

WILLMAR CITY COUNCIL PROCEEDINGS
COUNCIL CHAMBERS
WILLMAR MUNICIPAL UTILITIES BUILDING
WILLMAR, MINNESOTA

February 16, 2010
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Lester Heitke. Members present on a roll call were Mayor Heitke, Council Members Doug Reese, Ron Christianson, Bruce DeBlieck, Denis Anderson, Steve Ahmann, Rick Fagerlie, Jim Dokken, and Tim Johnson; Present 9, Absent 0.

Also present were City Administrator Michael Schmit, Police Chief Jim Kulset, Fire Chief Marv Calvin, Public Works Director Mel Odens, Finance Director Steve Okins, Community Education and Recreation Director Steve Brisendine, and City Clerk Kevin Halliday.

Additions to the Agenda included an election update and John's Supper Club building request.

The Council requested the Community Education and Recreation Board and Design Center Minutes be removed from the Consent Agenda.

Council Member Anderson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of February 1, Rice Hospital Board Minutes of January 27, Municipal Utilities Commission Minutes of February 8, Building Inspection Report for January, Housing and Redevelopment Authority Minutes of January 12, Charter Commission Minutes of January 27, 2010; Police Commission Minutes of December 11, 2009; and Minnesota Lawful Gambling Application – Fraternal Order of Eagles 2334. Council Member Ahmann seconded the motion, which carried.

The Council discussed an item regarding the United Way's United Community Assessment of Needs and requested Ms. Stacy Roberts to present a report to the Council. The Community Education and Recreation Joint Powers Board Minutes of January 29, 2010, were approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Christianson, seconded by Council Member Anderson, and carried.

Following discussion of new goals for the Design Center, the Willmar Design Center Board Minutes of January 22, 2010, were approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Ahmann, seconded by Council Member Christianson, and carried.

At 7:02 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Section 3-176 of the Willmar Municipal Code Regulating Police Presence at Functions Where Liquor is Served. City Clerk Halliday presented details of the proposed revisions which allow the Chief of Police to issue and file with the City Clerk a waiver of the requirement. Keith Rende and Kent Larson expressed support of the proposed changes. Upon hearing all those who wished to be heard, Mayor Heitke closed the hearing at 7:15 p.m.

Council Member Reese offered a motion to adopt, assign a number, and order final publication of the Ordinance Amending Section 3176 of the Willmar Municipal Code Regulating Police Presence at Functions Where Liquor is Served. Council Member Fagerlie seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Mayor Heitke acknowledged that no one had signed up to address the City Council during its scheduled Open Forum.

The Finance Committee Report for February 8, 2010, was presented to the Mayor and Council by Council Member Anderson. There were five items for Council consideration.

Item No. 1 The Committee considered a proposed fire services contract with Dove Township as well as the state-wide formula used to calculate due based on costs versus calls. Following discussion, the Committee was recommending the Council pass a resolution authorizing the Mayor and City Administrator to enter into an agreement as presented.

Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that the Mayor and City Administrator be authorized to enter into an Agreement for Fire Department Service between Dove Township and City of Willmar through December 31, 2010.

Dated this 16th day of February, 2010.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 2 The Committee considered a recommendation from Staff to transfer additional levy and capital dollars designated for storm water to a separate account for tracking and reporting purposes. Following discussion, the Committee was recommending the Council pass a resolution adopting a Storm Water Capital Budget for \$200,000.

Resolution No. 2 was introduced by Council Member Anderson, seconded by Council Member Dokken, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

ESTIMATED TOTAL COST \$200,000

OTHER SERVICES:		RECEIVABLES:	
Mtce. of Other Improvements	\$100,000.00	Levy	\$100,000.00
Total:	\$100,000.00	2010 Capitals	<u>100,000.00</u>
		Total:	\$200,000.00
OTHER CHARGES:		FINANCING:	
Professional Services	\$100,000.00	Levy	\$100,000.00
Total:	\$100,000.00	2010 Capitals	<u>100,000.00</u>
		Total:	\$200,000.00

Dated this 16th day of February, 2010.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 The Committee reviewed a recommendation from Donohue and Associates to approve a change order for Project 0813-D3 to cover additional excavation, removal and hauling contaminated soils. The Committee was recommending the Council pass a resolution adopting a Storm Water Capital Budget as proposed.

