

**PRESENT:** Mayor Pro Tem Baker, Councilors John Schulte V, George Marin, Reid Olson, Larry Anderson and Al Brooks. Also present was City Clerk Shirley Slater-Schulte, City Engineer Steven Jahnke and a representative from the Albert Lea Tribune. Mayor Rasmussen and City Manager Adams were absent.

### **CONSENT AGENDA**

- A. Approve Minutes Of The March 11, 2013 Regular Council Meeting
- B. Approve Minutes Of The March 7, 2013 Work Session
- C. Licenses And Permits (See Attached List)
- D. Resolution 13-35-Declaring Surplus And Abandoned Property
- E. Approving Recognition Of City Officials And Board Members Policy
- F. Resolution 13-36 Authorizing Cooperative Construction Agreement Between City Of Albert Lea And Minnesota Department Of Transportation
- G. Resolution Approving Agreement Between City Of Albert Lea And Albert Lea Ice Skating Association To Operate Concession Stand At The Albert Lea Aquatic Center
- H. Resolution 13-37 Approving Labor Agreement With Teamsters – Dispatch.
- I. Resolution 13-38 Approving Broadway Ridge Grant Agreement for Rear Door Improvements

**MOTION:** I will move to approve the consent agenda as amended with the removal of 7G – Resolution Approving Agreement Between City of Albert Lea and Albert Lea Ice Skating Association to Operate Concession Stand at the Albert Lea Aquatic Center and with the addition of 7I – Resolution Approving Broadway Ridge Grant Agreement for Rear Door Improvements for Shari Klatt.

Motion made by Councilor Brooks, seconded by Councilor Marin. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Marin, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Mayor Pro Tem Baker declared the motion passed.

(See Secretary's Original Resolutions 13-35-13-38  
included with these minutes.)

### **PUBLIC FORUM**

### **PETITIONS-REQUESTS-COMMUNICATIONS**

**NATIONAL VITALITY CENTER UPDATE** – Mr. Randy Kehr, Executive Director of the Albert Lea Freeborn County Chamber of Commerce presented an update of activities from the past six to nine months as follows:

- Erin Sauer from Mrs. Gerry's worked with the "Moais in Motion." There were 24 teams registered with nine reporting.

- Medallion Hunt, the moving medallion was placed in a different area every week, considering opening this to the general public in 2013, requesting the clean-up of parks within the park system, free swim day, community picnics, bike rodeo, open streets event.
- Sample Saturdays – Archery, Free Swim Day and other activities yet to be announced. Neighborhood Picnics – Frank Hall Park, Troy Hammer and Sondergaard
- Family Bike Safety Rodeo – scheduled to be held at the same time as the Open Streets event this year.
- Worksite Wellness – Health Fair
- Working on completing a National Vitality Center Sustainability Plan.
- Ambassador Meeting is scheduled for April 10, 2013 at the Council Chambers.

### **UNFINISHED BUSINESS**

### **NEW BUSINESS**

#### **PUBLIC HEARING AND RESOLUTION 13-39 ORDERING IMPROVEMENT AND PREPARATION OF PLANS FOR 2013 NEIGHBORHOOD STATE AID OVERLAY IMPROVEMENT PROJECT (JOB 1350)**

City Clerk Slater-Schulte explained that a public hearing is being held to receive public input on the proposed improvement. The proposed project consists of the following improvements:

#### **Neighborhood Improvement Overlay, Curb & Gutter Replacement**

This portion of the project involves the bituminous overlay of residential streets in the northwest and east central parts of the City. The streets are as follows:

**Garden Road – Richway Drive to Willamor Road**

**Meredith Road – Garden Road to Ridge Road**

**Willamor Road – Garden Road to Channel Road**

**Willamor Circle – Willamor Drive to Cul-de-sac**

**Ridge Road – Meredith Road to Garden Road**

**Ridge Circle – Ridge Road to Cul-de-sac**

**Channel Road – The Fairway to Lake Shore Drive  
Cardinal Lane – Martin Road to Richway Drive  
Ave**

**Robin Road – Ridge Road to Lake Shore  
Consul St. - Rezin Ave to 500' east of Prospect**

**Sherwood Avenue – Johnson Street to State St.**

**State St. – Sherwood Avenue to Wayside Avenue**

**Wayside Avenue – State Street to Stevens Road  
Street**

**Morningside Road – Stevens Road to E Main**

**Rezin Ave. - Frontage Road to SE Marshall Street**

The project will involve milling the existing bituminous street surfacing for a 6-foot width along each concrete gutter line so the new bituminous layer will match with the level of the concrete gutter. A 2-inch thick layer of bituminous would be laid over the entire width of the street. The

project would also involve replacing sections of curb and gutter that have settled and are causing drainage issues.

The work proposed for Sherwood Avenue, State Street, Wayside Avenue, Morningside Road, Rezin Avenue and Consul Street was originally slated to be completed in 2012, but was delayed due to budget constraints last year.

### **Total Curb Replacement**

When the previous overlay was placed in the Shoreland Heights area in 1992, the overlay was placed over the top of the existing concrete gutter. Because of this, these areas cannot be milled and overlaid; the curb and gutter must be replaced before the overlay can be placed. In these areas, wherever possible, the new concrete gutter will be 2 inches higher than the existing bituminous surface so that edge milling will not be necessary along these sections. The streets that this work is being proposed for are:

**Garden Road – Martin Road to Willamor Road**

**Channel Road – The Fairway to Lakeshore Drive**

**Meredith Road – Martin Road to Ridge Road (south intersection)**

**Ridge Road – Garden Road to Meredith Road (south intersection)**

**Willamor Road – Garden Road to Channel Road (north intersection)**

### **Bituminous Surface Installation**

The existing surface on Lakeshore Drive from Robin Road to Channel Drive is a gravel surface that frequently washes out and causes water ponding. Proposed with this project is installation of bituminous surface along this area and re-grading the shoulder so the water from the street drains properly to Fountain Lake.

As per the City's assessment policy, there are 224 properties to be assessed as part of the project. There is also one "Held for Future" assessment for the mill and overlay work abutting farmland along State Street which is currently outside City limits and cannot be assessed at this time. A neighborhood meeting was held on March 14, 2013 to discuss the project with affected residents. Staff recommends approval of the project.

Mayor Pro Tem Baker opened the public hearing.

Mr. Del Kusel, 200 Ridge Road, stated that the city has a policy to replace the road every 20 years, take into consideration that some roads do not need to be replaced every 20 years. City should pay for this project as they did not do it right the first time. City should remove the blacktop that was placed on the gutter. How many trees are going to be damaged or taken down in this project? During construction, two years ago, there was considerable damage done to the sprinkler system and sprinkler heads within his front yard. He stated that he called the

engineering office several times and never got a call back, finally he called the street department, and they agreed to place seed in the yard and this matter was settled.

Jeanne Tomlinson, 215 Ridge Road, inquired as to why residents have to be responsible for the mistake that was made on the gutters. The roads and paths around the lake are full of holes and the roads have not been paved. She stated that the priorities of these projects need to be reviewed.

Paul Dilling, 308 Meredith Road, has drainage problem with water on the corner that does not drain.

Terry Stahl, 206 Ridge Road, concerned about the curb and overlay and why do residents have to pay for a mistake that was done in a previous project.

Jeff Distad, 408 Ridge Road, what is driving these improvements, the road does not have a lot of potholes and drains fairly well. He had some questions regarding maintenance and repair of this road.

Alan Attig, 506 Wayside Avenue, wants the city to correct the drainage in front of his residence.

Charles Seberson, 318 Meredith Road, commented on following Chapter 429 as maintenance and repair, special assessments is adding value to the residence. He stated that this project is more maintenance and repair than an improvement project.

Tony Strom, 420 Ridge Road, stated the he was present for 2013 Neighborhood Improvement Project and stating his objection to the misuse of MN Statues Chapter 429, to impose special assessments on all of the property owners, within the project area.

In order for a special assessment to be valid:

1. The land must receive a special benefit from the improvement being constructed,
2. The assessment is uniform as applied to the same class of property, in the assessed area,
3. The assessment may not exceed the special benefit where the special benefit is measured by the increase in the market value of the land owing directly to the project improvement.

City needs to hire a qualified licensed assessor to go out and reassess properties involved in the project and council should be voting on that assessment roll. That assessment roll should be presented to all property owners within the project.

Mr. Strom stated that the courts have made clear; the special benefit is the increase in market value of the property as a result of the project. The benefit would be the difference between what a willing buyer would pay a willing seller for the property before and after the improvement, based on the highest and best use of the land.

Mr. Strom stated that the city is required to mail a notice to each affected property owner at least two weeks prior to the public hearing on the proposed assessment. The city looks to be in

violation of Minnesota Statute, Chapter 429 with regard to the March 1, 2013 mailing of the notice of the assessment hearing. According to the statute, this mailed notice must include a description of the landowner's right to appeal the assessment, possible prepayment provisions, and the interest rate on the assessments. The description of the landowner's right to appeal is conspicuously missing. There is absolutely no language in the letter that advises the property owner that no appeal may be made as to the amount of the assessment adopted at the hearing unless the property owner has objected in writing prior to the hearing or in person at the hearing.

Mr. Strom would like to know if the Planning Commission has submitted its findings to the Council in writing and on what date and explain how this fits into the comprehensive plan when it is not even listed as a priority on the city's adopted 2012 to 2016 Capital Plan.

Mr. Strom objects to the use of a special assessment for this project. He encouraged the Mayor and City Council to vote "No" on this project.

Linda Andersen, 229 Willamor, house is listed for sale, listed less than what she has in the property and this assessment would add another \$7,000 to this process and does not know if she would get the additional value from this property.

Jerald Kaphers, 207 Willamor Road, Street Project, concerned about the substandard curb and gutter that was done 20 years ago, objects to the assessment of this project. Repair the road and leave the curb and gutter alone, as the drainage has worked for the past 20 years.

Mel Schneider, 1910 State Street, thanked the council for listening to us, roads are bad and need repair, and the road will turn into gravel road if no repair is done.

Wayne Sickels, 321 Meredith Road, agrees with everything that has been stated. Mr. Sickels had questions regarding the future assessments on Lakeview Boulevard. Suggested that the city set up a special fund where so many dollars are set aside out of the property tax for these projects, assess my property every year and placed in a pool and when projects are done, there would be no burden to the property owners. There are neighbors that have been assessed on two sides of their property. If all residents would pay their fair share, then everyone would benefit. The condition of Town Hall Road or 9<sup>th</sup> Street is in horrible condition, needs to be repairs along with Lakeview Boulevard, Clark and Fountain Streets, these streets are in worse shape than Meredith Road and they are being neglected and ours is being done instead which all of my fellow neighbors have said that these roads do not need to be done, maybe the curbs where the trees have damaged them, but this is going to go on forever, something needs to change. What are other cities doing to alleviate this problem, where everyone would share in the benefit and the burden, instead of just a handful?

City Engineer Jahnke explained the Assessment Policy as it relates to corner lots.

Chuck Seberson, 318 Meredith Road, stated that this project is not listed in the 2013 Capital Budget.

City Engineer Jahnke explained that this project is listed in the Capital Budget under 2013 Neighborhood Project.

Mayor Pro Tem Baker called three times and then closed the public hearing.

Motion made by Councilor Schulte V to Order Improvement and Preparation of Plans for 2013 Neighborhood State Aid Overlay Improvement Project (Job 1350), seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Councilor Marin voted nay. Mayor Pro Tem Baker declared the motion passed.

(See Secretary's Original Resolution 13-39  
Included in the minutes)

### **PUBLIC HEARING AND RESOLUTION 13-40 ORDERING IMPROVEMENT AND PREPARATION OF PLANS 2013 NEIGHBORHOOD STATE AID OVERLAY IMPROVEMENT PROJECT (JOB 1351)**

City Clerk Slater-Schulte explained that a public hearing is being held to receive public input on the proposed improvement. The proposed project consists of the following improvements:

#### **State Aid Overlay, Curb & Gutter and Sidewalk Project**

This project involves the bituminous overlay, new sidewalk installation and miscellaneous curb and gutter replacement on 4<sup>th</sup> Avenue from West 9<sup>th</sup> Street to Front Street.

#### **Proposed Mill & Overlay Work**

It is proposed that a 6-foot width of the existing bituminous will be milled along each concrete gutter line so the new bituminous layer will match the level of the concrete gutter. A 2-inch layer of new bituminous would then be laid over the entire width of the street. Work will also include replacing damaged or settled sections of curb and gutter in order to improve the street drainage.

#### **Proposed Sidewalk Installation**

There currently is no sidewalk along 4<sup>th</sup> Avenue. According to the City's Assessment Policy, all State Aid streets should have sidewalk on at least one side of the street. Fourth Avenue was reviewed to determine if it was feasible to install sidewalk on one side of the roadway. Due to limited space, steep grades, and the presence of a high number of utility poles and utility pedestals in the boulevard, it would not be feasible to install new sidewalk within the existing boulevard. Installing sidewalk for the entire length of 4<sup>th</sup> Avenue would require narrowing the street by eight feet, and installing the sidewalk in this area. Doing this would also require elimination of parking on one side of the street.

