



ALBERTVILLE CITY COUNCIL

April 19, 2010

MINUTES

ALBERTVILLE CITY HALL

7:00 PM

PLEDGE OF ALLEGIANCE – CALL TO ORDER

Mayor Klecker called the meeting to order at 7:01 p.m. The pledge of allegiance was said.

ROLL CALL

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

OTHERS PRESENT: City Administrator Larry Kruse, City Engineer Adam Nafstad, City Planner Al Brixius, City Clerk Bridget Miller, Assistant City Attorney Sarah Schwarzhoff, Public Works Supervisor Tim Guimont, Utilities Department Superintendent John Middendorf, Finance Director Tina Lannes, and LMC Representative Attorney Jason Kuboushek

ABSENT: City Attorney Mike Couri

RECOGNITIONS – PRESENTATIONS – INTRODUCTIONS – no comments

CITIZEN FORUM

Kurt Neidermeier of 11548 – 57th Street NE in Albertville reported on the fence that was installed between his property and the abutting commercial property of 5772 Main Avenue NE (formerly known as Full Moon Saloon). The fence sounded like it was pre-existing when Neidermeier moved into the house on 57th Street NE. The fence is located on his property and over the years has been damaged and now shows wear and tear. Neidermeier wanted to inquire if the Council could assist with requiring a future buyer of the commercial property to put up a fence on the commercial property line. The current fence is located 12 inches from his property line, which Mr. Neidermeier would like to utilize or access.

AMENDMENTS TO THE AGENDA

The Monday, April 5, 2010 agenda was amended as follows:

Sorensen added under Administration: 8.K.3. Accuracy of Communication
Kruse added under Administration: 8.K.4. Project on CSAH 37 (Albertville Meadows)

MOTION BY Council member Vetsch, seconded by Council member Sorensen to approve the Monday, April 5, 2010 regular Albertville City Council agenda as amended: adding item 8.K.3. Administration – Accuracy of Communication; and, 8.K.4. Administration – Project on CSAH 37 (Albertville Meadows). Motion carried unanimously.

MINUTES

March 15, 2010 regular City Council minutes

MOTION BY Council member Sorensen, seconded by Mayor Klecker to approve the Monday, March 15, 2010 regular City Council minutes as amended with the following correction: Council member Sorensen brought up the subject of the STMA School student that was going to Washington to compete in a Spelling Bee, which will be printed and signed; then the signed copy 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 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 four (4) items listed on the Consent Agenda that are: 8.E.1. Finance – Authorize the Monday, April 5, 2010 Payment of Claims (bills) for check numbers **027949** to **028010** as presented except the bills specifically pulled, which are passed by separate motion; 8.E.2. Finance - Approve **Resolution No. 2010-008** entitled a Resolution Accepting a \$1,200 Donation from the STMA Soccer Club for the Maintenance of the Albertville Soccer Fields; 8.F.1. City Clerk – Approve a One-Day 3.2% Malt Liquor License application that has been submitted by the Albertville Lions for a Benefit-Dinner to be held at St. Albert Parish Center on Saturday, May 8, 2010 from 4:00 p.m. to 10:00 p.m.; and, 8.F.2. City Clerk – Approve three (3) One-Day 3.2% Malt Liquor License applications that have been submitted by the Albertville Lions for the annual Friendly City Days event to be held in Central-City Park from Friday, June 11 thru

Sunday, June 13. The hours of operation are: June 11, 2010 from 3:00 p.m. to 1:00 a.m.; June 12, 2010 from 9:00 a.m. to 1:00 a.m.; and, June 13, 2010 from 10:00 a.m. to 7:00 p.m.

No items were removed from the Consent Agenda; therefore, was approved as submitted.

MOTION BY Council member Fay, seconded by Council member Sorensen to approve the Monday, April 5, 2010 Consent Agenda as presented, which includes 8.E.1. Finance – Authorize the Monday, April 5, 2010 Payment of Claims (bills) for check numbers **027949** to **028010** as presented except the bills specifically pulled, which are passed by separate motion; 8.E.2. Finance - Approve **Resolution No. 2010-008** entitled a Resolution Accepting a \$1,200 Donation from the STMA Soccer Club for the Maintenance of the Albertville Soccer Fields; 8.F.1. City Clerk – Approve a One-Day 3.2% Malt Liquor License application that has been submitted by the Albertville Lions for a Benefit-Dinner to be held at St. Albert Parish Center on Saturday, May 8, 2010 from 4:00 p.m. to 10:00 p.m.; and, 8.F.2. City Clerk – Approve three (3) One-Day 3.2% Malt Liquor License applications that have been submitted by the Albertville Lions for the annual Friendly City Days event to be held in Central-City Park from Friday, June 11 thru to Sunday, June 13. The hours of operation are: June 11, 2010 from 3:00 p.m. to 1:00 a.m.; June 12, 2010 from 9:00 a.m. to 1:00 a.m.; and, June 13, 2010 from 10:00 a.m. to 7:00 p.m. Motion carried unanimously.

DEPARTMENT BUSINESS

FIRE DEPARTMENT

Accept the Fire Department Chief's 2009 Final Quarter Report dated February 5, 2010

Council member Sorensen wanted to add that the Fire Department received a Grant in the amount of \$4,000 from the Minnesota Board of Fire Fighters for the use of fire fighter education. Albertville also received a \$4,700 Grant from the Homeland Security and Emergency Management to be used toward the expenses for fire fighter training.