Resolution No. 3 was introduced by Council Member Anderson, seconded by Council Member

Fagerlie, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

WASTEWATER TREATMENT PLANT RELOCATION BUDGET
Estimated Total Cost: \$86,218,712

(For Resolution in its entirety, see City Council Proceedings file dated February 16, 2010, located in the City Clerk's Office)

Item No. 4 Staff presented to the Committee a proposed concept to help accelerate the repair and reconstruction of the City streets within the next five-year period. The concept would utilize the present Utility Replacement Fee, which generates approximately \$400,000 annually, to pay the entire City share of debt service costs incurred over said five-year period. The schedule would start paying in the year 2011 and continue to increase until the \$400,000 annually would be obligated.

Future considerations include permanent financing for public works improvements through a local option sales tax (present one expires in 2014) and no deferred assessments on the City limit boundaries.

Key points to the concept's success would be to have an actual five-year street improvement proposal, work on permanent financing, commitment to the program, submission to the Planning Commission and budget process for review, and acceptance and recovery of the Community Investment Fund. This matter was for information only.

At this time City Administrator Schmit presented to the Mayor and Council a PowerPoint detailing the basic premise of the concept to accelerate and maintain/sustain public improvements initiating a financing mechanism with a five-year street improvement/reconstruction program. Mr. Schmit explained the next step in the process will be further analysis and incorporation into the five-year capital budgeting and annual budgeting process.

The Finance Committee Report for February 8, 2010, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Anderson, seconded by Council Member Fagerlie, and carried.

The Public Works/Safety Committee Report for February 9, 2010, was presented to the Mayor and Council by Council Member Christianson. There were six items for Council consideration.

Item No. 1 Two liquor-related items were referred to the Committee from the City Council Work Session of January 27, 2010. The first item for discussion was alcohol sales at Taunton Stadium. The current ordinance requires alcohol be dispensed in a plastic cup. This was discussed with the members of the Willmar Baseball LLC and their request is to serve the 3.2% malt liquor in the original plastic bottle at the stadium rather than pour the opened bottle in a plastic or paper container. Following discussion, The Committee was recommending the Council direct the City Attorney to amend the current ordinance to allow the sale of alcohol in the original plastic bottles. Council Member Christianson moved to approve the recommendation of the Public Works/Safety Committee with Council Member Fagerlie seconding the motion, which carried.

The Committee discussed the various penalty levels of Municipal Code 3-10 levied against establishments and servers when a compliance check has failed and the possibility of having different violations for on-sale and off-sale establishments and whether or not to suspend their liquor sales or simply implement monetary penalties. Following discussion, Council Member Dokken moved to refer the matter back to the Public Works/Safety Committee with Council Member Johnson seconding the motion, which carried.

The Committee then discussed the level of the first penalty for a server. Presently the individual is charged with a gross misdemeanor under State statutes and often times this is plea bargained to a

misdemeanor by the County Attorney. The Committee was recommending the Council direct Staff to charge a server with their first liquor sales violation under our City ordinance, which will be processed by the City Attorney, as a misdemeanor. Council Member Christianson moved to approve the recommendation of the Public Works/Safety Committee with Council Member Ahmann seconding the motion. Council Member Reese moved to amend the motion granting the Chief of Police discretion to charge gross misdemeanor with intent or willful breaking of the law. Council Member Anderson seconded the motion, which carried. The original motion, as amended, then carried.

Item No. 2 Donohue staff presented Change Order No. 3 to WWTP Project No. 0815-D5, a forcemain and gravity sewer section that was awarded to Voss Plumbing, Heating and Air Conditioning. An adjustment of contract quantities and costs is required to account for actual quantities installed versus the estimated quantities bid. Each item was measured after installation resulting in a net change order of \$44,355.80 revising the contract price to \$1,381,037.12. The contingency fund for this project contains \$62,424.00 to cover costs over the initial contract with a remaining balance of \$13,868.20. The Committee was recommending the Council approve Change Order No. 3 to Project No. 0815-D5 as presented.

