

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

March 2, 2009
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, Jim Dokken, and Tim Johnson; Present 8, Absent 1 – Rick Fagerlie was excused from the meeting.

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

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of February 17, Rice Hospital Board Minutes of February 18, Municipal Utilities Commission Minutes of February 23, and Convention and Visitor's Bureau Minutes of January 20, 2009. Council Member Ahmann seconded the motion, which carried.

At 7:03 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Rates Charged by the Municipal Utilities Commission of the City of Willmar, a Public Utility, to be Effective for Billings Sent on and after April 1, 2009. Bruce Gomm, Willmar Municipal Utilities General Manager, presented details of proposed electrical rates increase and increased costs of power supply and energy. There being no one present to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 7:04 p.m.

Council Member DeBlieck offered a motion to adopt, assign a number, and order final publication of an Ordinance Amending Rates Charged by the Municipal Utilities Commission of the City of Willmar. Council Member Reese seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

Mayor Heitke acknowledged David Herzer who had signed up to address the City Council during its scheduled Open Forum. Mr. Herzer spoke in favor of Minnesota House File 108 and Senate File 42, Primary Seat Belt Legislation.

The Finance Committee Report for February 23, 2009, was presented to the Mayor and Council by Council Member Anderson. There were five items for Council consideration.

Item No. 1 The Committee reviewed an application from the Willmar Elks organization to renew their Premise Gambling Permit from the State Gambling Control Board. The Committee was recommending the Council introduce a Resolution approving the application. Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Ahmann, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 1

REQUESTING THAT THE MINNESOTA GAMBLING CONTROL BOARD APPROVE THE
APPLICATION FOR A PREMISE PERMIT FOR THE WILLMAR ELKS LODGE #952

WHEREAS, the Willmar Elks Lodge #952 has applied to the Minnesota Gambling Control Board to obtain a Premise Permit for a Gambling License at the Willmar Elks Lodge #952, 426 Litchfield Avenue Southwest, Willmar, Minnesota;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that the City approves of the Premise Permit for the Willmar Elks Lodge #952 and respectfully requests that the State

of Minnesota Gambling Control Board approve the Premise Permit to the Willmar Elks Lodge #952 for the time period of June 1, 2009 through May 31, 2011.

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 2 The Committee discussed action of the Council to order plans and specifications for the 2009 Street Improvement Program. 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 7, Noes 0.

RESOLUTION NO. 2

RESOLUTION ESTABLISHING PROCEDURES RELATING TO COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

(For Resolution in its entirety, see City Council Proceedings file dated March 2, 2009, located in the City Clerk's Office)

Item No. 3 The Committee discussed various ideas in regards to the 2009 Budget. Staff was directed to provide detailed Budget Books for all Council Members prior to the Planning Retreat. This matter was for information only.

Item No. 4 The Committee reviewed an amended Budget for the study of the old airport hanger and noted that funding was to come from the Local Option Sales Tax. The Committee was recommending the Council approved a Resolution amending the budget as presented.

Resolution No. 3 was introduced by Council Member Anderson, seconded by Council Member Reese, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 3

BUDGET FOR HISTORICAL AND CULTURAL REVIEW - BOLTON & MENK

| | | | |
|-----------------------|--------------------|-------------------------------|--------------------|
| OTHER CHARGES | | RECEIVABLES | |
| Professional Services | <u>\$12,750.00</u> | City - Local option sales tax | <u>\$12,750.00</u> |
| TOTAL | \$12,750.00 | TOTAL | \$12,750.00 |
| GRAND TOTAL | | FINANCING | |
| | \$12,750.00 | City - Local option sales tax | <u>\$12,750.00</u> |
| | | TOTAL | \$12,750.00 |
| | | GRAND TOTAL | \$12,750.00 |

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 5 The Committee reviewed Rice Trust and Rice Hospital Financial Reports. This matter was for information only.

The Finance Committee Report for February 23, 2009, 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 Ahmann, and carried.

The Public Works/Safety Committee Report for February 24, 2009, was presented to the Mayor and Council by Council Member Reese. There were seven items for Council consideration.

Item No. 1 Adam Arvidson representing the Willmar Design Center as Urban Designer presented to the Committee a proposed Request for Qualifications (RFQ). The concept is to re-envision Becker Avenue as Willmar's Downtown Commons. Initially the area behind Bethel Church was considered, but in recent years Becker Avenue was being used more for these types of events. Becker Avenue currently hosts a weekly Farmers' Market and several standing annual events.

The Willmar Design Center is requesting the City consider authorization to proceed with soliciting RFQ's from qualified consultants for digital schematic designs as part of a two-part process. The RFQ's would not include any consulting fee or process proposals and would then be evaluated with several firms invited to interview to discuss fees. The second part of the process would include a complete proposal. The Willmar Design Center intends to raise funds for any associated costs.

The Committee was recommending the Council approve the submittal for RFQ's from landscape architecture firms for schematic design for Becker Avenue. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Christianson seconding the motion, which carried.

Item No. 2 Staff informed the Committee that two years ago the City received a grant from the Department of Natural Resources to construct a path which crosses the property of the MinnWest Technology Campus along Business 71-23. Various requirements have been met in order to receive the grant with one remaining due to the fact that the property has been placed on the Historical Register. The final requirement is to perform a survey to document any archaeological resources in the project area. Staff received several proposals from qualified consultants to perform the survey and is recommending the firm of Summit Envirosolutions in the amount of \$3,785 if no sites are found. Funding for the survey would be from within the project budget.

