

On Monday, October 12, 2009 the meeting of the Albert Lea City Council was called to order at 7:00 p.m. in the City Center Council Chambers by Mayor Michael Murtaugh.

**1. CALL TO ORDER AND ROLL CALL**

Present were Mayor Michael Murtaugh, Councilors Vern Rasmussen, Larry Baker, Ellen Kehr, Reid Olson, Larry Anderson, Al Brooks and Mayor Michael Murtaugh. Also present were City Manager Victoria Simonsen, and Council Secretary Shirley Slater-Schulte. A representative of the Albert Lea Tribune was present.

- a. The Pledge of Allegiance was recited.

**\*2. CONSENT AGENDA**

**\*a. APPROVAL OF THE MINUTES FROM THE REGULAR COUNCIL MEETING OF SEPTEMBER 28, 2009**

- \*b. RESOLUTION 09-189 – APPROVING CLAIMS:** Resolution 09-189 represents the financial claims of the City.

(See Secretary's Original Resolution 09-189 included with these minutes.)

**\*c. LICENSES AND PERMITS:**

**ANNUAL LICENSE(S)**

1. Viridiana O. Sigala, 606 Water Street, Albert Lea, MN Tattoo Artist
2. Sign Pro, 301 Webster Avenue, North Mankato, MN – Sign Hanger

**\*d. Call Work Session for 5:30 p.m. October 22, 2009, Council Chamber  
Discussion of Humane Society Agreement**

**\*e. Call 2010 Budget Workshop for 5:30 p.m., November 2, 2009, Room 109**

**\*f. Request to Close Fountain Street (from Newton to Washington) and  
Broadway Avenue Fountain to Water) from 5:00-8:00 a.m., Wednesday,  
October 14, 2009 for the Good Morning America Live Broadcast.**

**MOTION:** Move to approve the consent agenda.

Councilor Baker moved that the consent agenda items be adopted as amended, seconded by Councilor Rasmussen. On roll call vote, the following councilors voted in favor of said motion: Councilors: Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the motion passed.

3. **PUBLIC FORUM**

Mr. Harold Kamrath, 326 Glenn Road, questioned how the Parking Maintenance District Assessment is figured. Mr. Kamrath requested that the council reconsider the assessments on his property.

4. **PETITIONS-REQUESTS-COMMUNICATIONS**

a. **REQUEST FROM AMERICAN LEGION POST #56 FOR PLACEMENT OF A CHANGING ELECTRONIC MESSAGE CENTER**

City Manager Simonsen explained that Members of the American Legion are requesting the city council consider allowing the club to hang a changing electronic message center board on the front of the building, located in the city's historic district. On September 17, 2009, the Heritage Preservation Commission reviewed the proposal and discussed the request. The HPC denied the request as not conforming to the historic district.

Mr. Todd Utpadel, Manager of the American Legion addressed the council regarding the request for a changing electronic message center. Mr. Utpadel stated that he had made a request to the Historic Preservation Committee and they referred him to request a variance from the City Council.

Ms. Sheila Schulz, 1917 S. Shore, is not in favor of this signage in the historic district.

**MOTION:** Motion to refer this to the Board of Appeals and that they convene as soon as possible to review the ordinance regarding this type of signage.

Councilor Baker moved to approve this request, seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said motion: Councilors Rasmussen, Baker, Kehr, Olson, Anderson and Mayor Murtaugh. Councilor Brooks voted nay. Mayor Murtaugh declared the motion passed.

b. **REQUEST FROM AMERICAN LEGION POST #56 FOR VETERANS DAY PARADE, WEDNESDAY, NOVEMBER 11, 2009 – SOUTH BROADWAY TO THE COURTHOUSE COMPLEX**

City Manager Simonsen explained that the American Legion Post #56 is requesting to host their annual Veteran's Day Parade on Wednesday, November 11, 2009 at 10:30 a.m. The parade would begin at the American Legion Building and would march south on South Broadway, cross Main Street and end at the Veteran's Memorial at the corner of Washington Avenue. The chief of police has reviewed the request and can support the issuance of the parade permit. The Legion is also requesting the use of chairs for the event.

**MOTION:** Move to approve this request.

Councilor Baker moved to approve this request, seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said motion: Councilors Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the motion passed.

**5. UNFINISHED BUSINESS**

**a. ASSESSMENT ROLL 0108 – CHADWICK PROPERTY – Tabled FROM 09-14-09**

City Manager Simonsen explained that this item was tabled from a previous meeting, but is still not ready for formal council action. Staff is requesting that the Chadwick portion of assessment roll #0108 be deferred until resolution can be reached between the property owner and the city regarding the future of this parcel.

MOTION: I will move to table.

Councilor Rasmussen moved to table this item, seconded by Councilor Baker. On roll call vote, the following councilors voted in favor of said motion: Councilor Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the motion passed.