PUBLIC WORKS – PARKS DEPARTMENT

Accept the Public Works Supervisor's Report dated March 22, 2010

Council member Wagner was concerned with the number of potholes throughout the portions of Albertville that he travels. Wagner asked if other residents call City Hall to comment on the potholes.

Public Works Supervisor Guimont informed the Council that staff is reviewing and putting together a proposal for a 2010 Overlay Project. Guimont reported they are aware of some potholes, which will be addressed just as soon as the bituminous plants open up.

UTILITIES DEPARTMENT

Approve the City of Albertville entering into a Five (5) Year Tier II Electric Service Agreement with Xcel Energy which requires the City to run the backup generator when Xcel Energy notifies the City when they are at peak demand, and in exchange receive a discount electric rate at the wastewater treatment plant

Middendorf noted that staff has prepared a Request for Council Action featuring two off-peak programs for the City to consider, in which he is recommending entering into the Five (5) Year Tier II Electrical Service Agreement as it has a shorter cancellation time frame. With the Five (5) Year Tier II there is a six (6) month cancellation notice requirement compared to the 10-year agreement that has a three (3) year cancellation notice requirement.

Middendorf continued by stating other communities are participating in a similar program, in which Middendorf has received positive feedback as to how the service appears to be going.

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve the City of Albertville entering into a Five (5) Year Tier II Electric Service Agreement with Xcel Energy which requires the City to run the backup generator when Xcel Energy notifies the City when they are at peak demand, and in exchange receive a discount electric rate at the wastewater treatment plant. Motion carried unanimously.

FINANCE DEPARTMENT

■ *Authorize the Monday, March 15, 2010 Payment of Claims (bills) for check numbers **028185** to **028261** as presented except the bills specifically pulled, which are passed by separate motion*

MOTION BY Council member Fay, seconded by Council member Sorensen authorizing the Monday, April 5, 2010 Payment of Claims (bills) for check numbers **028185** to **028261**. The checks will be signed by the authorized personnel and 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. 2010-008** entitled a Resolution Accepting a \$1,200 Donation from the STMA Soccer Club for the Maintenance of the Albertville Soccer Fields*

MOTION BY Council member Fay, seconded by Council member Sorensen to approve **Resolution No. 2010-008** entitled a Resolution Accepting a \$1,200 Donation from the STMA Soccer Club for the Maintenance of the Albertville Soccer Fields. Motion carried unanimously.

Accept the Finance Director's 2009 Year-end Report dated March 30, 2010

Finance Director Lannes reviewed the following points included in the 2009 Year-end Report:

Revenue:

- Business licenses franchise fee from Charter, Rental Licenses and Vacant Building Registration
- Building Permits – different types of permits and fees, less new construction, but more decks, roofs, siding and finished basements which have lower fees to collect
- Fire Aid – loss of St. Michael service area mid-year
- Fire Protections – loss of St. Michael service area mid-year
- County Grants – don't receive last quarter grant for recycling until the first quarter of 2010
- Lease Payments – loss of the renter at 5975 Main Ave NE
- Other Revenues includes claim from insurance due to the 2008 hail and wind storm
- Interest Revenues – interest rates dropped again during 2009

Expenses:

- Economic Development is taxes on property, the City will be over due to classification change to some parcels the City of Albertville owns that are not tax exempt
- Animal Control – more animals picked up in Albertville than prior years
- Recycling – more houses are recycling and the City of Albertville is charged by household; however, less than 50% of the households are recycling

*Approve **Resolution No. 2010-011** entitled a Resolution to Transfer Funds - Transfer \$807.00 from the General Fund # 101 to Fund # 500 New Ice Sheet Capital Project Fund to fund negative balance and close out project; and, Transfer \$205.00 from the General Fund # 101 to Fund # 410 TIF #10 Mold Tech to fund negative balance; and, Transfer \$6,389.00 from the General Fund # 101 to fund # 408 TIF Vetsch Cabinets to fund negative balance; and, Transfer \$190,686.00 from the Sewer Access Fund (SAC) # 204 to Fund # 501 Phil Morris Lift Station to close out project; and, Transfer \$36,050 from the Sewer Access Fund (SAC) # 204 to Fund # 357 2003A Capital Improvement Project Bond Fund to fund negative balance; and, Transfer \$30,075.00 from the Sewer Access Fund (SAC) # 204 to Fund # 359 2005B City Hall Bond Fund to close out project with final phase in using SAC funds; and, Transfer \$91,830.00 from the Sewer Access Fund (SAC) # 204 to Fund # 601 2000A G.O. Sewer Revenue Refunding Bond Fund, annual transfer SAC funds were part of the bond payment structure*

Finance Director Lannes read off the seven (7) transfers of funds as noted below:

- Transfer \$807.00 from the General Fund # 101 to Fund # 500 New Ice Sheet Capital Project Fund to fund negative balance and close out project; and
- Transfer \$205.00 from the General Fund # 101 to Fund # 410 TIF #10 Mold Tech to fund negative balance; and

- Transfer \$6,389.00 from the General Fund # 101 to fund # 408 TIF Vetsch Cabinets to fund negative balance; and
- Transfer \$190,686.00 from the Sewer Access Fund (SAC) # 204 to Fund # 501 Phil Morris Lift Station to close out project; and
- Transfer \$36,050.00 from the Sewer Access Fund (SAC) # 204 to Fund # 357 2003A Capital Improvement Project Bond Fund to fund negative balance; and
- Transfer \$30,075.00 from the Sewer Access Fund (SAC) # 204 to Fund # 359 2005B City Hall Bond Fund to close out project with final phase in using SAC funds; and
- Transfer \$91,830.00 from the Sewer Access Fund (SAC) # 204 to Fund # 601 2000A G.O. Sewer Revenue Refunding Bond Fund, annual transfer SAC funds were part of the bond payment structure

There was a general comment made regarding the TIF, which Lannes explained it is collected by the County and is then divided up equally between the three (3) entities that consist of the County ($\frac{1}{3}$), City ($\frac{1}{3}$), School District ($\frac{1}{3}$).

MOTION BY Council member Fay, seconded by Council member Wagner to approve **Resolution No. 2010-011** entitled a Resolution to Transfer Funds - Transfer \$807.00 from the General Fund # 101 to Fund # 500 New Ice Sheet Capital Project Fund to fund negative balance and close out project; and, Transfer \$205.00 from the General Fund # 101 to Fund # 410 TIF #10 Mold Tech to fund negative balance; and, Transfer \$6,389.00 from the General Fund # 101 to fund # 408 TIF Vetsch Cabinets to fund negative balance; and, Transfer \$190,686.00 from the Sewer Access Fund (SAC) # 204 to Fund # 501 Phil Morris Lift Station to close out project; and, Transfer \$36,050.00 from the Sewer Access Fund (SAC) # 204 to Fund # 357 2003A Capital Improvement Project Bond Fund to fund negative balance; and, Transfer \$30,075.00 from the Sewer Access Fund (SAC) # 204 to Fund # 359 2005B City Hall Bond Fund to close out project with final phase in using SAC funds; and, Transfer \$91,830.00 from the Sewer Access Fund (SAC) # 204 to Fund # 601 2000A G.O. Sewer Revenue Refunding Bond Fund, annual transfer SAC funds were part of the bond payment structure. Motion carried unanimously.

*Approve **Resolution No. 2010-012** entitled a Resolution Authorizing and Documenting Inter-Fund Loan to Fund Negative Fund balances - Inter-Fund Loan from Sewer Access Fund (204) to 1999 Lease Revenue Bond Fund (354) in the amount of \$7,826.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to 2003A GO Imp Bond Fund (357) in the amount of \$1,337,887.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to I-94 Capital Project Fund (468) in the amount of \$366,592.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to Prairie Run Capital Project Fund (473) in the amount of*

\$787,159.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to Industrial Park Capital Project Fund (492) in the amount of \$19,011.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to CSAH 19 & 50th St., South 19 (494) Capital Project Fund in the amount of \$112,697.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to MacIver Capital Project Fund (502) in the amount of \$290,967.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to CSAH 37 Utilities Capital Project Fund (503) in the amount of \$408,912.00 to fund the negative balance in the capital project fund

Finance Director Lannes began with the statement that throughout the year, the City Council approves projects with plans to issue bonds or some other type of financing at a later time. Inter-fund loans provide interim financing until the other financing is completed. In some cases inter-fund loans are the primary source to finance projects that have a very short financing term. An example of this is carrying assessments for a project for a few years where it is not cost effective to issue new debt. At least annually, City Staff and auditors review and recommend inter-fund loans/advances to fund running negative balances so as to remain in compliance with Generally Accepted Accounting Principles (GAAP). Below is a list of inter-fund loans:

- Inter-Fund Loan from Sewer Access Fund (204) to 1999 Lease Revenue Bond Fund (354) in the amount of \$7,826.00 to fund the negative balance in the debt service fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to 2003A GO Imp Bond Fund (357) in the amount of \$1,337,887.00 to fund the negative balance in the debt service fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to I-94 Capital Project Fund (468) in the amount of \$366,592.00 to fund the negative balance in the debt service fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to Prairie Run Capital Project Fund (473) in the amount of \$787,159.00 to fund the negative balance in the capital project fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to Industrial Park Capital Project Fund (492) in the amount of \$19,011.00 to fund the negative balance in the capital project fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to CSAH 19 & 50th St. NE, South 19 (494) Capital Project Fund in the amount of \$112,697.00 to fund the negative balance in the capital project fund; and,
- Inter-Fund Loan from Sewer Access Fund (204) to MacIver Capital Project Fund (502) in the amount of \$290,967.00 to fund the negative balance in the capital project fund; and,

- Inter-Fund Loan from Sewer Access Fund (204) to CSAH 37 Utilities Capital Project Fund (503) in the amount of \$408,912.00 to fund the negative balance in the capital project fund

Lannes concluded with the following: At least annually, the City of Albertville must fund all negative running balances for Capital Projects, Debt Service or other miscellaneous funds in accordance with General Accounting Principals (GAAP). The inter-fund loan or advance is a loan from Sewer Access Charge Fund (SAC) to the respective negative balance funds at an interest rate of equal to the rate of investment earned by the City's investments. Included in the loan is a financial commitment detailing the source of funds to repay the loan. These inter-fund loans are an inexpensive way to fund some City activities instead of issuing bonds.

The general comment regarding the inter-loan funds dealt with the 2003A Series GO Bonds; and, the Prairie Run Capital Project. Staff reported that the Prairie Run Inter-Loan funds are due, of which are unpaid taxes and it is unknown at this point as to when the City will receive the money.