The Committee was recommending the Council accept the proposal from Summit Envirosolutions and authorize the City Administrator to sign. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Ahmann, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 4

Whereas the City of Willmar desires to retain a consultant to provide professional services to perform an archaeological survey on the MinnWest Technology Campus property along Business 71-23; and

Whereas a proposal has been made by the firm of Summit Envirosolutions for said services for the base bid amount of \$3,785.00 if no sites are found;

Now therefore be it resolved by the City Council of the City of Willmar that said proposal be approved and that the City Administrator be authorized to execute the same.

Be it further resolved that funding for said services be from the Project No. 0809 budget.

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 Rhonda Rae, Donohue and Associates, presented to the Committee Change Order No. 1 to Wastewater Treatment Plant Project No. 0815-D5 which is the force main and gravity sewer portion awarded to Voss Plumbing, Heating and Air Conditioning last August. The contractor is proposing the method of directional drilling to install the eight-inch force main for approximately 1,700 feet at no additional cost to the City. The specifications called for open-cut construction, and this method would minimize the impact of the construction to the residents. Voss's reasoning for the request is to avoid cutting and reconnecting underground utility lines throughout the area.

The Committee was recommending the Council approve Change Order No. 1 for Project 0815-D5 and authorize the City Administrator to execute on behalf of the City. Resolution No. 5 was introduced by Council Member Reese, seconded by Council Member Christianson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 5

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);

WHEREAS, no Change Orders have been previously authorized; and

WHEREAS, the contractor has proposed the method of directional drilling rather than the open-cut method for installation of the 8-inch forcemain from Station 841+00 to 858+00, approximately 1700 linear feet, at no additional cost to the city; and

WHEREAS, it is recommended to delete Pay Items No. 24, 25, 32, 33, 34, 35 and 36 for \$104,284.00 and add Pay Item No. 39 Directional Drilling and Restoration Cost Adjustment for a lump sum of \$104,284.00 for a Zero Dollar Change Order.

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that Change Order No. 1 be approved; as a result, the contract amount will remain at \$104,284 with a zero dollar change order for Project 0815-D5 Forcemain and Gravity Sewer (from CD46 to Benson Avenue).

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 Rhonda Rae further updated the Committee on several items within the contract that will impact the final price. Presently it appears there will be an over-run on the directional drilling. Recently the contractor made the City aware that the bid quantity is different than the planned quantity of the work therefore resulting in an over-run in this line item. Upon further review, there will be an under-run on forcemain, which will offset part of these costs. Donohue and Staff's recommendation is to reconcile the over-runs/under-runs with a final change order at project completion in July. At this time it is felt the project will stay within budget. This matter was for information only.

Item No. 5 The Committee considered a final payment to Kandiyohi County for the City's share of County Road No. 47 across the old airport. The final payment in the amount of \$85,053.44, combined with previous payments brings the project total to \$698,230.14 which is under the budgeted amount of \$741,000.00.

The Committee was recommending the Council approve the final payment to Kandiyohi County. Resolution No. 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 7, Noes 0.

RESOLUTION NO. 6

AUTHORIZATION FINAL PAYMENT
KANDIYOHI COUNTY COOPERATIVE CONSTRUCTION AGREEMENT

BE IT RESOLVED by the City Council of the City of Willmar, that final payment in the amount of \$85,053.44 be made to Kandiyohi County as per the Cooperative Construction Agreement between the City of Willmar and Kandiyohi County for construction of County Road 47 from 0.18 miles south of TH 40 to TH 12.

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 6 Luther Septon of 222 SW 15th Street has submitted an application for a Livestock Permit to house approximately 30 fowl and possibly two horses during the summer months. Mr. Septon has been granted a license to house the fowl for previous years. The addition of the two horses was a concern for Staff and it was their recommendation to deny that portion of the permit.

The Committee was recommending the Council grant the permit for 30 fowl and exclude the two horses. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Anderson seconded the motion, which carried.

Item No. 7 Staff informed the Committee that the City has been contacted by the Department of Employment and Economic Development (DEED) concerning the City's Use of Force of Policy and a grant application currently under consideration. During the review process, an employee of DEED pointed out that the City's Use of Force Policy does not conform to HUD requirements. HUD is requesting the inclusion of wording that pertains to individuals engaged in nonviolent civic rights demonstrations and the enforcement of applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration.

The Committee was recommending the Council approve the adoption and enforcement of a policy to prohibit the use of excessive force by law enforcement agencies against any individuals engaged in nonviolent civic rights demonstrations. Resolution No. 7 was introduced by Council Member Reese, seconded by Council Member Anderson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 7

BE IT RESOLVED by the City Council in and for the City of Willmar, that the Council agrees to adopt and enforce a policy to prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations, and to enforce applicable State and local laws against physically barring entrance to or exit from a facility or location

which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

Dated this 2nd day of March, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

The Public Works/Safety Committee Report for February 24, 2009, was approved as presented and ordered placed on file in the City Clerk's Office upon a motion by Council Member Reese, seconded by Council Member Christianson, and carried.

Announcements for Council Committee meeting dates were as follows: Finance, March 9; Public Works/Safety, March 10; and Community Development, March 12, 2009.

City Clerk Halliday presented to the Mayor and Council the 2008 City Clerk-Treasurer Department annual report. Following a question and answer period, the report was ordered placed on file in the City Clerk's Office.

Community Education and Recreation Director Brisendine presented to the Mayor and Council the 2008 Community Education and Recreation Department annual report. Following a question and answer period, the report was ordered placed on file in the City Clerk's Office.

Council Members requested Staff to contact Legislators regarding mandates such as the use of force mandate and historical review mandate discussed earlier on the agenda.

There being no further business to come before the Council, the meeting adjourned at 9:12 p.m. upon motion by Council Member Christianson, seconded by Council Member Reese, and carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL