



**ALBERTVILLE CITY COUNCIL
FEBRUARY 1, 2010
MINUTES**

ALBERTVILLE CITY HALL

7:00 PM

PLEDGE OF ALLEGIANCE – CALL TO ORDER

The February 1, 2010 regular City Council meeting was called to order at 7:00 p.m. by Mayor Klecker who led the members in the Pledge of Allegiance.

ROLL CALL

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

OTHERS PRESENT: City Engineer Adam Nafstad, City Planner Al Brixius, City Attorney Mike Couri, Finance Director Tina Lannes, Public Works Supervisor Tim Guimont and City Administrator Larry Kruse

ABSENT: City Clerk Bridget Miller

RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS –

Mayor Klecker recognized the STMA Youth Hockey (\$3,000); Foxtailers Snowmobile Club \$500; and Albertville Lions \$500 donation for the second outdoor rink in Central Park. Mayor Klecker further recognized and thanked the Albertville Lions for a \$700 donation to the Albertville Fire Department. Klecker stated the City really appreciates these donations, especially when funding is so tight these days!

MINUTES

January 19, 2010 regular City Council minutes

MOTION BY Council member Sorensen, seconded by Council member Fay to approve the Monday, January 19, 2010 City Council minutes with a correction stating “that all Council members have been trained for the Board of Equalization”, 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.

CITIZEN FORUM - None

AMENDMENTS TO THE AGENDA

The following amendments were made to the agenda:

City Attorney Couri requested to add Towne Lakes 6th Addition – Default

MOTION BY Council member Sorensen, seconded by Council member Fay to approve the Monday, February 1, 2010 regular City Council agenda adding a Towne Lakes 6th Addition default issue as item J.3. 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 are five (5) items listed on the Consent Agenda that are: 8.E.1. Payment of Claims; 8.E.3. Accepting Albertville Lions \$500 donation to Fire Department; 8.E.4. accepting Albertville Lions \$500 donation for Central Park Skating Rink; 8.E.5. accepting STMA Youth Hockey \$3,000 donation for Central Park Skating Rink and 8.E.6. accepting Foxtailers Snowmobile Club \$500 donation for the Central Park Skating Rink.

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve the February 1, 2010 Consent Agenda that includes the five (5) following items. 8.E.1. Payment of Claims; 8.E.3. Accepting Albertville Lions \$500 donation to Fire Department; 8.E.4. accepting Albertville Lions \$500 donation for Central Park Skating Rink; 8.E.5. accepting STMA Youth Hockey \$3,000 donation for Central Park Skating Rink and 8.E.6. accepting Foxtailers Snowmobile Club \$500 donation for the Central Park Skating Rink. Motion carried unanimously.

DEPARTMENT BUSINESS

FIRE DEPARTMENT -- none

PUBLIC WORKS DEPARTMENT -- none

UTILITIES DEPARTMENT (WWTP) -- none

BUILDING DEPARTMENT- none

FINANCE DEPARTMENT

■ *Authorize the Monday, February 1, 2010 Payment of Claims (bills) for check numbers 027949 to 028010*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve the Monday, December 7, 2009 Payment of Claims (bills) for check numbers **027949 to 028010** as presented. Motion carried unanimously.

Accepted the Finance Director's written report.

Council accepted the Finance Director's written report.

■ *Albertville Lions \$700 donation to the Fire Department*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve **Resolution No. 2010-003** entitled a Resolution Acknowledging a \$700 donation from the Albertville Lions for the Albertville Fire Department. Motion carried unanimously.

■ *Albertville Lions \$500 donation to the Albertville Royalty*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve **Resolution No. 2010-004** entitled a Resolution Accepting a Donation from the Albertville Lions in the amount of \$500 for the Albertville Royalty Committee fund (805). Motion carried unanimously.

■ *STMA Youth Hockey \$3,000 donation to Central Park Ice Rink Boards*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve **Resolution No. 2010-005** entitled a Resolution Acknowledging a Donation from the STMA Youth Hockey Association in the amount of \$3,000 for the City of Albertville Parks Department for the Second Hockey Rink Boards located at Central-City Park. Motion carried unanimously.

■ *Foxtailers \$500 donation to Central Park Ice Rink Boards*

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve **Resolution No. 2010-006** entitled a Resolution Acknowledging a Donation from the Foxtailers Snowmobile Club in the amount of \$500 for the City of Albertville Parks Department for the Second Hockey Rink Boards located at Central-City Park. Motion carried unanimously.

Approve Replacement of the City's main server and Related Enterprise Software

Staff reported the current main computer server is reaching storage capacity and staff has been running into difficulty keeping the system running efficiently. The current system has difficulty keeping up with the demand generated by the new City Hall and its satellite operations including the STMA Arena, Fire Hall, Public Works and Utilities. The computer runs the HVAC system at City Hall; security system and all the Voice over IP Phones at all those locations. Staff stated this is a planned purchase with funds dedicated during the City Hall construction project. Staff has been postponing the purchase request for as long as possible and now there is a sense of urgency to upgrade the system.