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve **Resolution No. 2010-012** entitled a Resolution Authorizing and Documenting Inter-Fund Loan to Fund Negative Fund balances - Inter-Fund Loan from Sewer Access Fund (204) to 1999 Lease Revenue Bond Fund (354) in the amount of \$7,826.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to 2003A GO Imp Bond Fund (357) in the amount of \$1,337,887.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to I-94 Capital Project Fund (468) in the amount of \$366,592.00 to fund the negative balance in the debt service fund; and, Inter-Fund Loan from Sewer Access Fund (204) to Prairie Run Capital Project Fund (473) in the amount of \$787,159.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to Industrial Park Capital Project Fund (492) in the amount of \$19,011.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to CSAH 19 & 50th St. NE, South 19 (494) Capital Project Fund in the amount of \$112,697.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to MacIver Capital Project Fund (502) in the amount of \$290,967.00 to fund the negative balance in the capital project fund; and, Inter-Fund Loan from Sewer Access Fund (204) to CSAH 37 Utilities Capital Project Fund (503) in the amount of \$408,912.00 to fund the negative balance in the capital project fund. Motion carried unanimously.

CITY CLERK

☛ *Approve a One-Day 3.2% Malt Liquor License application that has been submitted by the Albertville Lions for a Benefit-Dinner to be held at St. Albert Parish Center on Saturday, May 8, 2010 from 4:00 p.m. to 10:00 p.m.*

MOTION BY Council member Fay, seconded by Council member Sorensen to approve a One-Day 3.2% Malt Liquor License application that has been submitted by the Albertville Lions for a Benefit-Dinner to be held at St. Albert Parish Center on Saturday, May 8, 2010 from 4:00 p.m. to 10:00 p.m. Motion carried unanimously.

☛ Approve three (3) One-Day 3.2% Malt Liquor License applications that have been submitted by the Albertville Lions for the annual Friendly City Days event to be held in Central-City Park from Friday, June 11 thru Sunday, June 13. The hours of operation are: June 11, 2010 from 3:00 p.m. to 1:00 a.m.; June 12, 2010 from 9:00 a.m. to 1:00 a.m.; and, June 13, 2010 from 10:00 a.m. to 7:00 p.m.

MOTION BY Council member Fay, seconded by Council member Sorensen to approve three (3) One-Day 3.2% Malt Liquor License applications that have been submitted by the Albertville Lions for the annual Friendly City Days event to be held in Central-City Park from Friday, June 11 thru Sunday, June 13. The hours of operation are: June 11, 2010 from 3:00 p.m. to 1:00 a.m.; June 12, 2010 from 9:00 a.m. to 1:00 a.m.; and, June 13, 2010 from 10:00 a.m. to 7:00 p.m. Motion carried unanimously.

Approve the 2010-2011 Renewal Off-Sale Intoxicating Liquor License to Hackenmueller's Inc. for Hack's Liquor at the address of 11850 – 62nd Street NE in Albertville

MOTION BY Council member Wagner, seconded by Council member Sorensen to approve the 2010-2011 Renewal Off-Sale Intoxicating Liquor License to Hackenmueller's Inc. for Hack's Liquor at the address of 11850 – 62nd Street NE in Albertville.

Approve the 2010-2011 Off-Sale Intoxicating Liquor License to Holm Holdings Inc. for the 152 Club; and, 2010-2011 On-Sale Intoxicating Liquor License to Holm Holdings Inc. for the 152 Club; and, 2010-2011 Special Sunday Liquor License to Holm Holdings Inc. for the 152 Club

City Clerk Miller reported this is one of the last 2010-2011 Liquor License(s) Renewal applications that was outstanding for Council approval. The application was brought up at the March 15, 2010 meeting, at which time staff informed the Council that the City had not received the application and applicable fees. The application, liquor license fees, and outstanding utility bills have been submitted and paid.

MOTION BY Council member Sorensen, seconded by Council member Wagner to approve the 2010-2011 Off-Sale Intoxicating Liquor License to Holm Holdings Inc. for the 152 Club; and, 2010-2011 On-Sale Intoxicating Liquor License to Holm Holdings Inc. for the 152 Club; and, 2010-2011 Special Sunday Liquor License to Holm Holdings Inc. for the 152 Club

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For the City to sponsor at no cost four (4) outdoor music events at the Albertville Lions Farmer’s Market on the fourth Thursday of June, July, August and September during the hours of 5:00 p.m. to 8:00 p.m. Staff is to monitor complaints from any nearby residents and report back to the City Council as necessary

City Administrator Kruse stated that Outdoor Music Permits are limited to two permits per year and so four (4) Lion’s events would not be allowable. To accommodate the idea, staff suggests the City sponsor the music. Although this is “outdoor music”, staff believes that this event does not reach the level necessary to be permitted. If complaints are received, the issue can be evaluated and revisited. The music will be played from around 5:00 p.m. to 8:00 p.m.

