

CITY OF WILLMAR

COMMUNITY DEVELOPMENT COMMITTEE MEETING

4:45 PM, THURSDAY, MAY 26, 2016

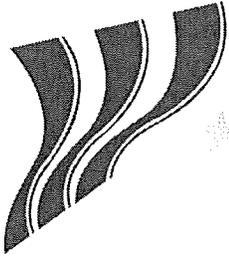
CONFERENCE ROOM #1

CITY OFFICE BUILDING

Chair: Rick Fagerlie
Vice Chair: Andrew Plowman
Members: Tim Johnson
Audrey Nelsen

AGENDA

1. Meeting Called to Order
2. Public Comment
3. FBO Contract Issues
4. Hazardous Building Declaration – 810 Campbell Avenue Northwest
5. Adjourn



CITY OF WILLMAR

**Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311**

COUNCIL ACTION REQUEST

DATE: May 26, 2016

SUBJECT: FBO Contract Issues

RECOMMENDATION: To terminate the contract with Maximum Cruise Aviation, LLC – dated April 4, 2016

BACKGROUND: For approximately the past year, the City of Willmar has had issues with the performance of Maximum Cruise Aviation serving as FBO at the Willmar Municipal Airport. Specifically, those issues include late payments of rent, late payments of fuel flowage fees, late filing of required reports, and more recently, failure to provide proof of insurance. These on-going issues have created a situation at the airport that not only creates legal and financial liabilities for the City, but brings into question the ability of the FBO to serve on the airport as the intended “face of the community”.

Many opportunities have been given to the FBO to bring accounts and reports current. This has been accomplished although the payments are frequently months late. The attachment details the issues with delinquent rent and fuel payments. Most recently, the City received notification from the insurance carrier for Maximum Cruise Aviation that his insurance coverage had been terminated. Staff acted immediately to notify the FBO of this happening and to demand that proof of insurance be provided as per the agreement. No proof of insurance has been provided as of this date.

FINANCIAL CONSIDERATION: If the City terminates the agreement, all financial obligations by the City would end, and staff would prepare an RFP to solicit a replacement FBO. The financial conditions of any future contract are speculative at this point. For the short term, the City would take over responsibilities for the fuel system and fuel sales. Other FBO responsibilities would be taken on by staff of the site manager on a temporary basis.

LEGAL: The City Attorney has indicated that there are sufficient grounds to terminate the agreement. Legal liabilities due to the current FBO’s failure to provide proof of insurance are on-going.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services

FBO ISSUES TIMELINE FOR 2015-2016:

RENT:

- February 13, 2015 rent for February 2015 is paid.
- March 11, 2015 rent for March 2015 is paid.
- May 29, 2015 rent for April 2015 is paid.
- May 29, 2015 rent for May 2015 is paid.
- October 12, 2015 rent for June 2015 is paid.
- October 12, 2015 rent for July 2015 is paid.
- October 12, 2015 rent for August 2015 is paid.
- October 12, 2015 rent for September 2015 is paid.
- October 12, 2015 rent for October 2015 is paid.
- December 2, 2015 rent for November 2015 is paid.
- December 2, 2015 rent for December 2015 is paid.
- March 3, 2016 rent for January 2016 is paid.
- March 3, 2016 rent for February 2016 is paid.
- March 3, 2016 partial rent for March 2016 is paid.
- April 24, 2016 partial rent for March 2016 is paid.
- April 24, 2016 rent for April 2016 is paid.
- April 24, 2016 overpays...error in payment is put towards May & June 2016 rent.

FUEL FLOWAGE:

- January 15, 2015 fuel flowage for October of 2014 is paid.
- January 20, 2015 fuel flowage for November of 2014 is paid.
- March 11, 2015 fuel flowage for December 2014 is paid.
- March 11, 2015 fuel flowage for January 2015 is paid.
- May 29, 2015 fuel flowage for February 2015 is paid.
- May 29, 2015 fuel flowage for March 2015 is paid.
- May 29, 2015 fuel flowage for April 2015 is paid.
- October 12, 2015 fuel flowage for May 2015 is paid.
- October 12, 2015 fuel flowage for June is paid.
- December 2, 2015 fuel flowage for July 2015 is paid.
- December 2, 2015 fuel flowage for August 2015 is paid.
- December 2, 2015 fuel flowage for September 2015 is paid.
- December 2, 2015 fuel flowage for October 2015 is paid.
- March 3, 2016 fuel flowage for November 2015 is paid.
- March 3, 2016 fuel flowage for December 2015 is paid.
- March 3, 2016 fuel flowage for January 2016 is paid.
- April 24, 2016 fuel flowage for February 2016 is paid.
- April 24, 2016 fuel flowage for March 2016 is paid.
- April 24, 2016 fuel flowage for December 2015 is erroneously paid again....monies put towards rent see above.

FUEL TANKS:

- October 19, 2015 ran out of Jet-A fuel, refilled early October 20, 2015.
- February 11, 2016 164 gallons of 100 LL fuel.
- February 15, 2016 ran out of 100 LL fuel empty at 8:30 am, tank filled by 3:15 that afternoon.
- March 29, 2016 434 gallons pumpable fuel in 100 LL tank.
- April 1, 2016 210 gallons pumpable fuel in 100 LL tank (meter reads 420621.5).
- April 4, 2016 80 gallons (1 inch) of fuel in 100 LL tank (meter reads 420742.21).
- April 6, 2016 434 gallons (5 inches) of fuel in 100 LL tank.
- April 11, 2016 434 gallons (5 inches) of fuel in 100 LL tank (meter reads 420897.2), 5' 6" 8,321 gallons Jet-A fuel (652,184).
- April 15, 2016 250 gallons of pumpable fuel in 100 LL tank (meter reads 421103.1).
- April 18, 2016 341 gallons pumpable fuel (meter reads 421429.1), 6,029 gallons Jet A fuel (meter reads 654610).
- April 25, 2016 940 gallons 100 LL (10") (meter reads 421,905.3), 3,800 gallons Jet –A fuel (2' 9" meter reads 656,777).
- May 2, 2016 834 gallons 100 LL (9" meter reads 422033.8), 1,235 gallons Jet-A fuel (1' 9" meter reads 658246).
- May 9, 2016 1158 gallons 100 LL (1' meter reads 422540.3), 4990 gallons Jet- A fuel (4' 2" 661783).
- May 17, 2016 934 gallons 100 LL (10" meter reads 422814.4), 2623 gallons Jet-A fuel 2623 (2' 8.5" meter reads 664121).

INSURANCE:

- March 21, 2016 City becomes aware that the insurance policy for the FBO may have been terminated. City contacts the insurance carrier and receives a copy of the canceled policy on March 22, 2016.
- The policy was cancelled on January 26, 2016.
- March 24, 2016 the City notifies the FBO in writing that we have become aware the policy has been canceled and ask to notify the City if there is a policy with a new carrier to get that info to the City no later than March 31, 2016 or the matter will be forwarded to the City Attorney as is it is a breach of contract Article 4.3 and can be a cause for termination.
- March 31, 2016 city receives e-mail from FBO stating they switched insurance carriers and will forward new certificate as soon as possible.
- April 14, 2016 Planner/Airport Manager e-mails FBO reminding of promise of proof of insurance and fuel flowage/rent payments.
- April 26, 2016 Planner/Airport Manager e-mails FBO asking why he didn't make it to the scheduled meeting and reminding still haven't gotten insurance certificate.
- May 5, 2016 Planner/Airport Manager e-mails FBO requesting new insurance carrier so City Staff can contact them directly for insurance information.

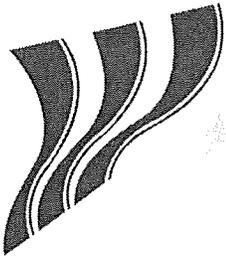
MEETINGS/CORRESPONDENCE:

- September 2, 2015 e-mail from Finance Department rent hasn't been paid for June, July, August or September 2015. And fuel flowage for May, June, July, and August 2015 not paid.

- September 17, 2016 Finance Department sends arrears notice regarding FBO to City Attorney as payments are past 90 days. City Attorney send notice to FBO requesting payment.
- October 2, 2015 meeting with Public Works Director, Director of Planning and Development Services, Planner/Airport Manager, and Operations/Maintenance Supervisor to talk about FBO payment and fuel issues.
- November 16, 2015 letter requesting late fuel flowage info and ask when payments can be expected.
- November 20, 2015 meeting with Interim City Administrator, Public Works Director, Director of Planning & Development Services, Planner/Airport Manager, and Operations/Maintenance Supervisor to discuss further FBO payment and fuel issues.
- December 2, 2016 meeting with FBO and Interim City Administrator, Public Works Director, Director of Planning & Development Services, Planner/Airport Manager, and Operations/Maintenance Supervisor. Timely payments and expectations were conveyed to FBO. FBO submitted a check (see payments above). Agreed verbally that during the winter months the 100 LL could be kept at 500 gallons vs. 1,000 gallons minimum per contract due to low flowage demand in the winter months.
- January 6, 2016 and February 9, 2016 FBO contract amendment requested by City to clarify rent payment see Section 2-2 Page 2 and Exhibit C. Clarifies rent costs for years 2016-2019 of the agreement.
- January 26, 2016 e-mail from Finance Department fuel flowage from November and December 2015 not paid yet.
- February 29, 2016 City Administrator and City Planner/Airport Manager tour airport and FBO facilities. Talk about keeping current on payments etc. with FBO.
- April 4, 2016 City Administrator and City Planner/Airport Manager visit FBO and have reminder discussion about keeping payments and fuel flowage info timely, FBO signs amended contract clarifying rent payment section, request copy of proof of insurance told payments and insurance will be brought to the City that week.
- April 26, 2016 meeting set with FBO, City Administrator, and City Planner/Airport Manager. FBO does not show up.