**6. NEW BUSINESS**

**PUBLIC HEARING AND RESOLUTION 09-190 – ADOPTING ASSESSMENTS (Job 0319)**

City Manager Simonsen explained that this project involved the removal and replacement of the aggregate base, curb and gutter, bituminous and water main on Ridge Road from The Fairway to Garden Road. The total cost of the project was \$227,844.16 of which 45% is assessable to adjacent property owners and 55% is a city cost. The assessments shall be payable in equal annual installments over a ten year period at a rate of 6% interest unless paid within the next 30 days.

Mayor Murtaugh opened the public hearing and called three times for public input.

There was not public comment.

Mayor Murtaugh called three times and then closed the public hearing.

Resolution 09-190 was introduced by Councilor Rasmussen, seconded by Councilor Baker. On roll call vote, the following councilors voted in favor of said resolution: Councilors Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-190  
included with these minutes)

**b. PUBLIC HEARING AND RESOLUTION 09-191 – ADOPTING ASSESSMENTS (Job 0621)**

City Manager Simonsen explained that this project involved the total reconstruction of St. Mary Avenue (from West Main Street to William Street) and William Street (from St. Mary Avenue to Washington Avenue) a distance of approximately 650 feet. The water main, sanitary sewer and storm sewer were also replaced during the project as they were

constructed in the early 1930's. The total project cost was \$403,287.78 with \$99,343.63 being assessable to adjacent property owners and the remainder being a city cost. The assessments shall be payable over the next 15 years at 6% interest unless paid within the next 30 days.

Mayor Murtaugh opened the public hearing and called three times for public input.

There was no public comment.

Mayor Murtaugh called three times and then closed the Public Hearing.

MOTION: Motion to amend the sidewalk assessments to 50/50%.

Motion and Resolution 09-191 was introduced by Councilor Baker, seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said resolution: Councilors Baker, Kehr, Anderson and Brooks. Councilor Rasmussen, Olson and Mayor Murtaugh voted nay. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-191  
included with these minutes)

**c. PUBLIC HEARING AND RESOLUTION 09-192 – ADOPTING ASSESSMENTS  
(Job 0625)**

City Manager Simonsen explained that the 2008 Wedgewood Cove Estates Phase III Improvements involved the construction of Wedgewood Road (from the existing bituminous west to the existing Wedgewood Road) and Wedgewood Road (from 9<sup>th</sup> Street north through Palmer Circle). The total project cost is \$591,303.26 with \$70,461.81 being assessable, \$73,741.39 being held for future assessment, and the city costs being \$447,100.06. The assessments shall be extended over a period of 15 years, bearing interest at the rate of 6% unless paid within the next 30 days.

Mayor Murtaugh opened the public hearing and called three times for public input.

There was no public comment.

Mayor Murtaugh called three times and then closed the Public Hearing.

Resolution 09-192 was introduced by Councilor Kehr, seconded by Councilor Brooks. On roll call vote, the following councilors voted in favor of said resolution: Councilors Baker, Kehr, Anderson, Brooks. Councilors Rasmussen, Olson and Mayor Murtaugh voted nay. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-192  
included with these minutes)

**d. PUBLIC HEARING AND RESOLUTION 09-193 – ADOPTING ASSESSMENTS (Job 0907)**

City Manager Simonsen explained this project involved the bituminous overlay of residential streets in the northwest part of the city and Keystone Drive. The total centerline footage of the project was 2.5 miles. The bid prices on the project were under the engineer's estimate, resulting in the assessed amounts being approximately 24% lower than proposed. The total project cost was \$500,259.67. If the city council chooses to allocate 50% of the sidewalk costs to the homeowners, the assessments will total \$310,728.80 or 62% of the project. The city cost is \$189,530.87 or 38% of the project costs. The assessments for this project shall be payable in equal annual installments over the next five years, bearing interest at 6% per annum unless paid within the next 30 days.

Mayor Murtaugh opened the public hearing and called three times for public input.

Mr. Tom Weigel, Giles Place, stated that the project has not been finished and feels that it is unfair to assess the property until the project is finished. No one from the city has been out there to do an inspection of his front yard which slopes down and he cannot mow his front yard.

City Engineer Jahnke stated that this is on the punch list, but it has not been completed, due to the weather. It will be completed as soon as possible.

Mr. Harold Kamrath, 326 Glenn Road, questions regarding the driveway that has not been cemented.

City Engineer Jahnke stated that Mr. Kamrath's driveway was not cement to begin with.

Mayor Murtaugh called three times and then closed the Public Hearing.