MOTION BY Council member Wagner, seconded by Council member Sorensen for the City to sponsor at no cost four (4) outdoor music events at the Albertville Lions Farmer’s Market on the fourth Thursday of June, July, August and September during the hours of 5:00 p.m. to 8:00 p.m. Staff is to monitor complaints from any nearby residents and report back to the City Council as necessary

Approve Friendly City Days Committee request to extend the hours in the Central-City Park on Thursday, June 10 to 10:30 p.m.; Friday, June 11 to 1:30 a.m., and Saturday, June 12 to 1:30 a.m.; and, closing down the following streets for the annual Friendly City Days celebration as follows:

Street	Date(s)	Time(s)
58 th St. NE (Main Ave. NE to Lander Ave. NE)	June 7-14	All Day
Lander Ave. NE (58 th St. NE to 11435 58 th St. NE)	June 7-14	All Day
Main Ave. NE (57 th St. NE to 59 th St. NE)	June 11	6:00 p.m. – 2:30 a.m Fri. Activities
Lachman Ave (57 th St. NE to 60 th St. NE)	June 11	Fireworks display
Lander Ave. NE (57 th St. NE to 58 th St. NE)	June 12	All Day for Sat. Activities
Main Ave. NE (57 th St. NE to 59 th St. NE)	June 12	3:00 p.m. – 2:30 a.m. Sat. Activities
Lachman Ave. NE, Lamont Ave. NE, 57 th St. NE	June 12	Kiddie Parade
Main Ave. NE (50 th St. NE to 60 th St. NE)	June 13	1:00 p.m. – 4:00 p.m. Grande Day Parade
59 th St. NE (Barthel Ind. Dr. NE to Main Ave. NE)	June 13	1:00 p.m. – 4:00 p.m. Grande Day Parade
Barthel Ind. Dr. NE (51 st St. NE to 59 th St. NE)	June 13	1:00 p.m. – 4:00 p.m. Grande Day Parade
51 st St. NE (Barthel Ind. Dr. NE to Main Ave. NE)	June 13	1:00 p.m. – 4:00 p.m. Grande Day Parade
60 th St. NE (CSAH 37 to Main Ave. NE)	June 13	1:00 p.m. – 4:00 p.m. Grande Day Parade

City Clerk Miller noted that the Friendly City Days Committee annually presented a request to close various streets at different times throughout the Friendly City Days. There are a few added dates for closing off streets.

Council questioned the June 11 and June 12 time of 2:30 a.m. bringing up the fact that the City requires other business entities to close earlier than 2:30 a.m. Staff responded to the question pointing out this is Main Avenue NE that would be closed for the carnival rides and other activities that take place within Central-City Park. Public Works Supervisor Guimont informed the Council that the live bands are allowed to play until 1:00 a.m. and it takes a while to pack up the equipment prior to departing from the park area. Finance Director Lannes presented a Friendly City Days pamphlet noting the schedule of activities that included the times.

MOTION BY Council member Sorensen, seconded by Council member Fay to approve Friendly City Days Committee request to extend the hours in the Central-City Park on Thursday, June 10 to 10:30 p.m.; Friday, June 11 to 1:30 a.m., and Saturday, June 12 to 1:30 a.m.; and closing down the following streets for the annual Friendly City Days celebration as presented above. Motion carried unanimously.

CITY COUNCIL

Recycling – discussion item brought up by Council member Wagner

Council member Wagner brought up the potential of single-sort recycling. It was discussed at a previous meeting in 2009, in which nothing more has been brought forward. There are a number of residents that do not recycle as the process is too cumbersome. What more can the City do to promote recycling or go to single-sort recycling?

City Administrator Kruse and Finance Director Lannes acknowledged the desire of the City Council to explore a single sort option and said staff would bring that information back to the Council in the near future.

Re-schedule the March 25, 2010 joint Albertville-Otsego meeting – below are dates Otsego is recommending: Thursday April 15th at 7:00 p.m. (Larry Sorensen not available); Wednesday, April 21st at 7:00 p.m. (Larry Sorensen not available); Thursday, April 22nd at 7:00 p.m.; An alternative less preferred date would be to meet after the regular Council meeting on Monday, April 19th at 8:15 p.m.

The following dates were brought up by Council for City Administrator Kruse to notify Otsego as suggestions to schedule the joint meeting to discuss I-94 and CSAH 19 and other business as follows:

1. Monday, April 19th beginning at 8:15 p.m., time uncertain, following the regular Albertville City Council meeting.
2. Thursday, April 22nd beginning at 7:00 p.m.
3. Thursday April 29th beginning at 7:00 p.m.

Friendly City Days 2010 challenge – FCD Committee would like the Council to think about what type of challenge they want to consider – previous years it was a softball tournament (report back at the April 19 meeting)

The consensus of the Council to set the 2010 Friendly City Days challenge to be a two (2) inning softball game and for staff to see if St. Michael is interested and willing to participate.

PLANNING

*Adopt (approve) **Resolution Number 2010-010** a Resolution entitled Approving a Variance to allow a Temporary Seasonal Sales Operation on a Property without Designated Excess Parking; a Variance to allow a Temporary Sign in Excess of Six (6) feet in Height; and Two (2) Consecutive Administrative Permits for a Temporary Seasonal Sales Operation Located within the Promenade Shops of the Albertville Premium Outlets Second Phase Parking Lot located at 6500 LaBeaux Ave NE within the City of Albertville*

City Planner Brixius reviewed the information that was included in the Request for Council Action, noting that Roger Litchy of Dan and Jerry's Greenhouses, LLC is requesting approval of an Administrative Permit to allow for Temporary Outdoor Seasonal Sales within the Albertville Premium Outlets Second Promenade Shops parking lot. The applicant is proposing to place the Temporary Sales operation to be conducted within the "overflow" parking area located in the southwest corner of the subject site. Temporary Outdoor Seasonal Sales are allowed within business zoning districts upon approval of an Administrative Permit.

According to the 2005 Albertville Municipal City Code 1000.22 Section A.: Temporary Outdoor Seasonal Sales, the maximum term of operation is sixty (60) consecutive days, with a maximum of two (2) permits per calendar year for each use. What is not specified is whether these two (2) permits are allowed back-to-back as in this case. The applicant has informed staff the length of the operation would be from approximately April 15, 2010 to July 15, 2010; the hours will be similar to those of the Albertville Mall of 9:00 a.m. to 9:00 p.m.

Display areas and parking areas for the seasonal sales use must occupy only those parking spaces which are in excess of the minimum parking required for the principal use. There are two (2) variance requests before the Council. The first variance deals with the temporary outdoor seasonal sales standards, which must be approved in order to allow seasonal sales in this location as the Promenade Shops of the Albertville Premium Outlets Second was approved without excess parking to dedicate to this type of activity. The second variance request being made by

the applicant is a variance from the sign height limitations to allow for an identification sign to be placed above the fence enclosure.

Brixius reported on the height of signage that is allowed in the 2005 Albertville Municipal City Code 1000.22 Section G. as noted: Temporary outdoor seasonal sales uses (with a valid administrative permit) may have one on site temporary sign not to exceed twenty four (24) square feet in area and not more than six feet (6') in height¹¹.

Below is noted the key issues – findings for the application being considered before the Council:

Variations:

- Unique hardship has been demonstrated due to the previous approval of fewer parking stalls than normally required for the subject site and the location of an existing four (4) foot fence surrounding the subject site.
- Special conditions of the site include vast amounts of parking stalls that are under utilized during spring and summer months.
- The variances requested are the minimum necessary to accomplish the intended use.

Administrative Permit:

- Applicant has demonstrated compliance with the required administrative permit review criteria as stated in the Ordinance.

Council made the following motion approving the Dan and Jerry's Greenhouses, LLC two (2) variances to allow for two (2) consecutively running Temporary Seasonal Outdoor Sales Administrative Permits.

MOTION BY Council member Fay, seconded by Council member Sorensen to adopt (approve) **Resolution Number 2010-010** entitled a Resolution entitled Approving a Variance to allow a Temporary Seasonal Sales Operation on a Property without Designated Excess Parking; a Variance to allow a Temporary Sign in Excess of Six (6) feet in Height; and Two (2) Consecutive Administrative Permits for a Temporary Seasonal Sales Operation Located within the Promenade Shops of the Albertville Premium Outlets Second Phase Parking Lot located at 6500 LaBeaux Ave NE within the City of Albertville. Motion carried unanimously.

*Adopt (approve) **Resolution Number 2010-009 (1)**, approving a variance to allow a billboard to be placed closer than 1,000 feet to another such advertising device and approving a variance to the required 20 foot side and rear yard setbacks, located at 5701 Mackenzie Avenue NE within the City of Albertville*

OR

*Adopt (approve) **Resolution Number 2010-009 (2)**, denying a variance to allow a billboard to be placed closer than 1,000 feet to another such advertising device and denying a variance to the required 20 foot side and rear yard setbacks, located at 5701 Mackenzie Avenue NE within the City of Albertville*

City Planner Brixius read off the background relating to Resolution No. 2010-009. In 2008, Dayton Holdings, Inc., the property owner of 5701 MacKenzie Avenue NE, requested a sign permit to replace an existing billboard at their property. The sign existing as a legal non-conforming billboard in that it did not meet the 1,000 foot spacing guidelines of the Sign Ordinance. Under Minnesota Statutes, a property owner may replace an existing legal non-conforming structure provided it does not increase the degree of non-conformity. Therefore, the City issued a permit to Dayton Holdings, Inc. on May 27, 2008.

In 2009, Lamar Advertising Signs requested a sign permit to relocate the billboard at 5701 MacKenzie Avenue NE to a new location at a site 536 feet to the west, on property owned by Mike Potter. The application indicated that the existing sign would be removed and relocated to the Potter site.

Receiving two applications for the same sign at the same address, staff mistakenly thought they were the same applicant.

In review of the Lamar sign application, staff assumed that the 5701 MacKenzie Avenue NE billboard was not being replaced. In this light, the billboard met the sign area, height, and spacing requirements. In an April 1, 2009 e-mail, staff identified that the site plan did not accurately demonstrate compliance with the required 20 foot lot line setback and the requirement that the sign be located within 100 feet of the I-94 right-of-way. The City Planner indicated that the sign permit could be approved with confirmation that the sign must meet the 20 foot side and rear yard setbacks and also be within 100 feet of the I-94 right-of-way. The approved building permit referenced the setback requirements as a condition for approval.

Upon discovering that the two (2) applications were for two (2) separate billboards – one by the property owner and the second by the sign company – City staff issued a letter repealing the Lamar sign and building permit.

Lamar Advertising has now filed a lawsuit against the City suing for the right to place a billboard on the Pottery property. However, through legal negotiations, they have offered to drop the lawsuit if the City would approve a variance from the 1,000 foot spacing requirement for billboards. After the applicant examined placing the sign on the site, they realized that they cannot place a standard billboard on the Potter property in compliance with the required 20 foot side and rear yard setbacks, while keeping the billboard within 100 feet of the I-94 right-of-way. They have amended their variance request to include a variance from the 1,000 foot spacing and a variance from the 20 foot side and rear setbacks.