The Council acknowledged the importance of the issue, but was hesitant about replacing the system now. Staff had three vendors interested in quoting the project, but only two submitted proposals. After some discussion, the Council requested staff seek at least one more proposal and report back to the next meeting giving them more time to think about the purchase.

CITY CLERK

St. Michael Lions and JR's pizza pub & grill catered fundraising event.

MOTION BY Council member Fay, seconded by Council member Sorensen to approve JRs Pizza Pub & Grill catering the St. Michael Lions fundraiser event to be held on Saturday, March 6, 2010 at the St. Albert Parish Center contingent upon JRs Pizza Pub & Grill showing evidence of a current Cater's Permit. Motion carried unanimously.

Set Local Board of Appeal and Equalization Meeting

MOTION BY Council member Sorensen, seconded by Mayor Klecker to set Monday, April 5, 2010 as the 2010 Local Board of Appeal and Equalization meeting to be held at the Albertville City Hall at 5:30 p.m. and direct staff to send the confirmation notice to the Wright County Assessor's Office. Motion carried unanimously.

CITY COUNCIL

Kalland Avenue NE Sidewalk

Council member Sorensen asked City Attorney Couri to review his recommendation on the replacement of the Kaland Avenue Sidewalk. Couri explained that the sidewalk is significantly out of compliance with Federal ADA requirements along with City specifications which identify a maximum of 2% slope. Most of the sidewalk is greatly in excess of those requirements. Current maintenance of the sidewalk this winter is a temporary measure to buy some time until next summer when it should be replaced. After some additional discussion about safety the council concurred that they continue to support the City Attorney's recommendation to replace the sidewalk in 2010.

PLANNING AND ZONING - none

ENGINEERING

S.R.F. Consulting I-94 Contract Amendment

The City contracted with SRF Consulting Group for the design of the I-94 WB CD Road Improvements. The lump sum contract amount is \$333,336 and includes all work described in the scope of work.

With the exception of a few outstanding Mn/DOT comments, the final design and construction plan is complete. Five of the remaining Mn/DOT comments/requirements were not included in the original scope of services and SRF is requesting a budget amendment in the amount of \$35,700 to complete the work. The Mn/DOT required tasks, along with SRF's associated cost, are as follows:

Relocation of Dynamic Message Sign

(\$ 11,700)

- Includes coordination of sign relocation and preparation of electrical plans and for relocating the digital message board to a location near the TH 241 and I-94 Interchange.

Lighting for Entire Length of CD Road (\$ 9,200)

- Includes lighting and design, plans and specification to light the entire length of the westbound CD road.

Temporary Bypass Ramp Lighting (\$ 6,900)

- Includes temporary lighting design, plans and specifications for the temporary northeast bypass ramp and other temporary construction lighting.

Amended Concrete Pavement Design and Special Provisions (\$ 6,200)

- Includes implementation of Mn/DOT requested concrete pavement design features, proposed special provisions, quantity tabulation and pay items.

“Pull Through” Outlet Mall Traffic Signs (\$ 1,700)

- Includes signage plans and specifications for Outlet Mall requested freeway signage.

The City’s Final Design Contract was an all-inclusive contract with a very defined scope of work. At the time the final design contract was let, the City, Mn/DOT, Wright County, S.R.F. and all involved did not expect the above items would be required. In Mn/DOT final review, the reviewers decide both temporary and permanent lighting would be required. Further, it was determined the current Mn/DOT reader board located near School Lake needed to be relocated toward Highway 241 and that responsibility would go with the Albertville’s project. Further, in final review, Mn/DOT added a new requirement that the road must be concrete rather than bituminous. Being the required work activities identified here were above and beyond what was bid, it is staff’s recommendation that S.R.F. be compensated for these items. One possible exception is the \$1,700 for the Albertville Premium Outlets “Pull Through” sign which could be billed directly to the mall as they have requested the additional signage from Mn/DOT.

MOTION BY Council member Wagner, seconded by Council member Fay to amend the professional service contract amount with SRF Consulting from \$333,336 to 369,066 for the final design of the I-94 WB CD Road. Motion carried with Council member Vetsch voting nay.

LEGAL

I-94 Lamar Storm Water Pond Land Acquisition.

City Attorney Couri reported the appraiser has not yet completed his appraisal work and asked to remove this item of business from the agenda, which the Mayor so stated.

I-94 Tanker Accident Fire Department bill collection

On July 12, 2009, Albertville’s Fire Department along with at least six other fire departments responded to an emergency call involving an accident between a car and a gasoline tanker truck. Apparently, a car driven by James Schwab, a Missouri resident, pulled in front of a tanker truck owned by Wayne Transports, a South Dakota corporation, and driven by a driver who resides in Wisconsin, causing the tanker truck to go off the road and overturn in the median. The fire departments were on the scene for approximately 9 hours before the accident was cleared. The Albertville fire department rendered assistance to Mr. Schwab for approximately an hour or less, with the remaining Albertville Fire Department time and virtually all of the other fire department’s time being devoted to the overturned tanker and the public safety issues related to it.

