

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

April 6, 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, Rick Fagerlie, and Jim Dokken; Present 8, Absent 1 – Council Member Tim Johnson.

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

Additions included information on the Veteran's Home proposal and the announcement of the "Areas Finest" Musical Fundraiser.

The Council requested the Charter Commission minutes be removed from the Consent Agenda.

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of March 16, Rice Hospital Board Minutes of March 18, Municipal Utilities Commission Minutes of March 23, Building Inspection Report for March, Housing and Redevelopment Authority Board Minutes of February 10, Community Center Council Minutes of March 4, and Charter Commission Minutes of March 11, 2009; and Mayoral appointments: Airport Commission, Terry Albers, and Cable Advisory Committee – Oscar Overcash. Council Member Anderson seconded the motion, which carried.

Mayor Heitke offered comments regarding Rice Hospital Board qualifications as discussed in the Rice Hospital Board minutes whereby the Hospital Board was discussing the Charter Commission work. Council Member Christianson moved to approve the Charter Commission minutes with Council Member Dokken seconding the motion, which carried.

At 7:12 p.m. Mayor Heitke opened the hearing on an Ordinance Regulating Dogs in Outdoor Restaurants. Planning and Development Services Director Peterson presented details of the proposed Ordinance noting that participation of restaurants is optional.

John Lambing appeared before the Council to speak in opposition to the ordinance stating dogs are often the police department's number one problem and have unpredictable behavior.

Upon hearing all those who wished to be heard, Mayor Heitke closed the hearing at 7:15 p.m. Following discussion centered on the lack of business owners desiring this change, Council Member Anderson offered a motion to table the issue. Council Member Dokken seconded the motion which carried.

At 7:26 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Willmar Zoning Ordinance Amending Landscape Requirements in the Zoning Ordinance. Planning and Development Services Director Peterson presented details of the proposed changes and noted the Planning Commission has approved the proposed Ordinance.

There being no one present to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 7:28 p.m.

Council Member Anderson offered a motion to adopt, assign a number, and order final publication of the Ordinance Amending No. 1060, Willmar Zoning Ordinance, by Amending Section 3.P Landscaping.

Council Member Dokken seconded the motion. After some discussion a motion was made by Council Member Fagerlie to add Governments/Institutional (GI) to the zoning districts under item #3. Council Member Dokken seconded the motion which carried on a roll call vote of Ayes 7, Noes 0.

Mayor Heitke acknowledged John Lambing who had signed up to address the City Council during its scheduled Open Forum. Mr. Lambing spoke of the Airport Commission and airport hangar general liability coverage. Mayor Heitke also acknowledged John Sullivan who requested the Mayor not comment on Charter Commission activities until the job is concluded, and that his comments on the Hospital Board charter language desires was information he did not have as a Charter Commission member.

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

Item No. 1 Bev Dougherty, Willmar Design Center, reported to the Committee regarding the status of funding efforts for the project connecting Downtown Willmar to the Glacial Lakes Trail. To date, \$15,000 has been raised toward their \$20,000 goal. The Committee expressed concerns as to the City's funding obligation in this project. Ms. Dougherty indicated she had reviewed the March 2 2009, Council meeting video during which this project was discussed and found that she had, in fact, stated that the Design Center will be seeking outside funding. Therefore, the City of Willmar was under no obligation in regard to this project. This matter was for information only.

Item No. 2 Bill Fenske, Rice Hospital CFO, presented information to the Committee regarding the new on-site Data Center currently under construction with completion anticipated in mid-April. This Data Center will enable the patient records data base to become fully electronic in time and will provide full redundancy of power and space for adequate backup of information.

Proposals to finance the \$3,000,000 project were received from Wells Fargo, Bremer, First Financial, and Willmar Syndicate which includes North American State Bank, Heritage Bank, Concorde Bank, Lake Region Bank and Home State Bank. Approval will be sought at the next Hospital Board meeting for the Willmar Syndicate proposal of 60 months at a fixed rate of 5.47 percent. This matter was for information only.