Resolution No. 4 was introduced by Council Member Christianson, seconded by Council Member Dokken, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 4

WHEREAS, the City of Willmar entered into Contract No. 0815-D5 with Voss Plumbing, Heating and Air Conditioning for the construction of Forcemain and Gravity Sewer (from CD46 to Benson Avenue); and

WHEREAS, Change Order No. 1 resulting in a zero dollar increase and Change Order No. 2 increasing the contract amount by \$4,200.00 have been previously authorized; and

WHEREAS, it is recommended to approve the change in unit cost of each Bid Items 7, 10, 15, 22, 23, 26, 27, 28 and 29 from \$2,905.00 to \$3,150.00; \$135,696.00 to \$138,144.00; \$20,880.00 to \$71,050.00; \$2,000.00 to \$3,820.00; \$2,400.00 to \$0.00; \$24,412.20 to \$22,910.00; \$1,125.00 to \$750.00; \$1,250.00 to \$0.00; and \$6,400.00 to \$1,600.00, respectively.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that Change Order No. 3 be approved; as a result, the contract amount will be increased in the amount of \$44,355.80 for a revised Contract price of \$1,381,037.12 for Project 0815-D5 Forcemain and Gravity Sewer from CD46 to Benson Avenue.

Dated this 16th day of February, 2010.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 Rhonda Rae of Donohue and Associates briefed the Committee on activities for the month of January related to the Wastewater Treatment Plant Relocation Project. Program management activities included meeting with City Staff regarding funding and finance issues, submittal of Pay Request 3 for the 30-year loan to the Public Facilities Authority for the Clean Water Revolving Fund, and Pay Request No. 4 for the Public Facilities Authority for American Recovery and Reinvestment Act (ARRA). The informational packet for the 111th Congress with Don Roecker was updated and work continues for funding opportunities.

Work on the updates to Chapter 16, Division 2 of the Willmar Municipal Code continued along with edits to the Industrial Wastewater Discharge Permit for Jennie-O Turkey Stores.

Discussions continued with City Planning Staff to provide information on the impact of construction on the Wallace Janssen property. The court has not set a new trial date so mediation continues. A new date for the Kvam property trial has not been set. Kennedy and Graven will attempt to set up mediation. A Commissioners hearing on the Groothuis property is scheduled for March 3, 2010.

An update was also presented on construction-related engineering activities for the conveyance system and wastewater treatment facilities, as well as the January budget summary. Details and a map of the construction are contained in the monthly report. This matter was for information only.

Item No. 4 The Willmar Fire Department has applied for and been granted funds from the Minnesota Board of Firefighter Training and Education in the amount of \$4,000 to be used toward firefighter training. Eligible training courses are planned to be completed by June 2010. Fire Chief Calvin requested permission to submit a final application and accept the funds. The Committee was recommending approval of the request as presented.

Resolution No. 5 was introduced by Council Member Christianson, seconded by Council Member Fagerlie, reviewed by Mayor Heitke, and carried on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 5

BE IT RESOLVED, by the City Council of the City of Willmar to support staff's application submittal and acceptance of reimbursement funds from the Minnesota Board of Firefighter Training & Education in an amount not to exceed \$4,000, and to adjust the fire department's budget accordingly.

Dated this 16th day of February, 2010.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 5 The 2010 Preliminary Improvement Report was presented to the Committee by Staff. The proposed improvements include 1.2 miles of reconstruction, 1.7 miles of overlay, .41 miles of new construction, the TH71/TH294/CR24 intersection, and other miscellaneous projects. The total estimated cost of the improvement program is \$3,899,007.00. The estimated assessments are \$67.50/LF for reconstruction and \$25.00/LF for overlay.