Fourth Avenue is a 44-foot wide street with relatively low vehicular and pedestrian traffic. City staff feels that because of the wider street and low traffic volumes, this street is being

adequately served without the need for sidewalk along the entire length of 4<sup>th</sup> Avenue. This information was presented to Council at the February 7, 2013 Work Session at which time Engineering was directed to determine if sidewalk could be installed along the west side of Fourth Avenue from Front Street to Plainview Lane only. A neighborhood meeting was held on March 12, 2013 to discuss the project with the affected residents. Staff recommends approval of the project.

Mayor Pro Tem Baker opened the public hearing.

Joe Attig, 18542 750th Avenue, had questions regarding the state aid funding. He had questions regarding assessments on his son's land which is considered farm land on east end of 9<sup>th</sup> Street and can these assessments be deferred.

Larry Beamer, West 9<sup>th</sup> Street, 4<sup>th</sup> Avenue from the Front Street to 9<sup>th</sup> Street is not in that bad of shape. The section from the railroad tracks, south to 9<sup>th</sup> Street is in good shape. Residents living on the northern section that have some serious water and drainage problems and that should be addressed before the road is repaired. Questions regarding the property to the north which is owned by the Port Authority and they will be responsible for the assessments.

John Capan, 913 South 4<sup>th</sup> Avenue, stated that he has lived there for 23 years and when we have heavy rains, the water on 4<sup>th</sup> Avenue and Plainview gets 3 feet deep, it would be deeper but it floods into his back yard. This water then fills up the sanitary sewer and the water backs up into his yard. He has installed a gate to keep the water out. Last summer, at 3 a.m., he had 6 inches of sewage in his basement. The lift station on Plainview was not working and the backup did not kick in which cause the flooding in his basement. Insurance Company did the clean-up in his basement and it cost around \$5,700 and it was called an act of God. City should have provided equipment for this type of flooding.

Motion made by Councilor Brooks, seconded by Councilor Schulte V to approve this project. After discussion by council, the motion and second were withdrawn and the following motion was offered.

Motion made by Councilor Brooks to table this for two weeks, seconded by Councilor Schulte V. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Councilor Marin voted nay. Mayor Pro Tem Baker declared the motion passed.

(See Secretary's Original Resolution 13-40  
Included in the minutes)

### **ORDINANCE 159,4D AMENDING ORDINANCE 157,4D ALBERT LEA MUNICIPAL AIRPORT ZONING (1<sup>ST</sup> READING)**

City Clerk Slater-Schulte explained that the Albert Lea City Council, at its meeting of December 20, 2012, adopted Ordinance 157,4d Amending Zoning for the Albert Lea Municipal Airport. When the document was submitted to Freeborn County for recording, it was noted that some

legal descriptions were incorrect. Engineering has verified that all legal descriptions are now correct and the ordinance is being amended solely for the addition of the proper legal descriptions. No other substantive changes were made. Staff recommends approval of the first reading.

Councilor Anderson moved the adoption of the 1st reading, seconded by Councilor Marin. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Marin, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Mayor Pro Tem Baker declared the first reading of this ordinance passed.

(See Secretary's Original Ordinance 159,4d  
included with these minutes)

### **ORDINANCE 160,4D AMENDING RDINANCE 146,4D SIGN STANDARDS (1<sup>ST</sup> READING)**

City Clerk Slater-Schulte explained that the Advisory Planning Commission held public hearings in February and March to discuss amending the Sign Ordinance. The proposed changes came about in order to reconcile the zoning ordinance with the "Architectural Guidelines for Historic Preservation" as adopted by the Historic Preservation Commission, and to allow Multiple Family District uses to install larger identification signs for complexes. The primary discussion of the Planning Commission was regarding marquee signs and their appropriateness in the B-3 district, and allowing additional square footage for projecting signs. Other recommendations proposed are to add standards for sandwich signs in the B-2, I-1, and I-2 districts and to allow for R-2 and R-3 properties to have one larger development community sign. Staff recommends approval of the amendments to the sign ordinance.

Councilor Schulte V moved the adoption of the 1st reading, seconded by Councilor Brooks. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Marin, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Mayor Pro Tem Baker declared the first reading of the ordinance passed.