The key issues or findings pertaining to the billboard are as follows:

The variance requests are being processed to alleviate a pending lawsuit and reduce the City's financial exposure. The Planning Commission recommended denial of both variances: to allow a billboard be placed closer than 1,000 feet to another billboard and a variance to the required 20

foot side and rear yard setbacks. However, the Planning Commission did not have the privilege of the attorney-client discussions. In that respect, Council is asked to choose between two motion options:

Option 1 – Approves both the variances for the 1,000 foot spacing requirement and to allow setbacks of two feet from the side and rear property lines, based on the following findings:

1. The mistaken issuance of the building permit for the sign is a hardship for the property owner created through public action.
2. The 536 foot spacing between the proposed sign and the next nearest sign complies with the State spacing requirements.
3. The property is unique in its configuration in that only a portion of the parcel falls within 100 feet of the I-94 right-of-way. Relief from the lot line setback is necessary to accommodate the billboard within 100 feet of the I-94 right-of-way.
4. The site in question is surrounded by wetlands. The reduced setbacks will not negatively impact adjoining properties or buildings.

Option 2 - Denies the variances to allow a billboard to be placed within the 1,000 foot spacing requirement and within the 20 foot side and rear yard setback requirement, based on the following findings of fact and decision:

1. The planning report dated March 3, 2010 from Northwest Associated Consultants is incorporated herein.
2. Issuance of the original permit was a mistake by City staff that was corrected within two weeks of the permit issuance.
3. The site is not eligible for a billboard based on the location of the existing billboards.
4. The original application graphics provided by the applicant suggest that the sign location would meet all required setbacks. City staff conditioned permit approval in compliance with the required setbacks.
5. The physical hardships of the site are not exclusively unique to this property and may convey a use not available to other properties within the same zoning district.

Brixius went on to explain that staff recently received correspondence from David Lenhardt representing Phillip Morris of the Albertville Marketplace Development located off of CSAH 37 and I-94.

City Attorney representative Jason Kuboushek reminded the Council that tonight's recommendations and motion are regarding the variances. Items that should not be discussed are client-attorney privilege information regarding the litigation, which is before the court system. Should a member of staff or the Council begin to bring something up related to the litigation, Kuboushek will politely cut-off the individual before too much information may be disclosed to the general public.

City Engineer Nafstad noted on a site layout of the area where the current billboard is and where Lamar Advertising is proposing to re-locate their billboard in addition to whereabouts Mr. Morris would consider placing a billboard on his development.

Peter Coyle and Mark Devore were present representing Lamar Advertising Company, in which Mr. Devore displayed for the Council the signed agreement that Albertville recently passed in regards to a Settlement Agreement on the Lamar Litigation. Mr. Devore continued by stating it is unfortunate an error took place in the approval of a sign permit. It was noted that Lamar Advertising did not interpret the City Code as the Albertville Building Office and City Planner interpreted it. To the best of Lamar's knowledge, the sign being proposed appeared to be in compliance according to Lamar's interpretation of the 2005 Albertville Municipal City Code.

Devore continued by explaining Lamar did not realize the setbacks of the proposed billboard did not meet the requirements of Title 10, Chapter 7, Section 9 of the 2005 Albertville Municipal City Code. Devore displayed bullet points relating to various parts of the City Code that included sections 10-7-9 A. relating to setbacks; 10-7-9 A. regarding the wetlands will not negatively impact the adjacent properties that are unbuildable; 10-7-9 B. pertaining to strict enforcement would deprive Mr. Potter of a reasonable use of property was one point that Peter Coyle brought up; 10-7-9 C. noting the hardship here is not self imposed; last area discussed was 10-7-9 D. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or interfere with the function of the sheriff's and fire departments of the City.

Mr. Devore informed the Council that he is the current business manager of Lamar Advertising based out of the St. Cloud office. Mr. Devore commented that Lamar has contacted Mr. Morris about 1½-2 weeks ago, in which Lamar Advertising would be happy to work out something with Mr. Morris regarding the billboard situation.

Mr. Morris shared a few comments with the Council, staff, and others present, in which Morris pointed out one of the main reasons he considered the property dealt with the signage for the site. Mr. Morris reported that he has had a number of billboard companies contact him inquiring the potential of placing signage on the property. Morris noted that he has turned down these companies for approximately 20-25 years. With the recent development of the property, Morris would like to place advertisement for the businesses within the Albertville Marketplace.

As Mr. Morris continued with his public concern related to the billboard signage, Morris noted on the layout Mr. Nafstad displayed how the Lamar signage will obstruct the site line of his future advertisement for his property.

Mr. Kuboushek reported on the 100-foot setback and acknowledged the recent comments from Mr. Morris. Kuboushek encouraged staff to work with the applicant to meet the setback requirements.

Randy Duely of the new Albert and Emma's Gas Station-Convenience Store conducted a site study with a business based out of Florida related to the site in Albertville. The results of the study projected that the signage off of I-94 is beneficial for businesses located on the Albertville Marketplace Development. Mr. Duely stated that part of the consideration was achieved by the proposed signage that could be constructed that would get the customer's attention.

It was acknowledged that it is a difficult decision with the application before the Council. It deals with the approval of two (2) variances for the construction of a billboard sign along the I-94 corridor with the knowledge of an error that was made approving the sign building permit, in which there is a lawsuit in the back of the Council's mind.

It was the Council's first consideration to allow Lamar Advertising and Mr. Morris to work out a win-win scenario. The second consideration Council would suggest is to have staff craft a revised RCA to make the site(s) appealing to meet both the applicant and the City's requirements.