COMPLAINTS/ISSUES:

- February 24, 2016 FBO phone line disconnected, operational again February 26, 2016.
- February 26, 2016 notice from IRS that there was a levy on FBO's taxes, spoke with IRS representative and that levy had been withdrawn.
- March 14, 2016 courtesy car phone voice mail box full on weekends.
- April 4, 2016 complaint from large user of Airport that FBO not consistent with fuel in tanks and low trust in services provided have been taking their planes elsewhere for last 6 months.
- April 20, 2016 east coast business calls inquiring if the FBO has gone bankrupt or is still functioning. Had placed order for a part made an online payment keeps getting assured of delivery but never got part. Wondered if City knew anything further.



CITY OF WILLMAR

**Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311**

COUNCIL ACTION REQUEST

DATE: May 26, 2016

SUBJECT: Hazardous Building Declaration – 810 Campbell Avenue Northwest

RECOMMENDATION: To declare the dwelling as a hazardous building and order repair or demolition.

BACKGROUND: The City issued initial orders on this property in April 2015. Work progressed very slowly from a demolition standpoint. We did pursue the matter further with the City Attorney in the summer of 2015. At that time, the property owner indicated that he wanted to do his own demolition to save money. The property owner had indicated to staff that he would take out a demolition permit and that demo would be completed by November 2015. Staff accepted those terms and a permit was granted for the demolition of the house at 810 Campbell Ave NW. November came and went, and there was no significant demolition activity that occurred on the site. At the present time, the structure remains in a partially demolished condition. There is no hope that the property can be repaired. That is the basis for staff seeking the formal declaration and order. If the property owner doesn't comply with that order, the City Attorney would move the process forward in court.

FINANCIAL CONSIDERATION: If the City ends up demolishing the property, it will incur a cost. Staff would estimate that cost to be around \$8,000-\$10,000. The property owner would be invoiced for the charges. Failure to pay would result in the obligation being placed on the property as a special assessment.

LEGAL: The City Attorney has been involved in this process and is guiding staff through the process as per the Minnesota Building Code and its requirements.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services

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April 7, 2015

PLANNING AND DEVELOPMENT SERVICES

City Office Building
333 SW 6th Street, Box 755
Willmar, MN 56201

GENERAL DEPARTMENT & INFORMATION 320-235-8311
DIRECTOR 320-214-5184
PLANNER 320-214-5195
BUILDING OFFICIAL 320-214-5185
BUILDING INSPECTION TECH 320-214-5187

FAX: 320-235-4917

Richard Graf
800 Campbell Ave NW
Willmar, MN 56201

RE: Structure located at 810 Campbell Avenue Northwest, Willmar, Minnesota

Dear Mr. Graf:

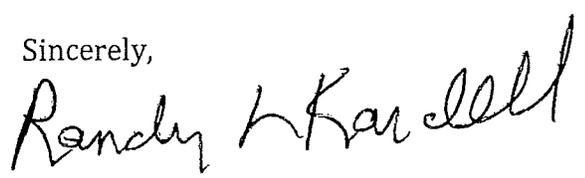
On July 22, 2014 the City of Willmar had issued a building permit (#22395) to Donald Evenson. The building permit was for the demolition of the above abandoned property. Several weeks ago we met at your shop to discuss the issues that exist on the property. The building permit that was issued to Evenson is not a transferable. You will be required to apply for a demolition permit, prior to the demolition beginning.

Enclosed are correspondence for an order of voluntary compliance within 30 days. The demolition of the above referenced property requires that all materials be completely removed from the site. This would include the entire foundation system, basement floors, and all footings. The hole must be filled and compacted to grade as to prevent and water ponding. The sewer and water service lines shall be removed and properly capped at the mains. The capping must be done by a licensed plumber or pipe layer. The capping process will require a compliance inspection by City staff prior to any back filling.

Any failure to fully comply with the removal order or requirements within the allowable time shall result in this matter being turned over to the City Attorney to begin the formal removal process as allowed by MN Statutes, Section 463.15 to 463.26. All associated costs shall be accessed against the property.