The Committee briefly reviewed a proposed financing plan to cover the project as presented, including funding for the City's share. It was acknowledged that by not providing funding to cover the City's share, the project size would be significantly reduced. City Administrator Schmit presented to the Council the projected financing plan.

Following discussion, the Committee was recommending the Council order the preparation of plans and specifications and calling for a public hearing. Resolution 6 was introduced by Council Member Reese, seconded by Council Member Christianson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 6

RECEIVING PRELIMINARY REPORT AND CALLING PUBLIC HEARING ON YEAR 2010 IMPROVEMENT PROJECTS

WHEREAS:

1. The City Council deems it necessary and expedient that the City of Willmar, Minnesota, construct certain improvements to-wit: grading, gravel base, bituminous paving, curb and gutter,

sidewalk, signal systems, street lighting, sanitary sewer, storm sewer, water main, sump pump drain tile, and service lines in the City as described in and in accordance with the preliminary plans and report prepared by the City Engineer.

2. The Council has been advised by the City Engineer that said Year 2010 Improvement Projects contained in the Preliminary Report are feasible and should best be made as proposed, and the City Engineer's report to this effect has heretofore been received by the Council, and filed with the Clerk-Treasurer; and

3. The statute provides that no such improvements shall be made until the Council shall have held a public hearing on such improvements following mailed notice and two publications thereof in the official newspaper stating time and place of the hearing, the general nature of the improvement, the estimated costs thereof and the area proposed to be assessed, in accordance with the law;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, as follows:

1. A public hearing will be held at the time and place set forth in the Notice of Hearing hereto attached to consider said proposed improvements.

2. The nature of the improvements, the estimated cost of each major portion thereof, and the areas proposed to be assessed therefore are described in the form of Notice of Hearing hereto attached.

3. The notice of said public hearing shall be in substantially the form contained in the notice hereto attached.

4. The Clerk-Treasurer is hereby authorized and directed to cause notice of said hearing to be given two publications in the official newspaper. Said publications shall be one week apart, and at least three days shall elapse between the last publication and the hearing. Not less than ten days before the hearing the Clerk-Treasurer shall mail notice of the hearing to the owner of each parcel of land within the area proposed to be assessed as described in the notice. For the purpose of giving such mailed notice, owners shall be those shown to be such on the records of the County Auditor or, if the tax statements in the County are mailed by the County Treasurer, on the records of the County Treasurer. As to properties not listed on the records of the County Auditor or the County Treasurer, the Clerk-Treasurer shall ascertain such ownership by any practicable means and give mailed notice to such owners.

Dated this 16th day of February, 2010.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 6 The Committee discussed changes in school location assignments, specifically the issue of the number of children having to cross First Street in order to get to the Middle School (Junior High). Several parents have expressed concerns about the volume of traffic along First Street and inquired as to the possibility of a pedestrian overpass. This matter was received for information only.

The Public Works/Safety Committee Report for February 9, 2010, were approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Christianson, seconded by Council Member Fagerlie, reviewed by Mayor Heitke, and carried.

City Clerk Halliday informed the Mayor and Council that no action would be necessary regarding the tabled On-sale Liquor License for the Fraternal Order of Eagles. The Eagles will be conducting the tournament at the Eagles Club in downtown Willmar.

City Clerk Halliday informed the Mayor and Council of changes to the 2010 elections and filing dates have been changed from early July to May 18, through June 1, 2010.

City Administrator Schmit informed the Mayor and Council that Lutheran Social Services is examining the potential acquisition and rehabilitation of the former John's Supper Club building. Previous Council action gave a January 15, 2010, deadline for the current owner, Paul Kidrowski, to submit plans. Following discussion, Council Member Reese moved to allow a four-month extension to John's Supper Club building deadline. Council Member Ahmann seconded the motion, which carried.

Council Members Rick Fagerlie and Doug Reese requested that they be excused from the March 1, 2010, City Council meeting.

There being no further business to come before the Council, the meeting adjourned at 9:00 p.m. upon motion by Council Member Anderson, seconded by Council Member Reese, and carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL