



**ALBERTVILLE CITY COUNCIL**  
**September 20, 2010**  
**MINUTES**

**ALBERTVILLE CITY HALL**

**7:00 PM**

**CALL TO ORDER – PLEDGE OF ALLEGIANCE**

The regular bi-monthly meeting of the Albertville City Council was called to order followed by the pledge.

**ROLL CALL**

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

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

**ABSENT:** none

**RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS**

**Brandon Psyk**

Mayor Klecker on behalf of the City Council introduced and recognized Brandon Psyk, son of Daniel and Tina Psyk. Brandon started the Greco-Roman and Freestyle wrestling season taking first in both styles of wrestling at the MnUSA State Tournament held in Rochester, Mn; and then taking first in both at the Northern Plains Regional Tournament that was again held in Rochester. Brandon represented the Minnesota Gold Team in Folkstyle at Nationals in Fremont, Nebraska, which the team took second place. From there, Brandon went on to Orem, Utah to complete in the National Tournament where he took top spot on the victory stand in the 50-pound weight class this summer that put Brandon on the USA National Team. Brandon is now ranked the number one wrestler in the nation in Greco-Roman and Freestyle.

Mayor Klecker thanked Brandon, his parents, and sisters for attending the meeting so that the Albertville City Council could recognize him for his accomplishment.

### **Women of Today**

Mayor Klecker proclaimed the week of September 19 – 25, 2010 as Women of Today week. Klecker noted the STMA Women of Today are dedicated to promoting community service such as PDC Olympics, Fall & Spring Craft Shows, numerous donations and service hours worked within our school district and participation yearly in the Friendly City Days. They have been a vital part of this community for 26 years, and have provided personal enrichment and leadership development to the members of this community through service. Klecker reiterated the fact that the Women of Today would like to set aside the week of September 19-25, 2010 to celebrate the many community activities and dedicated membership.

### **Wright County Commission Elmer Eichelberg**

Mayor Klecker acknowledged the presence of County Commission Elmer Eichelberg. Klecker thanked Eichelberg for his effort in supporting Albertville in achieving the goal of the I-94 Ramp Project. Albertville appreciates Wright County's offer to fund up to \$1,640,000 for Albertville's I-94 Project to alleviate the traffic congestion on County Roads 19 and 37.

### **CITIZENS FORUM**

There were no citizens in the audience that had a concern or issue to discuss that was not already scheduled on the agenda.

### **AMENDMENTS TO THE AGENDA**

The Monday, September 20, 2010 agenda was amended as follows:

CMs Fay/Wagner **motioned** to approve the Monday, September 20, 2010 agenda as amended; adding Albertville Lions Gambling Application for the new Neighbors Eatery and Saloon under City Clerk; Towne Lakes 6<sup>th</sup> Addition Amended Developer's Agreement under Legal. Motion carried unanimously.

### **DEPARTMENT BUSINESS**

#### **FINANCE DEPARTMENT**

*Authorize the Monday, September 20, 2010 Payment of Claims (bills) for check numbers as presented*

Council questioned check number 028865 made payable to Franklin Outdoor Advertising for the repair-maintenance of the reader board sign located on the corner of Main Avenue and CSAH 37. Staff informed the Council that the reader board was approved and installed in 2003, in which the warranty or guarantee has expired.

The next couple of checks were 028849 payable to Albertville Toastmasters, 028892 payable to International Toastmaster, and 028896 payable to Wright County were for employee training. This training has benefitted the City employees. Toastmaster is for six (6) months of training that teaches and gives the employees skills to speak in public. The presentation Superintendent Middendorf gave to the Council updating them on the Wastewater Treatment Plant was an outcome of the learning and experience Mr. Middendorf received from attending and participating in Toastmasters. The computer classes are to get basic knowledge of the Microsoft Excel software for employees who are new to the program.

CM Sorensen/Mayor Klecker **motioned** to authorize the Monday, September 20, 2010 Payment of Claims (bills) for check numbers **028848 to 028900** in the total amount of \$224,327.72 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.