Item No. 3 Mr Fenske explained to the Committee that for the year ended December 31, 2008, Rice Hospital had a net profit of approximately \$200,000. January, 2009, was a slow month resulting in a net loss of (\$700,000). At the end of February, the net loss was approximately (\$350,000). Early March projections reveal that the Hospital may be close to breaking even. This matter was for information only.

Item No. 4 Mr. Fenske explained that staff is in the process of seeking to change the designation of the Rice Trust Fund back to Supporting Organization. As of January, 2007, the Fund had been re-designated as a Private Foundation, but there were tax ramifications with this designation which reduced the amount of funds available for benefit distribution. Consequently, legal procedure is being pursued to return to a designation of Supporting Organization. This matter was for information only.

Item No. 5 Finance Director Okins informed the Committee that 2008 excess revenues over expenditures will total approximately \$209,000. Standard practice would be to carry this amount over to the 2010 Budget; however, this is subject to the Council's discretion. Various designated general fund balances as of December 31, 2008, were discussed, as well as significant revenues and expenditures. Copies of the City's Financial Procedures were distributed to the Committee and reviewed. This matter was for information only.

Item No. 6 The Committee reviewed the February CVB and WRAC-8 reports. This matter was for information only.

The Finance Committee Report for March 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 Fagerlie, and carried.

The Public Works/Safety Committee Report for March 31, 2009, was presented to the Mayor and Council by Council Member Reese. There were nine items for Council consideration.

Item No. 1 The Committee was recommending the Council approve the final pay request for the improvement of 19th Avenue SE from 450 feet west of 5th Street to 9th Street SE. All work has been completed and the estimate consists of the 5% retainage. Bolton and Menk, Inc, consulting engineers for the project have reviewed the estimate, and are recommending final acceptance of the project and payment to Duinick Bros. Inc. in the amount of \$40,809.97. Resolution No. 1 was introduced by Council Member Reese, seconded by Council Member Fagerlie, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 1

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT: Project No. 0704 – 19th Avenue SE Street Improvements

CONTRACTOR:	Duinick Bros. Inc.
DATE OF CONTRACT:	February 26, 2007
BEGIN WORK:	April, 2007
COMPLETE WORK:	September, 2007
APPROVE, CITY ENGINEER:	March 31, 2009

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, that:

1. The said City of Willmar Project No. 0704 be herewith approved and accepted by the City of Willmar.
2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:	\$828,096.30
Change Order Nos. 1 & 2	\$25,200.92
FINAL NET CONTRACT AMOUNT, PROPOSED:	\$853,297.22
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED:	\$816,199.48
Less Previous Payments	\$775,389.51
FINAL PAYMENT DUE CONTRACTOR:	\$40,809.97

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 2 Quotes opened March 10, 2009 for Project No. 0807, which includes installation of street lights on Oxford Drive SE and 15th Street SW, were presented to the committee. Three quotes were received with the low quote being that of Willmar Electric Service in the amount of \$16,393.77. The engineer's estimate for the work is \$17,634.30. Staff recommended acceptance of the low quote. Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Fagerlie, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 2

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the quote of Willmar Electric Service of Willmar, Minnesota for Project No. 0807 is accepted, and be it further resolved that the City Administrator of the City of Willmar are hereby authorized to enter into an agreement with the contractor for the terms and consideration of the contract in the amount of \$16,393.77.

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 The plans and specifications have been prepared by staff for Project No. 0901 to include the reconstruction of several streets. Staff requested approval of the plans and specifications and authorization to advertise for bids to be opened May 5, 2009. The estimated cost of the project is \$1.15 million of which a portion is state aid eligible. Resolution No. 3 was introduced by Council Member Reese, seconded by Council Member Anderson, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 3

WHEREAS the City Engineer of the City of Willmar has presented to the City Council plans and specifications for Project No. 0901 (Street Improvements) for the City of Willmar;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Willmar that:

Final plans and specifications are hereby approved, and publication of the advertisement for bids is herewith authorized. Bids will be publicly opened and read at 1:00 p.m. on the 5th day of May, 2009, at the City Office Building, 333 Southwest Sixth Street, Willmar, Minnesota.

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 Staff presented a brief history of the recent insurance requirement changes to tort liability limits for airport hangar lease agreements. The insurance requirement increased from \$1 million to \$1.2 million in January 2009 and is proposed to increase to \$1.5 million on July 1st. This increase has caused concern and a substantial increase in cost for renters. The committee was recommending staff be directed to lower the required insurance limits for hangar lease agreements to \$1 million subject to concurrence by the League of Minnesota Cities. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Fagerlie seconding the motion, which carried. Council Member Christianson then moved to amend all leases, licenses and permits to a \$1 million limit, with Council Member Ahmann seconding the motion which carried.

The committee also reviewed correspondence from Ronald Ruchti-Mamber relating to termination of his hangar lease. The lease agreement stipulates a 60-day termination notice. Mr. Ruchti-Mamber requested the City waive the notice requirement. Council Member Reese moved to waive 30 days of the termination notice and lower it to 30 days for Mr. Ruchti-Mamber. Council Member Fagerlie seconded the

motion which carried.

Item No. 5 Rick Johnson and Jeff Gilbertson of the Fire Department informed the committee of the department's recent ISO survey results. The department's rating has improved from a Class 4 to a Class 3. There are only 33 cities in Minnesota that are at a Class 3. This improved rating is a result of the City's greatly enhanced water distribution system, fire sprinkler systems being added to a number of high-hazard buildings, and the increased staffing at the county dispatch center. This may result in a reduction in insurance premiums to residents, and all entities involved are commended for the achievement. This matter was for information only.

Item No. 6 Staff briefed the committee on the City's requirement for reduction of phosphorus at the existing WWTF in years 2009 and 2010 in order to meet the Minnesota River Basin NPDES permit regulations. An alternative to reducing phosphorus at the existing facility is to purchase phosphorus credits from another WWTF operator in the Minnesota River Basin. This type of credit purchase is acceptable to the MPCA. The city is currently under an agreement with the City of Mankato to do so for the year of 2008 and has executed a Legal Contract to Trade with the Minnesota Pollution Control Agency. The City budgeted \$30,000 in the 2008 operating budget and the actual cost was \$28,406.75. Staff proposed renewing both the phosphorus trade agreement for 2009 and the Legal Contract to Trade Form A with the MPCA.

The committee was recommending the Council approve the phosphorus trade agreement with the City of Mankato for 2009 and the Legal Contract to Trade with the MPCA and authorize the City Administrator to sign both on behalf of the City. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Fagerlie, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 4

AUTHORIZING PHOSPHORUS CREDIT TRADE WITH THE CITY OF MANKATO

WHEREAS, the City of Willmar ("City") is a municipal corporation and subdivision of the State of Minnesota organized and operating under a home rule charter and Minnesota law, and is operating a wastewater treatment facility providing treatment for municipal wastewater; and

WHEREAS, the City Council of the City of Willmar is the official governing body of the City of Willmar; and

WHEREAS, pursuant to direction of the City Council, Donohue and Associates, Inc. prepared a Wastewater Collection and Treatment Facilities Plan, dated May 1, 2006 ("Facilities Plan") which provides for the following (which collectively, are hereafter referred to as the "Project"):

- a) Providing for the wastewater collection and disposal needs of the City of Willmar's sewer service area, including anticipated growth through the year 2030 and beyond;
- b) Eliminating conditions which have historically produced objectionable wastewater related odors;
- c) Constructing a new wastewater treatment facility at the site of the City's existing sludge transfer and storage facilities. This new facility would be operational in late 2010 and treat all wastewater generated within the City's sewer service area;
- d) Constructing two pump stations and force mains to convey production-related wastewater from the Jennie-O-Turkey Store ("JOTS") production facilities to the proposed new City wastewater treatment facility; and
- e) Constructing a large diameter gravity interceptor sewer to convey all municipal wastewater to the proposed new City wastewater treatment facility.

