional stalls.

Council expressed concern with the signage, which Brixius commented a Sign Permit is required for the site. Another part of the application that came up for discussion was the outdoor storage as to whether it will be new or used. Staff was not sure if the display will be new or used boats. Last comment dealt with the retail sales that staff noted would be small parts for boats or marine items. The total area within the building that will be dedicated towards retail sales space is 1,300 square-feet.

Council member Sorensen questioned one of the paragraphs within the Resolution that talked about a variance. Staff acknowledged the comment and noted that was an error in the preparation of the resolution. Staff assured the Council that a revised Resolution will be e-mailed to the City Clerk prior to signing.

CMs Wagner/Fay **motioned** to adopt (approve) **Resolution No. 2010-015** entitled a Resolution Approving Conditional Use Permits for Outdoor Display of Sales Goods; Accessory Retail Sales within an I-1 Limited Industrial Zoning District; and Outdoor Storage for Property located at 5720 Barthel Industrial Drive NE within the Albertville city limits as amended removing the portion that deals with a variance. Motion carried unanimously.

*Adopt (approve) Resolution No. 2010-014*

City Planner Brixius reported that Brian Berning discussed the potential of adding a third garage stall to his existing dwelling with Jon Sutherland. Building Official Sutherland advised Mr. Berning that he would need to submit a Developer's Application as the location of the garage extends into the side or rear yard setback.

The application was presented and reviewed by the Planning and Zoning Commission at the Tuesday, May 11, 2010 regular Planning and Zoning Commission meeting. Below is a list of key issues as an outcome of the commission meeting.

**KEY ISSUES:**

The following findings are made consistent with the city zoning ordinance in support of the requested variance.

1. The proposed garage expansion is a permitted accessory use within the R-1 zoning district.
2. The lot is unique in that the block arrangement creates two front yards with adjoining lots oriented to either 55<sup>th</sup> Street NE or Lake Avenue NE.
3. The house placement and orientation to Lake Avenue NE maintains the design continuity with all the other homes along Lake Avenue NE.
4. The requested Variance would mimic the required 10 foot side yard setback of the lot to the north, maintaining the design continuity of this block.
5. The proposed variance would not impair light or air to the adjoining lots, will not endanger public safety and will not diminish property values.

The following conditions are included with recommended approval:

1. The applicant must submit plans and secure a building permit for the proposed garage addition. The plans must show a reduction in the size of the addition so that the accumulative garage floor area of both the existing and proposed garage does not exceed 1,000 sq. ft. using the exterior dimensions of the building.
2. The proposed garage shall be set back a minimum of 10 feet from the north lot line.
3. Prior to building permit approval, the applicant shall either submit a survey of the property showing the exact boundary locations and the proposed 10 foot rear yard setback, or locate the property monuments and verify the setbacks on the site with the building official.

Council was in agreement with the proposed application to allow for the variance for Brian Berning to construct a third (3) stall to existing attached garage.

CMs Fay/Vetsch **motioned** to adopt (approve) **Resolution No. 2010-014** entitled a Resolution Approving a Rear Yard Setback Variance for an Attached Garage located at 5543 Lake Avenue NE within the Albertville city limits. Motion carried unanimously.

*Advertise and Interview applicants for Vacancy on Commission AND Appoint a Member*

It was brought up that there was a vacancy on the Planning and Zoning Commission. The Commission interviewed a couple of applicants, which Mr. Totman was more qualified to serve on the Commission. Council member Wagner noted that he was present when the commission interviewed and was impressed with Mr. Totman.

CMs Wagner/Sorensen **motioned** to accept the Planning and Zoning Commission's recommendation to advertise and accept applications to fill the vacancy on the Planning and Zoning Commission AND to appoint Brian Totman to fill the vacancy on the Planning and Zoning Commission for a three-year term effective immediately. Motion carried unanimously.