#### **CITY CLERK**

*Approve September 7, 2010 regular City Council minutes*

CMs Wagner/Sorensen **motioned** to approve the Tuesday, September 7, 2010 regular Council minutes as presented, the signed copy will be scanned and retained as the official City record. Motion carried unanimously.

*Approve a 1-Day Temporary Intoxicating Liquor License for the Albertville Lions*

CMs Fay/Wagner **motioned** to approve the 1-Day Temporary Intoxicating Liquor License for an event that will be held at the St. Albert Parish Center on Saturday, October 2, 2010 from 3:00 p.m. to 10:00 p.m. contingent upon the Minnesota State Alcohol and Gambling Division approval. Motion carried unanimously.

*Approve a One-Day Temporary Outdoor Music Permit for the 152 Club*

CMs Wagner/Fay **motioned** to approve the One-Day Temporary Outdoor Music Permit for the 152 Club for an event that will take place on Saturday, October 2 beginning at 2:00 p.m. and continue until 11:59 p.m. Motion carried unanimously.

*Approve a Mn Gambling Permit for the Albertville Lions for 5772 Main Avenue NE*

City Clerk Miller reported the Albertville Lions have held a Gambling Permit for the establishment located at 5772 Main Avenue NE. Since the prior business closed the doors and the new owner's getting ready to open, the Albertville Lions wanted permission to continue the previous practice of selling pull-tabs and other types of gambling items that has been conducted in the past.

CMs Wagner/Fay **motioned** to approve the Mn Gambling Permit for the Albertville Lions for the new business of Neighbors Eatery and Saloon that will be located at 5772 Main Avenue NE for a two-year term. Motion carried unanimously.

**CITY COUNCIL**

*Update on the STMA Hockey Arena meeting held on September 13, 2010*

Council member Sorensen said the Board approved 2011 concession pricing and approved completing temporary repairs to the Arena roof. The repair will likely buy three or four years at which time the roof will need a major repair at a cost of \$120,000. The Board will in the mean time seek to raise funds from operations or ask the three entities associated with the STMA Hockey Arena to budget money for the improvement.

Wagner also reported that the Board has made a commitment to maintain ice all next summer conditioned on selling 960 hours of ice time in advance. Arena Manager Fitch has commitments for almost 600 hours to date.

*Oral update on the September 15, 2010 Planning and Zoning Commission meeting*

Council member Wagner turned it over to City Planner Brixius to report. Brixius noted the Planning Commission reviewed amending the Temporary Sign Ordinance to better clarify the definition of "Temporary Signs". This item will be presented to Council at the October 4 regular Council meeting.

*Oral update on Recycling Committee meeting*

Council member Sorensen and Vetsch, who were appointed to serve on the Recycling Committee, reported that they met Wednesday, September 15 to review the Request for Proposal. After looking over the RFP, the Committee directed staff to mail them out to the waste haulers with a due date of September 30<sup>th</sup>. The Recycling Committee will evaluate proposals and make a recommendation back to the City Council.

Candidate Mark Mehaan was present at the meeting and shared a few comments relating to the proposed recycling.

## **PLANNING**

### *Outdoor Music Regulations*

City Planner Brixius began with the history of the outdoor music concern. It was in 2004 that the Cedar Creek Golf Course approached the Council inquiring about having an event where a band would be playing music outdoors past 10:00 p.m. In consideration of the request the Council was not in favor of disturbing the surrounding neighbors with the noise nuisance of the music. As an outcome of the request, the Council approved an Ordinance with restrictions that the outdoor musical performances were 400' away from residential housing. With those restrictions in place it limited the areas within Albertville that would be eligible for outdoor music performances.

The 152 Club has submitted a Temporary Outdoor Music permit for the annual Oktoberfest, which Council has approved for the past approximately six (6) years. Contrary to the regulations in the City Code, the Council still approves the music permit and a couple of times have received complaints for residential owners within 400' of the area where music would be coming from.

Staff has recommended to the Council to amend the City Code reducing the footage so that the future Temporary Outdoor Music Permits for the proposed annual Oktoberfest will be legal and abiding with the City Code.

Brixius went over the suggestions staff is proposing to change the language.