WHEREAS, the City's existing wastewater treatment facility has been failing to meet applicable requirements of the Minnesota Pollution Control Agency ("MPCA") for some time and is inadequate to meet the projected needs of the City's sewer service area.

WHEREAS, on May 1, 2006, the City Council of the City of Willmar adopted Resolution No. 7, authorizing City staff and Donohue & Associates, Inc. to submit the approved Facilities Plan to MPCA for MPCA approval.

WHEREAS, on June 14, 2006, the MPCA notified the City that MPCA had granted preliminary approval of the Facilities Plan; and

WHEREAS, the City's Minnesota River Basin MNG420038 permit requires reduction in the amount of Phosphorus discharged from its existing WWTF in years 2008, 2009, and 2010; and

WHEREAS, a cost-effective alternative to providing phosphorus reduction at its existing WWTF is to purchase phosphorus credits from the City of Mankato; and

WHEREAS, the Minnesota Pollution Control Agency approves the purchase of phosphorus trade credits; as an acceptable means of providing interim phosphorus reduction in the Minnesota River;

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

The City Council approves the execution of the Legal Contract to Trade Form A and Phosphorus Trade Agreement with the City of Mankato; and authorizes the City Administrator to sign said agreements on behalf of the City of Willmar.

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 7 Due to growth and additional street infrastructure in the City, Willmar is 1.56 miles under the maximum allowable municipal state aid street mileage. In accordance with the 2003 Transportation Plan, staff requested adding two street segments to the system. The segments proposed include 15th Street SW from 28th Avenue SW to 19th Avenue SW (0.50 miles) and 28th Avenue SW from 15th Street SW to 1st Street (1.0 miles). The committee recommended adding the proposed areas to the Council. Resolution No. 5 approving 15th Street SW was introduced by Council Member Reese, seconded by Council Member Fagerlie, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 5

ESTABLISHING MUNICIPAL STATE AID HIGHWAYS

WHEREAS, it appears to the City Council of the City of Willmar that the street hereinafter described should be designated Municipal State Aid Street under the provisions of Minnesota Law.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Willmar that the road described as follows, to-wit: 15th Street SW from 28th Avenue SW to 19th Avenue SW be, and hereby is established, located, and designated a Municipal State Aid Street of said City, subject to the approval of the Commissioner of Transportation of the State of Minnesota.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to forward two certified copies of this resolution to the Commissioner of Transportation for his consideration, and that upon his approval of the designation of said road or portion thereof, that same be constructed, improved and maintained as a Municipal State Aid Street of the City of Willmar.

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Resolution No. 6 approving 28th Avenue SW was introduced by Council Member Reese, seconded by Council Member DeBlieck, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 6

ESTABLISHING MUNICIPAL STATE AID HIGHWAYS

WHEREAS, it appears to the City Council of the City of Willmar that the street hereinafter described should be designated Municipal State Aid Street under the provisions of Minnesota Law.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Willmar that the road described as follows, to-wit: 28th Avenue SW from 15th Street SW to 1st Street be, and hereby is established, located, and designated a Municipal State Aid Street of said City, subject to the approval of the Commissioner of Transportation of the State of Minnesota.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to forward two certified copies of this resolution to the Commissioner of Transportation for his consideration, and that upon his approval of the designation of said road or portion thereof, that same be constructed, improved and maintained as a Municipal State Aid Street of the City of Willmar.

Dated this 6th day of April, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 8 Rhonda Rae of Donohue and Associates briefed the committee on the March activities related to the relocation of the Wastewater Treatment Plant. Program management activities included meetings with staff to discuss funding and finance issues; submittal of pay request 11 to the Public Facilities Authority for the Clean Water Revolving Fund Loan and Wastewater Improvement Fund. The full amount of the TMDL Grant was received with Pay Request No. 3. Donohue continues to work with the MPCA to secure additional TMDL grants and seeking funding opportunities from the American Recovery and Reinvestment Act of 2009 (ARRA) for federal stimulus funds. Discussion continues with legal counsel to provide information on the property acquisition. Most acquisitions are complete by either settling or condemnation, with one property having appealed the Fee Simple and awaiting a court of appeals trial date.

The contractor for 0812-C, building construction, continues mass excavation for major structures to include the oxidation ditches and head works structure. Concrete work has progressed with 25% of the head works building complete, 70 to 75% of the pours for the oxidation ditch structures complete, and 90% of the concrete pours for the basin drain pump station. The contractor has installed the 54-inch interceptor piping to the head works building and continues to install under slab process piping and site utility piping.

Conveyance D-5 has suspended work for the winter, and the D-4 contractor is continuing to work having installed 14,000 feet of 54 inch interceptor, 2,500 feet of force main and completed the outfall.

The contractor for D-3 has closed the intersection of 15th Street SW and 30th Avenue SW for the interceptor installation. Property owner meetings are planned prior to construction starting along 28th Avenue SW. The contractor has submitted information on the guided boring machine method of installing pipe under the railroad for review.

Item No. 9 The Community Education and Recreation (CER) Department requested a permit on behalf of the tournament to allow the sale of alcohol during a softball tournament the weekend of Willmar Fests 2009. The sale of alcohol would be controlled by a state-licensed liquor caterer. Revenues generated could draw more teams from outside the area and in turn, provide income throughout the community in the form of hotel amenities, restaurants, retail and recreational areas. The committee discussed the matter and a consensus was reached to recommend an April 15th Work Session to discuss this and other related alcohol issues. This item was for information only.

The Public Works/Safety Committee Report for March 31, 2009, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Reese, seconded by Council Member Fagerlie, and carried.

The Council set the date and time for the next work session as 5:00 p.m., April 15, 2009 at which time the liquor issues will be discussed.

City Administrator Michael Schmit presented an agreement for an Airport On-site Manager. The agreement was negotiated with Brian Negen of Maximum Cruise Aviation, the current Fixed Base Operator. The On-Site Manager Agreement is intended to replace our full-time Airport Manager by combining City staff with the manager at an estimated first-year savings of \$45,000. Council Member Reese then moved to approve the Airport On-site Manager Agreement, with Council Member Christianson seconding the motion which carried.

City Clerk Halliday informed the Mayor and Council that the following establishments are requesting renewal of their current liquor licenses: On-sale – Applebee's, Double D Club, El Tapatio, Grizzly's Grill & Saloon, Holiday Inn/Green Mill, Kandi Entertainment Center, New Fireside and Oaks at Eagle Creek; On-sale 3.2% Malt Liquor – Café Persepolis, Golden Palace, Pizza Hut, and Valley Golf Course; Wine – Café Persepolis, Golden Palace and Northern Grounds; Club On-sale – American Legion 167, VFW 1639, Willmar Elks Lodge and Willmar Fraternal Order of Eagles; and Off-sale – Cashwise Liquors, Cub Foods, Gerry's Liquor, Wal-Mart and Westside Liquor. Council Member Reese moved to approve the renewal of liquor licenses as presented with Council Member Fagerlie seconding the motion, which carried on a roll call vote of Ayes 7, Noes 0.

Announcements for Council Committee meeting dates were as follows: Public Works Safety, April 14; Community Development, April 16; Labor Relations, April 22. COPS meeting dates were as follows: Ward 3, April 13 at the Fire Station and Ward 2, April 14 at E-Free Church – both at 7:00 p.m.

City Administrator Michael Schmit informed the Council that staff has been working on the development of a 90-bed Veterans Facility. The issue has been in the legislature with bills entered and hearings heard in the House and soon the Senate. Steve Renquist, Director of the Economic Development Commission, reviewed the four-year proposal, working with the Minnesota Department of Veterans Affairs, to meet their goals.

Council Member Dokken stated they are looking for is a "flexible" nursing home and explained the unfinished studies underway to evaluate the needs and proposal by the Commissioner of Veterans Health Care. The facility proposed would contain 90 beds with six pod units of 15 beds each. Council Member Dokken also stated the Council needs a better understanding of the treatment currently being offered and be in contact with the Assistant Commander of Veterans Affairs. He also voiced concerns about the 50-mile radius and waiting to follow a study which isn't completed.

