

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 Acting Mayor John Greer at 6:30 o'clock in the evening on Wednesday, October 15, 2014, in the Council Room at 400 Railroad Avenue for the said City.

Other Council members present were: Councilors John R. Harlander, Laurie Dingmann, and Tom Kasner. Mayor Daron Gersch was absent. Also present were: Tom Schneider, Clerk/Adm., Joe Mergen, Public Works Supervisor, Ozzie Carbajal, Police Chief, Jeremy Mathiasen, City Engineer with Stantec, Inc., and Brooke Swarhout and Logan Johnson, students at the Albany Area High Schools.

After due discussion, a motion was made by Tom Kasner and seconded by John R. Harlander to authorize electronic payments, transfers, and the payment of the following bills: Check Numbers 64771 to 64813 and 15375 to 15391. All voted for the motion and it carried. The complete check register is on file at the office of the City Clerk/Adm. for public inspection during regular office hours.

Acting Mayor John Greer called for any corrections or additions to the minutes of the regular Council meeting held on October 1st and hearing none declared them approved.

JoAnna Bigler, Part-time Patrol Officer, appeared before the Council to introduce herself to the Council and noted that she is excited to work for the Albany Police Department. Ms. Biegler also noted that she is a full-time Patrol Officer in the City of Waite Park, MN and enjoys the opportunity to serve the Council and residents in the community.

Steven Anderson, Franklin Sign Company, appeared before the Council to inform the Council that he is not opposed to Bryan Schiffler's request to increase the allowed variable message sign area from twenty-five percent (25%) to sixty percent (60%), but noted that this is not the industry standard. Mr. Anderson noted that the coverage is either one-hundred percent (100%) or none at all. Acting Mayor John Greer thanked Mr. Anderson for his comments and noted in a few minutes the Council will discuss the proposed text amendment to the Zoning Ordinance as an agenda item.

Mr. Schneider presented to the Council a proposed Purchase Agreement prepared by the City Attorney between the City and Velmeir Acquisition Services, LLC for the sale of City owned property at 740 Railroad Avenue. Mr. Schneider noted that the sale price is \$380,000, less real estate commission of \$30,000 and that the property is being sold "as-is, where-is". Mr. Schneider noted the purchaser will be responsible for any additional environmental cleanup required as a result of purchaser's improvement of the property, a 6,000 square foot commercial/retail building (CVS/Pharmacy). Mr. Schneider also noted that there are contingencies included in the Purchase Agreement and site plan will be presented to the City Engineer and Planning Commission for review and comment. After due discussion, a motion was made by John R. Harlander and seconded by Tom Kasner to authorize the execution of the Purchase Agreement between the City of Albany and Velmeir Acquisition Services, LLC. All voted for the motion and it carried.

Mr. Schneider informed the Council that a public hearing be scheduled before the Planning Commission to consider approval of a preliminary and final plat for property owned by the City at 740 Railroad Avenue and to request a portion of the property to be rezoned from M-1 Industrial District to C-1 Core Commercial District. After due discussion, a motion was made by Laurie Dingmann and seconded by John R. Harlander to schedule a public hearing before the Planning Commission on Wednesday, November 12th to consider the aforementioned approvals. All voted for the motion and it carried.

Nick Schiffler, Albany, MN, was present for the meeting.

Councilor John Greer, Planning Commission Liaison, informed the Council that the Planning Commission held a meeting on October 7th on a request by Bryan Schiffler, 34658 225th Avenue, and the City of Albany for a zoning text amendment to amend Section 80.11, Subd. 18 (i) and Subd. 21(b) and (d), to increase the allowed variable message sign area to greater than twenty-five percent (25%) of the maximum allowable aggregate sign area and to allow for off premise advertising within the C2 and C3

Zoning Districts for changeable Electronic Copy Signs. Mr. Greer informed the Council that the Planning Commission had no objection to the request and that the said signs are subject to the following additional conditions: 1) shall display a static message which may not change or be changed for a period of at least seven (7) seconds, 2) transition from one such static message to the next shall occur instantaneously without the use of animation, flashing or frame effects., and 3) spacing between off-premise signs with digital display shall be at least two thousand feet (2,000) from any other off-premise sign with digital display on the same side of the highway. Mr. Greer noted that he is opposed to the request and does not support off-premises electronic digital signs along Interstate 94 unless they are regulated to advertise only local businesses, but due to the high cost of said signs it would be cost prohibitive. After due discussion and upon the recommendation by the Planning Commission, a motion was made by Councilor John R. Harlander who introduced the following amendment and moved its adoption:

**AMENDMENT TO ORDINANCE 80.11
SIGNS**

The City Council for the City of Albany, HEREBY ORDAINS as follows:

1. That Section 80.11, Subd. 18 (i) of Albany City Code is hereby amended to read as follows:

“i) Off-premise signs are permitted to be located within the area of one hundred feet (100') of the right-of-way of Interstate Highway 94 or within one hundred feet (100') of county road right-of-way that is abutting and parallel to Interstate Highway 94. The maximum area of each sign face shall not exceed six hundred and seventy two (672) square feet including border and trim but excluding base and apron supports and other structural members. The maximum size limitation shall apply to each side of a sign structure. Off-premise signs may be located within five feet (5') of the right-of-way. Signs may be placed back-to-back, side-by-side or in a V-type construction. No stacking of sign faces. Every off-premise sign shall be erected at least five hundred feet (500') from any other off-premise sign or any other such advertising device on the same side of the highway. Off-premise signs may not be installed to a height greater than thirty feet (30') measured from the top of the sign.

a) Changeable Copy Sign/Digital Display: Digital billboards are subject to the following additional conditions:

- 1) Size limit: The digital display area of an off-premise sign shall not exceed sixty percent (60%) of the maximum sign area of the off-premise sign.
- 2) Hold Time: Signs shall display a static message which may not change or be changed for a period of at least seven (7) seconds.
- 3) Message Transitions: The transition from one such static message to the next shall occur instantaneously without the use of animation, flashing or frame effects.
- 4) Spacing between off-premise signs with digital display shall be at least two thousand feet (2,000) from any other off-premise sign with digital display on the same side of the highway.

2. That Section 80.11, Subd. 21(b) of the Albany City Code is hereby amended to read as follows:

“ b) Changeable Electronic Copy sign size limits:

- (1) Signs located in the C-1, M-1 and M-2 zoning districts: The Changeable Electronic Copy sign shall not exceed twenty-five percent (25%) of the maximum allowable aggregate sign area for the use to which it pertains, the area allowed for Changeable Electronic Copy sign is included within the

total allowable sign area.

(2) Signs located in the C-2 and C-3 zoning districts: The Changeable Electronic Copy sign shall not exceed sixty percent (60%) of the maximum allowable aggregate sign area for the use to which it pertains, the area allowed for Changeable Electronic Copy sign is included within the total sign area.

3. That Section 80.11, Subd. 21 (d) of the Albany City Code is hereby amended to read as follows:

“d) Except in the C2 and C3 Zoning Districts, the sign may only be used to promote activities, products, or services pertaining to the subject property (not advertising another business); time and temperature; or other public service or community wide oriented messages. In the C2 and C3 Zoning Districts, the sign may be used to promote or advertise off-premise business, activities, products or services.”

The motion for the foregoing amendment was seconded by Tom Kasner and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Councilors Laurie Dingmann, John R. Harlander, and Tom Kasner. Councilor John Greer voted against whereupon the said amendment declared duly passed and adopted.

Acting Mayor John Greer informed the Council that the 2015 Capital Improvement Project Feasibility study will be presented at a future Council meeting.

Mr. Mathiasen presented to the Council Pay Application Number One for the 2014 Church Avenue (5th to 8th St.) Improvements. Mr. Mathiasen noted that the street should be opened for traffic in a day or so and that the final lift of bituminous will be completed in 2015. After due discussion and upon the recommendation to approve the said pay application of the City Engineer, a motion was made by John R. Harlander and seconded by Tom Kasner to approve Pay Application Number One to Lange Trenching, Inc., Avon, MN in the amount of \$165,266.68. All voted for the motion and it carried.

Pursuant to due notice, at 7:05 PM, Acting Mayor John Greer called the public hearing into session to consider and possibly adopt the proposed assessments set forth for unpaid City charges incurred under City Code Section 77. Mr. Mergen informed the Council that notices were mailed to property owners who neglected to mow their grass/weeds and a local contractor was hired to mow the grass/weeds. Mr. Mergen noted that the fees as per Appendix A, Albany Schedule of Fees and Charges are \$250 per lot. Acting Mayor John Greer closed the public hearing at 7:07 PM. After due discussion, a motion was made by Tom Kasner and seconded by Laurie Dingmann to certify to the Stearns County Auditor the following unpaid City charges (\$250/lot) incurred under City Code Section 77 to be collected as a special assessment in the year 2015: 441 7th Street, and 1230 Stonebrooke Drive. All voted for the motion and it carried.

Mr. Mergen presented to the Council a proposed permanent drainage and utility easement agreement between the City of Albany and Spychala Real Estate, LLC. Mr. Mergen noted that a swale was constructed for stormwater flow between the City Administration building and the newly constructed Albany Family Dentistry, 360 Railroad Avenue, as per the site plan requirement. After due discussion, a motion was made by John R. Harlander and seconded by Laurie Dingmann to approve the permanent drainage and utility easement agreement between the City of Albany and Spychala Real Estate, LLC. All voted for the motion and it carried.

Mr. Kasner informed the Council that the Albany Golf Course will be closing at the end of the month. Mr. Kasner noted that the Board will continue to make course improvements and efforts will be made to increase memberships at the club.

The Council took notice of a liability coverage waiver form prepared by the League of Minnesota Cities Insurance Trust, the City’s Insurance carrier, relating to statutory tort liability limits to the extent of the coverage purchased. After due discussion, a motion was made by John R. Harlander and seconded by Tom Kasner to execute the aforesaid form on behalf of the City indicating that the City does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04. All voted for the motion and it carried.

Mr. Schneider informed the Council that municipal utilities (sanitary sewer/storm sewer) located on property purchased by the City from the Minnesota Department of Transportation (MnDOT) formerly Burlington Northern Railroad Company right of way located south of the former Albany Antique Center, 740 Railroad Avenue, were granted to the City by the railroad issuing license agreements. Mr. Schneider noted that the utilities were removed from the property in 2013 and recommended that the said agreements dating back to when the property was owned by the Great Northern Railway Company be terminated. After due discussion, a motion was made by Laurie Dingmann who introduced the following Resolution and moved its adoption:

CITY COUNCIL OF THE CITY OF ALBANY
RESOLUTION 2014-24

WHEREAS, the City of Albany is the owner of certain real property located at 740 Railroad Avenue, legally described in the Exhibit A attached hereto and incorporated herein (the “Property”);

WHEREAS, the Property is subject to certain utility license agreements in favor of the City of Albany dating back to when the Property was owned by the Great Northern Railway Company. The license agreements are attached hereto as Exhibit B and incorporated herein;

WHEREAS, the utilities located within the Property pursuant to the license agreements have been relocated off the Property and the licenses are no longer needed; and

WHEREAS, the City, as successor in interest to the Property, has the authority to terminate the license agreements;

NOW, THEREFORE, BE IT RESOLVED that effective as of October 15, 2014, the License agreements are hereby terminated. Any notice period in the license agreements is hereby waived.

Adopted this 15th day of October, 2014.

John Greer, Acting Mayor

Tom Schneider, Clerk/Adm.

(S E A L)

The motion for the foregoing resolution was seconded by Tom Kasner and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Councilors Laurie Dingmann, John Greer, John R. Harlander, and Tom Kasner and none voted against whereupon the said resolution declared duly passed and adopted.

Mr. Schneider informed the Council that the Albany Golf Club Board of Directors directed him to negotiate the purchase of property approximately 21,000 square feet located north of Number 5 green that is currently being used by the golf course maintenance department as a cart way. Mr. Schneider noted that Lot 15, Block 1, Albany Golf Vistas is privately owned and the property to be purchased is non buildable being designated as a drainage and utility easement; whereby the property owner is willing to gift the property to the City. Acting Mayor John Greer, with the consensus of the Council, had no objection to the land purchase.

The Council took notice of a Minnesota Lawful Gambling Exempt Permit Application submitted by the Church of Seven Dolors. Mr. Schneider noted that the purpose of the request is to conduct a raffle on January 31, 2015. After due discussion, a motion was made by John Greer and seconded by Tom Kasner to approve the said application. All voted for the motion and it carried.

Mr. Mergen informed the Council that two properties have not paid a lawn mowing invoice for services provided by the City and recommend that a public hearing be scheduled to take action to certify the unpaid lawn mowing invoice to the Stearns County Auditor to be collected as a special assessment in the year 2015. After due discussion, a motion was made by John Greer and seconded by John R. Harlander to set a public hearing at 6:30 o'clock or as soon as thereafter on Wednesday, November 5th, at Albany City Hall, 400 Railroad Avenue to consider and possibly adopt the proposed assessments at 1230 Stonebrooke Drive, and 441 7th Street for unpaid City charges incurred under City Code Section 77. All voted for the motion and it carried.

Mr. Schneider recommended that the Council authorize the fund transfer of \$250,000 from the Water Fund and \$250,000 from the Sewer Fund to the City's General Fund. After due discussion, a motion was made by Laurie Dingmann and seconded by John R. Harlander to approve the said fund transfer. All voted for the motion and it carried.

Mr. Carbajal recommended that the Council that the surplus military weapons (handguns) obtained by the Albany Police Department be returned to the Department of Defense Law Enforcement Support Office Program. After due discussion, a motion was made by Tom Kasner and seconded by Laurie Dingmann to authorize Mr. Carbajal to return the weapons to the said Program. All voted for the motion and it carried.

Mayor Daron Gersch announced the next regular Council meeting for 6:30 o'clock in the evening on Wednesday, November 5, 2014 and adjourned the meeting at 7:20 PM.

Tom Schneider
Clerk/Adm.