2. Consider a reduction or exception to the 400 foot separation requirement by imposing additional standards to mitigate nuisance concerns. In discussion among staff, the following options may be considered by the City Council:

- A. Allow an exception to the 400 foot setback requirement from any residence located in the residential zoning district provided:
  - 1. The stage, performers, speakers, and amplifiers area located 300 feet from any residence located in a residential zoning district.
  - 2. The stage, speakers, and amplifiers are arranged in a design and manner that does not directly broadcast music at or toward a residence within 400 feet of the stage.
  - 3. The music event shall not occupy required parking for the principal use.
  - 4. Music events shall be allowed between May 15<sup>th</sup> and October 15<sup>th</sup>.

5. Outdoor music events shall not perform beyond 10:30 p.m.
6. Failure to abide by these standards or the receipt of nuisance complaints may be grounds for denial of future outdoor music permits for the property.

The Council wanted to make sure that the amendment would cover all bases to avoid the cost of amending and updating the code in a couple of years or sooner. Staff reported they would do their best to cover the language to meet potential obstacles in the future.

Candidate Mark Barthel a neighbor close to 152 Club informed the Council that he attended the recent Outdoor Music event held at the 152 Club and did not have any concerns with the volume of the music, which he added that he lives rather close to the 152 Club.

#### **ENGINEERING**

None

#### **LEGAL**

##### *Towne Lakes 6<sup>th</sup> Addition Amended Developer's Agreement*

City Attorney Couri began with the comment – ‘has M & I Bank paid for all the outstanding bills or for the litigation’. The City is aware that the development began with Contractor Properties Development Company (CPDC) who went under and M & I Bank obtained possession of the development. M & I Bank has been a good business to work with in this development; however, wants to make sure when the property is sold the financial responsibility is turned over to the new owner.

City Attorney Couri reported that staff discussed amending the Towne Lakes 6<sup>th</sup> Addition Developer's Agreement. Two (2) issues came up in reviewing the Developer's Agreement. The first concern dealt with: 2. Paragraph 3E of the Developer's Agreement is modified to read as follows: E. Developer shall provide the City with lien waivers from all contractors and subcontractors engaged to construct said improvements on Said Plat. Should Developer fail to provide the City with all applicable lien waivers, the City reserves the right to draw upon Developer's surety and pay any contractors who performed work on any Municipal Improvements whom: 1) Developer has failed to fully pay for the performance of said work, and 2: have filed a timely lien against property with Said Plat which contain Municipal Improvements; and 3) the contractor performed such work after the date of this Amendment.

Couri noted the next area was in Paragraphs 6A and 6B of the Developer's Agreement is hereby modified to read as follows:

- A. Developer will provide the City with an irrevocable letter of credit as security that the obligations of the Developer under this contract shall be performed. Said letter of credit or surety must meet the approval of the City attorney as to form and issuing bank.
- B. The City may draw on said letter of credit or surety to complete work not performed by Developer (including but not limited to on-and off-site improvements, Municipal Improvements described above, landscaping, erosion control, and other such measures), to pay liens on property to be dedicated to the City, to reimburse itself for costs incurred in the drafting, execution, administration or enforcement of this Agreement, to repair or correct deficiencies or other problems which occur to the Municipal Improvements during the warranty period, or to otherwise fulfill the obligations of Developer under this agreement.

The next area within the document was Paragraphs 9 and 10 that read as follows:

- 9. Upon purchase of Outlot B of Towne Lakes 6<sup>th</sup> Addition, Developer agrees to grant a permanent public trail easement in the form attached as Exhibit C to this Amendment over a portion of property adjacent to Lakewood Drive for a walking trail so that the City may complete the paving of the walking trail, solely at the expense of the City.
- 10. Upon purchase of Outlot B of Towne Lakes 6<sup>th</sup> Addition, Developer agrees to grant a permanent drainage and utility easement over all of Outlots A and B and over Lakewood Drive all as depicted on the "Towne Lakes 7<sup>th</sup> Addition" proposed plat attached hereto as Exhibit D.

Couri went on to explain that in December 2006 Towne Lakes 7<sup>th</sup> Addition was proposed and presented to Council. Council approved the layout of the plat; however, the plat was never recorded. The easement within the development was documented and recorded by the City making it enforceable so the Developer must comply with the placement of the easement within the plat.

Council member Vetsch noted that Towne Lakes 7<sup>th</sup> Addition butts up to Hunter's Pass Estates. Vetsch wanted to make sure that the streets or roads line up between the two developments making it a smooth or natural traffic transition. Couri confirmed that the two developments have been reviewed with the roadways lining up for a natural traffic flow between the two areas.

CMs Vetsch/Sorensen **motioned** to approve the Towne Lakes 6<sup>th</sup> Addition Amended Developers Agreement as presented with the noted amendments. Motion carried unanimously.

## **ADMINISTRATION**

*Set date for Joint Albertville-Otsego on I-94 Funding*

City Administrator Kruse informed the Council that the City received a letter from Otsego in response to the joint meeting that was held on Monday, September 13, which Albertville asked for financial support in the amount of \$1,030,000 from Otsego for the I-94 Project. Otsego came back with a contingent offer of \$400,000 or 3.6 percent of the total project cost, whichever is less. Along with the offer there were a number of stipulations which would cost the City millions of dollars. Staff is looking for direction from the Council how to respond.

Council discussed the proposal acknowledging that this amount still leaves Albertville \$630,000 short of the amount of funds needed to continue forward with Phase I of the I-94 Project. Staff presented the Council with a draft response letter which says, the strings attached to the \$400,000 offer are too onerous to accept and explained how and why they cannot be accepted by Albertville, and again asks the City of Otsego to consider the \$1,030,000 request.

CMs Fay/Sorensen **motioned** to approve the letter and authorized staff to send a letter to the City of Otsego notifying them the City of Albertville cannot afford to accept Otsego's \$400,000 because of the expensive stipulations attached to their offer as noted in the letter presented. Further to again request Otsego's financial support for the project. Motion carried unanimously.

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

##### **September 2010**

- 17 8:00 a.m. Absentee Voting opens for the General Election**
- 20 7:00 p.m. City Council meeting**
- 27 6:00 p.m. Joint Powers Water Board meeting**

##### **October 2010**

- 4 7:00 p.m. City Council meeting**
- 11 6:00 p.m. STMA Ice Arena Board meeting**
- 12 7:00 p.m. Planning and Zoning Commission meeting**
- 18 7:00 p.m. City Council meeting**
- 25 6:00 p.m. Joint Powers Water Board meeting**

##### **November 2010**

- 1 5:00 p.m. Absentee Voting closes for the General Election**
- 2 7:00 a.m. General Election (polls open)**
- 2 8:00 p.m. General Election (polls close)**
- 3 7:00 p.m. City Council meeting – canvass election results**
- 7 2:00 a.m. Daylight Savings ends - USA**
- 8 6:00 p.m. STMA Ice Arena Board meeting**
- 9 7:00 p.m. Planning and Zoning Commission meeting**
- 11 all day Veterans' Day observed – City offices closed**
- 15 7:00 p.m. City Council meeting**
- 22 6:00 p.m. Joint Powers Water Board meeting**

- 25 all day Thanksgiving Day observed – City offices closed**
- 26 all day Harvest Friday observed – PW-UD closed**
- 29 6:00 p.m. Albertville-St. Michael-Dist. 885 Board meeting  
(to be held at the STMA School Board room)**

**December 2010**

- 6 6:15 p.m. Albertville Truth-in-Taxation Hearing**
- 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**
- 23 all day Christmas Day observed – City offices closed**
- 24 all day Christmas Holiday observed – PW-UD closed**
- 27 6:00 p.m. Joint Powers Water Board meeting**
- 30 all day New Year’s Day observed – City offices closed**
- 31 all day New Year’s Day Holiday observed – PW-UD closed**

**ADJOURN**

CMs Vetsch/Wagner **motioned** to adjourn the Monday, September 20, 2010 regular City Council meeting at 9:07 p.m. Motion carried unanimously.

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Bridget Miller, City Clerk (recording secretary)