(See Secretary's Original Ordinance 160,4d  
included with these minutes)

### **RESOLUTION 13-41 FOR VARIANCE FROM STATE AID STANDARDS (FOUNTAIN STREET)**

City Clerk Slater-Schulte explained that the City of Albert Lea is requesting to use Municipal State Aid Funds (MSA) in order to make improvements to Fountain Street. The work on Fountain Street includes:

- Reconstructing the Broadway Avenue/Fountain Street intersection area, the construction of bump-outs, and the addition of new decorative sidewalk and crosswalk treatments.
- Constructing a wider sidewalk along the north side of Fountain Street adjacent to the park which will require narrowing the street and eliminating on-street parking.

- Replacing the existing plate beam guardrail on the north side of the sidewalk with a post and cable barrier.

One condition for using MSA funding is that the street must meet a 30 mph design. The horizontal curve on Fountain Street between Washington Avenue and Broadway Avenue does not meet this criterion. Engineering believes reconfiguring Fountain Street with a 30 mph design would go against the traffic calming features that are being implemented with the Broadway reconstruction project. The attached resolution would request an administrative variance from the 30 mph design criteria. Staff recommends approval.

Motion made by Councilor Olson, seconded by Councilor Anderson. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Marin, Olson, Anderson, Brooks and Mayor Pro Tem Baker. Mayor Pro Tem Baker declared the motion passed.

(See Secretary's Original Resolution 13-41  
included with these minutes.)

### **MAYOR & CITY COUNCIL REPORTS**

First Ward, Councilor Schulte V. reported:

- Ward Items – Referred to City Engineer
- Committee Updates – Attended Human Rights Commission meeting on March 26, 2013
- Thanked everyone who attended the meeting this evening

Second Ward, Councilor Baker reported:

- Ward Items – Referred to City Staff
- Committee Updates – Attended meeting with Bolton & Menk regarding the Downtown Project on March 12, 2013
- Attended meeting with City Staff and others regarding the Freeborn Bank Building, March 13, 2013
- Attended the League of Minnesota Cities State Legislation Day and visited with Senator Sparks
- Attended a meeting with Representative Shannon Savick and Chairman of the House Education Committee Paul Marquart

Third Ward, Councilor Marin reported:

- Ward Items - None
- Committee Updates – Attended Human Rights Commission meeting
- Thanked the residents of the 3<sup>rd</sup> Ward, who attended tonight's meeting

- Thanked the Street Department for their excellent job in keeping our streets cleaned and safe

Fourth Ward, Councilor Olson reported:

- Ward Items – Parking issue
- Committee Updates – none

Fifth Ward, Councilor Anderson reported:

- Ward Items – None
- Committee Updates – Fountain Lake Sportsmen’s Club held the Annual Fishing for Youth at Northbridge Mall –Twin City Power Boat Association Racing Boats brought down a couple of boats and the Fire Department displayed the new Rescue Unit. Thank you to everyone for their help.

Sixth Ward, Councilor Brooks reported:

- Ward Items – Referred to City Manager
- Committee Updates – None

Mayor Pro Tem Baker reported the following:

- Mayor Rasmussen Jr. is on vacation.
- City Manager Adams is ill this evening.
- YMCA Fountain Lake 5 Run/Walk scheduled for April 20, 2013
- Southwest Middle School Tiger Trot scheduled for April 20, 2013

**CITY MANAGER’S REPORT** - City Manager Adams was absent.

**RESOLUTION 13-42 APPROVAL OF CLAIMS**

Councilor Anderson moved that the resolution be approved for payment of claims as presented for checks #48500 through #48658 in the amount of \$589,427.82, seconded by Councilor Olson. On roll call vote, the following councilors voted in favor of said motion: Councilors Schulte V, Marin, Olson, Anderson, Brooks, and Mayor Pro Temp Baker. Mayor Pro Tem Baker declared the motion passed.

(See Secretary's Original Resolution 13-42 included with these minutes.)

**ADJOURNMENT**

Councilor Marin moved and Councilor Brooks seconded that there being no further business, the council meeting be adjourned at 8:48 p.m., until the next regular meeting of the Albert Lea City Council at 7:00 PM on Monday, April 8, 2013. On roll call vote, all councilors voted in favor of said motion. Mayor Pro Tem Baker declared the motion passed and the meeting adjourned.

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Mayor Pro Tem Larry Baker

Filed and attested

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Secretary to the Council