The total billing of the Albertville Fire Department and the other fire departments related to this accident stands at slightly more than \$69,400, say \$70,000 as outlined below.

Tanker Rollover								
Albertville	St. Michael	Rogers	Elk River	Big Lake	Clearwater	Buffalo	Monticello	Total
\$26,904.44	\$11,410.00	\$3,210.00	\$2,610.00	\$1,530.00	\$4,100.00	\$1,750.00	\$17,886.53	\$69,400.97
38.77%	16.44%	4.63%	3.76%	2.20%	5.91%	2.52%	25.77%	

The billing is based upon a billing schedule approved by all of the cities that provided fire department personnel. Albertville has an ordinance and fee schedule in place that permits the City to charge for providing fire services to an incident such as this.

The City has billed both the car’s driver and Wayne Transports for the cost. Unfortunately, Mr. Schwab passed away on November 21, 2009 as a result of another accident suffered a few days before. The attorney for Mr. Schwab has indicated that the estate already has claims against it in excess of the amount of insurance coverage as a result of the tanker accident, and has asked if the City would waive its claim against Mr. Schwab’s estate. Wayne Transports has refused to pay the claim, claiming that it was not responsible for the accident and claiming that the City has no statutory authority to collect for the fees (this statutory authority does exist).

Under Missouri law, the City has six months from the date of the publication of notice of appointment of an executor for the estate to file a claim on Mr. Schwab’s estate for reimbursement of the \$70,000 emergency response bill. If the City fails to file by that date, its claim against Mr. Schwab’s estate will be forever barred. To date, we are not aware of the appointment of an executor for Mr. Schwab’s estate. If we file a claim in Missouri Court, any trial on the issue would occur in Missouri, the City would have to hire an attorney in Missouri, and our witnesses would have to travel to Missouri for testimony if the case goes to trial.

Because all of the parties involved in this case are from different states, we believe the case can be initiated in Federal Court in Minnesota under a doctrine known as “diversity jurisdiction,” which would keep this action local. If the case starts in Missouri, it may still be able to be

removed to Federal Court under diversity jurisdiction, but there is no guarantee that it would be heard in Minnesota—it may stay in Missouri.

The City Attorney is recommending that the City Council authorize an action to be brought in Federal Court in Minnesota against Mr. Schwab, Wayne Transports, and the driver of the tanker for payment of the Fire Department response fees owed. While some additional research needs to be done to confirm that an action against an estate can be initiated in Federal Court, the City Attorney will not conduct that research unless the City Council desires to press ahead on this issue.

MOTION BY Mayor Klecker, seconded by Council member Sorensen to authorize the City Attorney to initiate litigation against Wayne Transports, Inc. and the estate of James Schwab to collect \$70,000 in Fire Department fees due as a result of the Fire Department's response to a tanker truck accident on I-94 on July 12, 2009. Motion carried unanimously.

Towne Lakes Sixth Addition Default

City Attorney Couri gave an update on the status of amending the Development Agreement for the Towne Lakes Sixth Addition and the default on the Letter of Credit issued by M and I Bank. It appears, that Chicago Title is or will be satisfying a lien that was ahead of the bank and now it is City Attorney Couri's recommendation to withdraw the City's default letter subject to documentation of the release of the lien in question. Further M & I Bank must approve the Development Agreement Amendment by March 31, 2010 or continue with the default.

MOTION BY Council member Sorensen, seconded by Council member Fay to withdraw the Towne Lakes Sixth (6th) Default notice subject to M & I Bank providing documentation of the Satisfaction of Lien and signing the Development Agreement Amendment by March 31, 2010. Motion carried unanimously.

ADMINISTRATION

New Albertville Web-site Software.

City Administrator Kruse reported the City's website leaves much to be desired because our Dreamweaver software is so old, outdated and not at all user friendly. Staff recommends changing to Govoffice software, which is very user friendly and has an abundance of capabilities. Currently over 1,000 cities across the country are using Govoffice software. Kruse stated \$4,500 has been reserved for its replacement as we knew it would have to be done for some time. After some discussion, the Council stated they wanted to postpone taking action on the new software and make do with the current software putting up for now with the web-sites shortcomings.

ANNOUNCEMENTS and or UPCOMING MEETINGS

Mayor Klecker acknowledged the upcoming meetings and calendar of events.

ADJOURNMENT

MOTION BY Council member Sorensen, seconded by Mayor Klecker to adjourn the Monday, February 1, 2010 regular City Council meeting at 9:00 p.m. Motion carried unanimously.



Larry R. Kruse, City Administrator (recording secretary)