**LEGAL**

*Amend Shoppes at Prairie Run Developer's Agreement*

City Attorney Couri began by explaining to the Council that staff is doing their best to monitor the Letters of Credit for various developments throughout Albertville. However, because of the current economic times, there is not much being developed or property under construction. In review of other agreements that require a Letter of Credit, staff has prepared an amendment to the Developer's Agreement to work around the situation of Letters of Credit expiring and attempting to obtain an updated one.

What do these Letters of Credit do? An example is in the Shoppes at Prairie Run, the City is currently in possession of a Letter of Credit posted by the Developer to secure the installation of landscaping on 2 vacant lots in the Shoppes at Prairie Run plat. This type of landscaping typically does not get installed until the building is constructed. All other work required under the Developer's Agreement has already been completed. Because the Developer does not know when these two lots will develop, the Developer has requested that the City amend the Developer's Agreement to allow the Letter of Credit be released and allow the City to require the lot's owner to post a cash escrow for the landscaping amount at such time as the owner requests a building permit. This would free up the Developer's Letter of Credit, but still protect the City at the time the lot is going to be built upon. The City has used this arrangement in other commercial developments recently.

Couri noted "what are the key issues":

- The City would give up the Letter of Credit it currently holds in exchange for the right to refuse to issue a building permit until a cash escrow for landscaping is deposited with the City. Assuming the City is not going to require the installation of landscaping until the building is constructed, the City will remain secured by the ability to withhold building permits if the proper cash escrow is not posted first.
- This arrangement is financially easier on the Developer as it costs the Developer an annual fee to keep the Letter of Credit in place year after year.
- As part of the Amended Agreement, the Developer has to clean up the lots, put them in mowable condition, and replace any dead trees and plantings.

Couri went on to explain that the City is not required to approve this Amendment and may choose to keep the Developer's Agreement as written. Given the number of existing commercial buildings for rent in the City, it is likely going to be many years before a new building is constructed on the lots in this plat. Given this likelihood, the proposed amendment would essentially close out the Letter of Credit and allow the vacant lands to lie dormant for an extended period of time without the need for the Developer to incur annual financial fees.

As Couri continued, he noted that provided the City does not intend to have the vacant lots landscaped, this amendment will have no financial impact upon the City. If the City does want the vacant lots landscaped (much of which would likely need to be removed upon construction of a building), releasing the Letter of Credit would leave the City with no practical security if the Developer refused to landscape the vacant lots.

CMs Wagner/Vetsch **motioned** to approve an amendment to the Shoppes at Prairie Run Planned Unit Development/Conditional Use Permit (PUD)/CUP) Agreement as presented at the meeting. Motion carried unanimously.

*Approve Ordinance No. 2010-001*

City Attorney Couri started off by sharing the information that in 2009, the State Legislature passed a number of changes to the dangerous dog laws. Among other things, these changes now require that a City that has a dangerous dog ordinance, which Albertville currently does, provide for an administrative hearing process for someone to appeal the designation of their dog as a dangerous dog or potentially dangerous dog (a dangerous dog is generally one that has bitten a person or another domesticated animal). This will require a change in Albertville's dangerous dog ordinance.

Couri reported that Wright County recently passed its own dangerous dog ordinance that will be effective in cities that wish to opt out of enforcing their own dangerous dog ordinance. The County has set up an administrative hearing panel using personnel from one of the local humane society chapters as the hearing officer. The County will handle all procedures under their

ordinance, essentially allowing the cities to hand off all of the dangerous dog enforcement responsibilities to the County.

Couri touched on the positive aspects on having the City of Albertville opt out of enforcing their own dangerous dog ordinance and taking Wright County up on the offer to serve as the enforcer. The benefits include the following:

- The County is willing to handle all dangerous dog enforcement within the City of Albertville.
- The City will not have to make arrangements for a hearing officer to hear dangerous dog appeals, nor will the City have to modify its ordinance to meet the new State law.
- The City could change its mind at any point in the future and enact its own dangerous dog ordinance if it did not like the way the County was enforcing its ordinance in Albertville.
- The text of the City's current Code Section 6-2-8 (Dangerous Dogs) is attached to the ordinance repealing this section.