City Planner Brixius wanted to add to the motion should the Council want to continue the discussion on the litigation, in which the Resolution would be tabled to make it date specific and to authorize staff to send a letter extending the 60-day application ruling review process.

City Administrator Kruse noted that the Council appears to be hesitant in moving forward with the approval or denial of the variances for Lamar based on the litigation. Kruse recommended that the Council make a motion to table the Resolution with a date specific per Brixius' request, extend the 60-day review process, and set a date for a closed session to discuss the questions or concerns of the Council relating to the lawsuit prior to the Council's decision on the Development application being considered.

Following the discussion, the motion was made regarding the Lamar Resolution No. 2010-009 variances consideration.

MOTION BY Council member Wagner, seconded by Council member Sorensen to table **Resolution Number 2010-009 (1)** table granting a variance to allow a billboard to be placed closer than 1,000 feet to another such advertising device and table granting a variance to the required 20 foot side and rear yard setbacks, located at 5701 Mackenzie Avenue NE within the City of Albertville until the May 3, 2010 regular City Council meeting or a date specific soon thereafter, at which time the decision will be made whether to approve or deny the variances; and, extending the motion until May will allow Council time to hold a closed session regarding the Lamar Billboard Litigation; and, directing staff to send written notification to the applicant extending the 60-day ruling on the Development (Administrative) Application that is being reviewed this evening. Motion carried unanimously.

LEGAL

Accept the City Attorney's Report dated April 1, 2010

Council acknowledged the City Attorney's Report.

ADMINISTRATION

Approve entering into a Consulting Services Agreement with the Tinklenberg Group not to exceed an average monthly cost of \$1,500 or \$18,000 annually plus expenses with the contract term of April 1, 2010 through March 30, 2011 as detailed in the Tinklenberg Group's March 24th proposal letter on file in the office of the City Clerk with funds coming from the 2010 and 2011 budgeted transportation account. Such contract including expenses shall not exceed \$22,000 including expenses

City Administrator Kruse briefly reviewed the fact that the City has contracted with the Tinklenberg Group since 2004. In August 2005, the Tinklenberg Group was instrumental in the City receiving \$800,000 of Federal Funds, used to purchase right-of-way for the I-94 Project. Since that time, the Tinklenberg Group has assisted the City in lobbying for additional State and Federal Funding. In 2009, the Tinklenberg Group assisted in preparation of the Greater Minnesota Interchange Grant Program whereby the City was awarded \$5,440,000.

The 2009 Federal Transportation Reauthorization Bill was carried over and is anticipated to be approved following the 2010 mid-term elections in November, and will identify qualifying projects for the next five years. The House has selected its priority projects, of which Albertville is not included. The Senate has yet to select their funding projects and that would be the focus of this lobbying effort.

The Westbound I-94 Collector Distributor Road is shovel ready and has a \$3,700,000 funding gap and the Eastbound I-94 portion of the project is estimated to cost \$6 million. Without Federal assistance, it is unlikely the project will happen. The City is currently lobbying for \$5,400,000 for I-94 right-of-way, final design and construction.

MOTION BY Council member Sorensen, seconded by Council member Wagner to approve entering into a Consulting Services Agreement with the Tinklenberg Group not to exceed an average monthly cost of \$1,500 or \$18,000 annually plus expenses with the contract term of April 1, 2010 through March 30, 2011 as detailed in the Tinklenberg Group's March 24th proposal letter on file in the office of the City Clerk with funds coming from the 2010 and 2011 budgeted transportation account. Such contract including expenses shall not exceed \$22,000 including expenses. Council member Vetsch opposed the motion. Mayor Klecker, Council members Fay, Wagner, and Sorensen voted aye.

5975 Main Avenue NE City Building Lease – Acting Out letter of intent (discussion) (Letter of Intent to Lease from Acting Out Fine Arts Studio)

City Administrator Kruse wanted to bring to Council's attention the fact that there is a party interested in leasing the 5975 Main Avenue NE City facility. Currently, the Acting Out group is using space within one of the school buildings, of which they are outgrowing and are looking for a new location. Most young clients will be dropped off by their parents. The number of employees or staff will be minimal. The gals would officially begin leasing the space effective July 1, 2010; however, would like access to the facility prior to paint and prepare the space to meet their needs.

The Council was supportive of leasing the building and felt the group would be compatible with City operations.

ANNOUNCEMENTS and or UPCOMING MEETINGS

April 2010

- 10 8:00 a.m. Albertville Town Hall meeting**
- 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**

May 2010

- 3 5:30 p.m. 2010 Board of Equalization (Board of Review)**
- 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**
- 25 6:00 p.m. Joint Powers Water Board meeting**
- 31 all day Memorial Day observed – City offices closed**

- 1). Primary Election has been moved up to Tuesday, August 10, 2010 (per Minnesota Secretary of States Office)
- 2). General Election remains the first Tuesday in November (November 2, 2010) - seats open on Council for the General Election are:
 - a. Mayor (Klecker) – filing for candidacy opens at 8:00 a.m. August 3, 2010
 - b. Council member (Wagner) – filing for candidacy opens at 8:00 a.m. August 3, 2010
 - c. Council member (Fay) – filing for candidacy opens at 8:00 a.m. August 3, 2010

ADJOURNMENT

MOTION BY Council member Sorensen, seconded by Mayor Klecker to adjourn the Monday, April 5, 2010 regular City Council meeting at 10:06 p.m. Motion carried unanimously.

Bridget Miller, City Clerk (recording secretary)