

Pursuant to due call and notice thereof a regular meeting of the Council in and for the City of Albany, Stearns County, Minnesota, was called to order by Mayor Tom Kasner at 6:30 o'clock in the evening on Wednesday, May 20, 2020, in the Council Room at 400 Railroad Avenue for the said City.

Other Council members present were: Councilors John R. Harlander, Adam Rushmeyer, Al Amdahl, and Keith Heitzman. None were absent.

Tom Schneider, Clerk/Adm., Kate Asfeld, Editor Star Post, and Jeremy Mathiasen, the City Engineer with the firm of Stantec, Inc., St. Cloud, MN, were present for the meeting.

Kris Schiffler and Lee Mergen, owners of Shady's Hometown Tavern and Events Center, was present for the meeting.

The Council recited the Pledge of Allegiance.

The Council took notice of approval of payment of bills. After due discussion, a motion was made by Keith Heitzman and seconded by Adam Rushmeyer to authorize electronic payments, transfers, and the payment of the following bills: Check Numbers 69934 to 69968 and 17873 to 17888. All voted for the motion and it carried.

Mayor Tom Kasner called for any corrections or additions to the minutes of the regular meeting of the Council held on May 6th and hearing none declared them approved.

Open forum/public comments: None.

The Council took notice of a resolution requesting relief from Governor Walz's Emergency Executive Orders closing non-critical small businesses. Mr. Schiffler appeared before the Council to inform the Council Governor Walz recent emergency executive order dated May 20th will allow restaurants and bars to reopen on June 1st for outside dining that included many restrictions such as, but not limited, to seating of no more than fifty (50) persons, four (4) person limit per table, or six (6) if part of one family unit, routine regular disinfection, reservations required, and masks to be worn by the workers. Mr. Schiffler noted he will provide consider this service to his customers having additional property north of his business, but many other bars are limited with no additional property for an outside patio. Mr. Mergen questioned if the Council would consider the use of the sidewalk along Railroad Avenue for businesses to set up tables and chairs. Mr. Schneider noted the Council may extend the on-sale consumption of alcohol and outside dining on a public sidewalk, but additional insurance is required. Mr. Harlander questioned if the Minnesota Department of Transportation (MnDOT) would allow no parking on the north side of Railroad Avenue (T.H. #238) in front of the liquor establishments for additional safety precautions. Mr. Schneider noted he will consult with the City attorney to assure compliance with liquor laws. Mr. Harlander also noted many bars and restaurants have different outside patio opportunities and some may not have any. Mr. Schneider informed the Council he will contact the business owners to assist them with outdoor dining options. After due discussion, a motion was made by Mayor Tom Kasner and seconded by John R Harlander to approve the following:

- Request approval from MnDOT to temporarily close north parking lane on Railroad Avenue in front of restaurants and bars. City Engineer to contact MnDOT.
- Allow the extension of the premises for consumption of alcohol with contiguous property to include a diagram and updated proof of insurance.
- Temporary Sidewalk tables and chairs will be permitted for restaurants and bars.
- Temporary closure of alley between 5th St. and 4th St. along south property boundary of Stearns Bank. No tables, chairs, or tents may be erected within this area.
- Outside dining restaurants and bars.

- Mayor Tom Kasner and the City Clerk/Administrator to review diagrams or sketches of outside dining for restaurants and bars.
- Follow COVID-19 Business Preparedness Plan.
- *Temporary outside patio permits shall expire November 1, 2020. (Addition to minutes per the Council June 3rd meeting)*

All voted for the motion and it carried.

After due discussion, a motion was made by Councilor John R. Harlander introduced the following resolution and moved its adoption:

**CITY OF ALBANY, MINNESOTA
RESOLUTION NO. 2020-16**

WHEREAS, pursuant to Minnesota Statutes Chapter 12, the Minnesota Legislature conferred upon the Governor emergency powers to deal with disasters, protect the public peace, health and safety, and carry out the state's emergency management;

WHEREAS, pursuant to that authority and in response to the COVID-19 pandemic, on March 16, 2020, Governor Walz issued Emergency Executive Order No. 20-04 ordering the closure of bars, restaurants, and other places of public accommodation effective March 17, 2020 and on March 25, 2020, Executive Order NO. 20-20 directing Minnesotans to stay at home except for certain exempted activities and work;

WHEREAS, the Executive Orders have had the desired effect of slowing the spread of COVID-19 and allowing the development of appropriate medical response preparedness.

WHEREAS, the Executive Orders have since been amended and extended, requiring many local businesses to remain closed;

WHEREAS, these local businesses are crucial to the economic vitality of the City of Albany and continued closure poses an extreme economic hardship on the business owners and employees; and

WHEREAS, local business tend to generate less proximity than the Critical Exempt Businesses which have remained open during this pandemic, have fewer and more controlled points of contact, and are equally able to adopt protective measures for source control and to preserve social distancing and meet other CDC guidelines;

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council as follows:

That the City Council of Albany hereby requests relief from Governor Walz's Executive Orders closing these non-Critical local businesses.

That the City Council of Albany urges Governor Walz to restore the power of issuing emergency orders and implementation related to the COVID-19 pandemic to individual municipalities and local government agencies to determine whether non-Critical local businesses can safely reopen, while reserving to the Governor the power and authority over Critical Sectors, including but not limited to meat processing plants, hospitals, and long term care facilities.

That the City Council affirms its commitment to complying with the laws of the State of Minnesota and the Governor's Executive Orders relative to this pandemic and to its Police Department in its efforts to enforce the laws.

That the City Council urges all of its citizens to comply with the terms of the Governor’s Executive Orders and to comply with CDC guidelines for preventing the spread of COVID-19.

Passed by the City Council of Albany on this 20th day of May, 2020.

Tom Kasner, Mayor

Tom Schneider, City Clerk/Administrator

(S E A L)

The motion for the foregoing Resolution was seconded by Keith Heitzman and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Mayor Tom Kasner, Councilors Adam Rushmeyer, John R. Harlander, Al Amdahl, and Keith Heitzman, and none voted against the same whereupon the said Resolution was declared duly passed and adopted. The full text of the said Resolution is on file at the office of the City Clerk/Administrator for public inspection during regular office hours.

Mr. Mathiasen appeared before the Council to present the preliminary engineering report for the 2020 Shamrock Lane/8th Street Sidewalk Improvements. Mr. Mathiasen noted the proposed sidewalk will be constructed on the north side of Shamrock Lane and east side of 8th Street (T.H. #238) south of the Lake Wobegon Trail. Mr. Mathiasen noted the project has been requested by an adjacent property owner to facilitate safe pedestrian access to and from parking lots and local businesses. Mr. Mathiasen also noted the project will be funded by the City and special assessments from benefitting properties. Mr. Mathiasen also noted the estimated project cost is \$29,760 and if necessary perpetual easements from adjacent property owners will be required if the sidewalk is constructed outside the right-of-way. Mr. Rushmeyer noted he has witnessed on many occasions’ pedestrians walking along the western shoulder of the roadway or in the grass on 8th Street south of the 8th Street and Railroad Avenue intersection (4-way Stop). After due discussion, a motion was made by Councilor Al Amdahl who introduced the following resolution and moved its adoption:

RESOLUTION NO. 2020-17
RECEIVING PRELIMINARY ENGINEERING REPORT
AND CALLING PUBLIC HEARING ON A LOCAL
IMPROVEMENT PROJECT
(Shamrock Lane & 8th Street Sidewalk Improvements)
Public Hearing: June 17, 2020 at 6:30 PM

The motion for the foregoing Resolution was seconded by Adam Rushmeyer and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Mayor Tom Kasner, Councilors Adam Rushmeyer, John R. Harlander, Al Amdahl, and Keith Heitzman, and none voted against the same whereupon the said Resolution was declared duly passed and adopted. The full text of the said Resolution is on file at the office of the City Clerk/Administrator for public inspection during regular office hours.

Mr. Mathiasen presented to the Council Payment Voucher No. 1 for the 2020 Capital Improvement Project. Mr. Mathiasen noted the Payment Voucher generally includes partial water main, sewer main, services, storm sewer, along 8th Street. Mr. Mathiasen noted due to continued restrictions on large group gathering, the final assessment hearing is continued to be delayed and when the restrictions are lifted, a public hearing will be scheduled. After due discussion and upon recommendation from the City Engineer, a motion was made by John R. Harlander and seconded by Keith Heitzman to approve Payment Voucher No. 1 to Breitbach Construction Company, Elrosa, MN, in the amount of \$31,286.74. All voted for the motion and it carried.

Councilor Keith Heitzman, Albany Golf Club Liaison, presented to the Council the Albany Golf Club’s checkbook register. After due discussion, a motion was made by Keith Heitzman and seconded by

Al Amdahl to approve electronic payments, transfers, and the payment of the following: checks 39510-39534. Voting for the motion were Councilors John R. Harlander, Adam Rushmeyer, Al Amdahl, and Keith Heitzman and none voted against. Mayor Tom Kasner abstained and the motion carried. Mr. Heitzman informed the Council the driving range improvements will begin shortly and done in phases.

Mr. Heitzman informed the Council the Minnesota Pollution Control Agency (MPCA) recognized the Albany Wastewater Treatment Plant and staff with a certificate of commendation for the exceptional compliance with the MPCA's National Pollutant Discharge Elimination Systems (NPDES) wastewater permit during the 2019 review year.

Mr. Schneider informed the Council it was brought to his attention an error occurred by the City in calculating the minimum gallons of water used for commercial businesses. Mr. Schneider noted the minimum gallons used bi-monthly should have been 6,600 gallons and for some reason or another, in January 2018, the computer software began calculating the minimum gallons of water to be 10,000 gallons. Mr. Schneider recommended a credit be issued for those commercial accounts that have been overcharged. After due discussion, a motion was made by Keith Heitzman and seconded by Adam Rushmeyer to direct Mr. Schneider to issue a credit for the commercial businesses that were overcharged. Voting for the motion were Mayor Tom Kasner, Councilors Adam Rushmeyer, Al Amdahl, and Keith Heitzman and none voted against. Councilor John R. Harlander abstained and the motion carried.

Mr. Schneider presented to the Council an offer submitted by the Minnesota Department of Transportation (MnDOT) to convey to the City at a purchase price of \$14,400 parcel 200 (Conveyance No. 2018-0152) nearly 11,528 square feet of excess railbank property described as follows: That part of the former Burlington Northern Railroad Company's branch line right of way upon, over, and across the North Half of the Northwest Quarter of the Northeast Quarter of Section 22, Township 125 North, Range 31 West, Stearns County, Minnesota; lying between two lines run parallel with and distant 25.0 feet and 59.0 feet northerly, measured at right angles from the main track centerline of said railroad and bounded between two lines run at right angles to said centerline, distant 579.4 feet and 918.4 feet southeasterly, measured along said centerline from the west line of said North Half of the Northwest Quarter of the Northeast Quarter. Mr. Schneider noted the railbank property is south of the former Gas Service Company building at 21837 County Road 54 which is now owned by Bryan D. Schiffler, Lucky of Albany, LLC. Albany, MN. Mr. Schneider recommended the City proceed to purchase the property from MnDOT and shortly thereafter, enter into a purchase agreement at the same purchase price with Lucky of Albany, LLC, for the property to be redeveloped for economic development purposes. Mr. Schneider also noted the property would be sold as-is, annexed to the City, and eventually be connected to municipal water and sewer. After due discussion, a motion was made by John R. Harlander and seconded by Al Amdahl to authorize Mayor Tom Kasner on behalf of the City to purchase the excess railbank property in the amount of \$14,400 from MnDOT and to execute a purchase agreement with Lucky of Albany, LLC at the same purchase price, plus all attorney fees related to this land acquisition for the property to be redeveloped for economic development. All voted for the motion and it carried.

Mr. Schneider presented to the Council a resolution recognizing the graduating Class of 2020 at the Albany Area Schools. Mr. Schneider noted no school activities have been permitted and only distance learning due to COVID-19 as per Governor Tim Walz Executive Emergency Order. After due discussion, a motion was made by Mayor Tom Kasner who introduced the following resolution and moved its adoption:

RESOLUTION 2020-18
REGARDING ALBANY AREA HIGH SCHOOL
CLASS OF 2020

The motion for the foregoing Resolution was seconded by Keith Heitzman and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Mayor Tom Kasner, Councilors Adam Rushmeyer, John R. Harlander, Al Amdahl, and Keith Heitzman, and none voted against the same whereupon the said Resolution was declared duly passed and adopted. The full text of

the said Resolution is on file at the office of the City Clerk/Administrator for public inspection during regular office hours.

Councilor Keith Heitzman, Albany Golf Club Liaison, presented to the Council a proposed perpetual easement between the City and Adam and Shannon Wander, husband and wife, 440 Church Avenue, for the purpose to allow the golf course to construct a boulder rock retaining wall. Mr. Heitzman noted the easement is related to the driving range improvements and the club will maintain the retaining wall and keep the easement area in an attractive condition consistent with the golf course operations. After due discussion, a motion was made by Keith Heitzman and seconded by John R. Harlander to authorize Mayor Tom Kasner on behalf of the Council to execute the said easement. All voted for the motion and it carried.

Mr. Schneider informed the Council the City received a bid from Loren's Tree and Lawn Service, Albany, MN, to remove discarded brush, stumps, and add plantings in an area around a storm water holding pond that damaged by the Public Works Department personnel during routine maintenance of the outlet structure in November 2019 within a drainage and utility easement in the Albany Golf Vistas subdivision. After due discussion, a motion was made by John R. Harlander and seconded by Al Amdahl to approve the bid as presented. All voted for the motion and it carried.

Mayor Tom Kasner informed the Council Governor Tim Walz's Emergency Executive Order 20-35 Peacetime Emergency continues through June 12th due to COVID-19 Pandemic. Mayor Tom Kasner noted the local businesses considered to be essential by the Governor are taking safety precautions for their employees and customers. Mayor Tom Kasner also announced the last day of school will be on May 29th. Mr. Schneider informed the Council the library is considering opening on June 1st. Mayor Tom Kasner, with the consensus of the Council, directed Mr. Schneider to open City Hall and Parks to the public on June 1st, but the Jaycee shelter in North Park will remain closed.

Mayor Tom Kasner informed the Council he has been approached by a parent of a student who is a member of the graduating class of 2020 who requested permission from the City to hang flags on each decorative light pole of students who graduated similar to what other cities have done recently. Mayor Tom Kasner noted the flags of the students would be hung by volunteers and would be removed on or before July 4th. Mayor Tom Kasner, with the consensus of the Council, had no objection to the request.

Mayor Tom Kasner announced the next regular Council meeting for 6:30 o'clock in the evening on Wednesday, June 3, 2020 and adjourned the meeting at 7:55 PM.

Tom Schneider
Clerk/Adm.