Couri reviewed the Policy/Practices that would involve enforcement of a dangerous dog ordinance is relatively rare, but when it occurs it can be a contentious matter with neighbors typically feeling very strongly about the issue out of fear for the safety of their children. The County already enforces their ordinance in all of the Townships in the County and will likely enforce it in most cities within the next few months. The County should have sufficient expertise to administer the ordinance well.

City Administrator Kruse reiterated what a dangerous or potentially dangerous dog is, which is a dog that has bitten a person or another animal. In 2009, the City of Albertville had such an incident where a dog bit a person and killed another dog. Kruse felt this would be a good move for the City to allow Wright County to enforce the ordinance for a dangerous dog or potential dangerous dogs that is reported within the Albertville city limits.

CMs Sorensen/Wagner **motioned** to approve **Ordinance No. 2010-001** an Ordinance Amending the 2005 Albertville Municipal City Code Title 6, Chapter 2, Section 8 Relating to Dangerous Dogs and direct the City Clerk to notify Wright County that Albertville is electing to have Wright County enforce its dangerous dog ordinance within the City of Albertville. Motion carried unanimously.

*Accept the City Attorney's Report dated May 27, 2010*

Council acknowledged the receipt of the City Attorney's report

**ADMINISTRATION**

*Accept the City Administrator's Written Report dated June 2, 2010*

Again, the Council basically acknowledged the City Administrator's report.

*Recycling (DISCUSSION item)*

City Administrator Kruse reported on the Council's consideration to move towards a Single-sort Recycling collection service. Kruse demonstrated with a 65-gallon container that is used by a neighboring community that has specific information imprinted on the lid of the container identifying what types of materials are acceptable. The City would create an RFP (Request for Proposal) that garbage hauler would have the opportunity to present a proposed contract for service. The contract would be for five (5) years and staff is anticipating obtaining a competitively low bid for the service.

The thought was received by the majority of the Council members with the knowledge that the resident could have the option to remain disposing of their garbage and recycling in the same manner they currently are practicing. Council gave staff the okay and consent to proceed with drafting up a Request For Proposal to present to Council at a future date.

*Wright County Economic Partnership*

Council member Fay wanted to encourage the Council or a staff member to become an active member of the Wright County Economic Partnership to promote Albertville development.

**ANNOUNCEMENTS and or UPCOMING MEETINGS**

**June 2010**

- 8 7:00 p.m. Planning and Zoning Commission meeting**
- 9-13 varies Friendly City Days**
- 11 5:00 p.m. Albertville-St. Michael softball tournament Field No. 1**
- ~~**14 6:00 p.m. STMA Ice Arena Board meeting (CANCELLED)**~~
- 21 7:00 p.m. City Council meeting**
- 28 6:00 p.m. Joint Powers Water Board meeting**

**July 2010**

- 5 all day Independence Day observed – City offices closed**
- 6 7:00 p.m. City Council meeting TUESDAY**
- 8 7:00 p.m. Election Judge Training (Thursday)**
- 12 6:00 p.m. STMA Ice Arena Board meeting**

- 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**

**August 2010**

- 2 7:00 p.m. City Council meeting**
- 3 8:00 a.m. Filing for City Council opens**
- 9 6:00 p.m. STMA Ice Arena Board meeting (upper level City Hall)**
- 10 7:00 a.m. Primary Election (polls close at 8:00 p.m.)**
- 11 7:00 p.m. Planning and Zoning Commission meeting**
- 16 7:00 p.m. City Council meeting**
- 17 5:00 p.m. Filing for City Council CLOSES**
- 23 6:00 p.m. Joint Powers Water Board meeting**

**September 2010**

- 6 all day Labor Day observed – City offices closed**
- 7 7:00 p.m. City Council meeting TUESDAY**
- 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**
- 27 6:00 p.m. Joint Powers Water Board meeting**

**ADJOURNMENT**

CMs Wagner/Sorensen **motioned** to adjourn the Monday, June 7, 2010 regular City Council meeting at 8:43 p.m. Motion carried unanimously.

---

Bridget Miller, City Clerk (recording secretary)