Resolution 09-193 was introduced by Councilor Anderson, seconded by Councilor Kehr with 50% sidewalk assessments. On roll call vote, the following councilors voted in favor of said resolution: Councilors Baker, Kehr, Olson, Anderson and Mayor Murtaugh. Councilor Rasmussen, Olson and Brooks voted nay. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-193  
included with these minutes)

**e. RESOLUTION 09-194- ACCEPTING BID AN AWARDING CONTRACT FOR 2009 TH-13 SANITARY SEWER FORCEMAIN CONTRACT 1 (Job 0914)**

City Manager Simonsen explained that on September 30, 2009, bids were received, opened and tabulated for the Trunk Highway 13 Sanitary Sewer Force Main Contract 1. Eight bids were received for the project, ranging from \$247,100.00 to \$325,646. This resolution would authorize the mayor and city manager to enter into an agreement to accept the lowest responsible bid, and award it, as submitted, by Ryan Contracting Company, Elko, Minnesota in the amount of \$247,101. The initiation of this contract is contingent on an award for the Manchester project, which is anticipated to be authorized Monday, October 12, 2009.

Resolution 09-194 was introduced by Councilor Anderson, seconded by Councilor Kehr. On roll call vote, the following councilors voted in favor of said resolution: Councilors Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-194  
included with these minutes)

**f. RESOLUTION 09-195 – ADOPTING IDENTITY THEFT PREVENTION PROGRAM (Red Flag Policy)**

City Manager Simonsen explained that the Federal Trade Commission now requires that every financial institution and creditor establish an Identity Theft Prevention Program to assist personnel with spotting “red flags” on customer transactions that may lead to identity theft. According to the rule, a municipality is a creditor subject to the rule requirements. The policy identifies transactions that may be ‘red flags’ including suspicious documents, suspicious personal identifying information, and suspicious account activity. The policy further outlines methods to prevent and mitigate identity theft as well as oversight of the program.

Resolution 09-195 was introduced by Councilor Rasmussen, seconded by Councilor Olson. On roll call vote, the following councilors voted in favor of said resolution: Councilors Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the resolution passed.

(See Secretary's Original Resolution 09-195  
Included with these minutes)

**g. ORDINANCE 128,4d – (2<sup>nd</sup> Reading) AMENDING CHAPTER 6-35 – DELINQUENT TAXES**

City Manager Simonsen explained that this is the first reading of a proposed amendment to Chapter 6-35 Effect of Delinquent Taxes and Charges. The city attorney is recommending modification of language in the current ordinance that would clarify that liquor licenses would neither be granted nor renewed when taxes, assessments, or installments on the premises are delinquent and unpaid. It further defines “delinquent and unpaid” and clarifies that licenses would not be renewed under those circumstances as well.

Ordinance 128, 4d was introduced by Councilor Rasmussen, seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said Ordinance 128,4d (2<sup>nd</sup> reading): Rasmussen, Baker, Kehr, Olson, Anderson, Brooks and Mayor Murtaugh. Mayor Murtaugh declared the Ordinance 128,4d passed.

**7. MAYOR AND COUNCIL ITEMS  
Mayor/Ward and Committee Updates**

First Ward, Councilor Rasmussen reported:

- Committee Updates
- Inquired about the Parking Ordinance

Second Ward, Councilor Baker reported:

- No Committee Updates
- No Ward Items

Third Ward, Councilor Kehr reported:

- Committee Updates
- Attended Task Force Meeting on Massage
- Questions on subdivision behind YMCA – Linwood Street and then it turns into Knoll, could the city place dual signage on this street, identifying both streets?

Celebration of Vitality Project on Tuesday, October 13, 2009

Fourth Ward, Councilor Olson reported:

- Committee updates
- Update on Humane Society Lease Agreement

Fifth Ward, Councilor Anderson reported:

- Committee Updates
- Thank you to everyone who attended the Viking's game televised in the North Broadway parking lot.

Six Ward, Councilor Brooks:

- Committee updates
- Reported several shut-off stops with cut-outs in the street, and asked when will they be completed?

Mayor Murtaugh reported:

- Committee Updates
- Vitality Project Event
- Humane Society Updates
- Update on Art Space Project
- North Shore Project Update
- Thank you to the people that presented the Viking's Game

City Manager's Report:

- All items from the last meeting have been addressed
- Kamrath's Parking Request is denied. No council motion made.
- Training on Immigration will occur on 10-20-09
- Lights on Bridge Avenue

**8. ADJOURNMENT – 8:25 P.M.**

Councilor Anderson moved and Councilor Olson seconded that there being no further business, the council meeting be adjourned at 8:25 p.m., until the next regular meeting of the Albert Lea City Council at 7:00 p.m. on Monday, October 26, 2009. On roll call vote, all councilors voted in favor of said motion. Mayor Murtaugh declared the motion passed and the meeting adjourned.

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Mayor Michael K. Murtaugh

Filed and attested October 12, 2009.

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Secretary to the Council