If you have any questions, feel free to call 320-214-5185.

Sincerely,



Randy Kardell
Building Official



Randy Kardell

From: Bruce Peterson
Sent: Thursday, August 27, 2015 11:49 AM
To: Robert Scott
Cc: Randy Kardell
Subject: RE: Hazardous Property

Robert,
My main concern with his proposal would be setting firm deadlines, as well as the safety issue with an empty basement. Otherwise, if he can guarantee performance it could work. Should we consider a performance bond?
Bruce

From: Robert Scott [<mailto:rtscott@flaherty-hood.com>]
Sent: Friday, August 21, 2015 5:28 PM
To: Bruce Peterson
Subject: RE: Hazardous Property

Bruce,

For when you're back in the office:

I spoke with Richard Graf who owns the 810 Campbell Ave NW hazardous building. The gist of the conversation was he wants to demolish the building himself, thinks he can do it for ~\$4,000-\$5,000 less than the City's estimate as stated in the consent agreement, and will be applying for a demolition permit shortly. I spoke to him about his timeline and he said he thinks he can start making progress right away after the permit is issued but isn't sure he can remove the foundation before winter. I made no commitments to him on what would or would not be acceptable to the city, but I told him I'd talk to you after you're back in the office and one of us would give him a call by the end of next week.

Thanks,

Robert T. Scott, Senior Attorney
Flaherty & Hood, P.A.
525 Park Street, Suite 470
St. Paul, MN 55103
Phone (651) 225-8840
Fax (651) 225-9088
www.flaherty-hood.com

NOTE: The information contained in this e-mail is confidential and intended only for use by the individual or entity named. If you have received this communication in error, please immediately notify us by replying to this e-mail and destroy the original e-mail and any attachments thereto.

From: Bruce Peterson [<mailto:bpeterson@willmarmn.gov>]
Sent: Friday, August 21, 2015 3:28 PM

ORDER NO. _____

**ORDER BY THE CITY COUNCIL
CITY OF WILLMAR, MINNESOTA**

WHEREAS, evidence has been presented to the City Council of the City of Willmar, Minnesota, and the City Council finds the following facts:

1. That on the real property located at 810 Campbell Avenue Northwest in the City of Willmar, Minnesota, which real property is described as follows, to-wit:

Lots 5 and 6, Block 7, Original Town (now City) of Willmar

(the "property") there is a single family dwelling (the "dwelling")

2. That the records on file with the Kandiyohi County Recorder reveal that the owner of the real property is Richard Graf.

3. That the dwelling located on the property is currently vacant, and has not been occupied for several years.

4. That the dwelling does not have running water in violation of Minn. R. 4715.0200(A) and (Q), and therefore presents a health hazard to the owner and to the general public as water use is necessary for human sanitation.

5. That the dwelling does not have a code compliant operable furnace installation.

6. That the dwelling does not provide safe and adequate means of exit in case of fire or panic.

7. That the dwelling has experienced structural damage, dilapidation, deterioration and/or decay and is likely to partially or completely collapse.

8. That the dwelling, in its current condition, is unsanitary, is likely to cause sickness or disease, and is manifestly unsafe and unfit for human habitation.

9. That the dwelling in its current condition has become an attractive nuisance to children and/or a harbor for vagrants, criminals or immoral persons.

10. That the dwelling constitutes a fire hazard because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus, or other cause.

11. That the dwelling has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of similar new construction.

12. That garbage, junk, vehicles, structures, building materials and other debris, have been allowed to accumulate and are currently present in plain view on the premises of the property and constitute a public nuisance and hazard to the public health, safety and welfare of the community.

NOW, THEREFORE, it is found as a matter of fact that the dwelling is a hazardous building and that the property on which the dwelling is located is hazardous; that the dwelling must be brought into compliance with the state building code or the buildings must be razed.

YOU, Richard Graf are hereby ordered to either:

1. Repair said buildings within Twenty (20) days after service of this Order upon you, i.e., install a code compliant operable furnace, hire a licensed plumber to restore running water to the dwelling; the roof on the dwelling must be repaired or replaced; that any structurally damaged walls or rafters must be repaired; all exterior surfaces must be repaired to a weather resistive state; or
2. Raze said buildings within Twenty (20) days after service of this Order upon you and fill any excavation left after the razing of said buildings so that there will be no hazard to the public health and safety; and you are further ordered to remove from said premises any personal property and fixtures within Twenty (20) days after service of this Order upon you, if the buildings are razed.

The City will make a motion for summary enforcement of this Order to the District Court of Kandiyohi County, Minnesota, if the corrective action is not taken as ordered, or unless an answer is served as provided in Minnesota Statutes Section 463.18.

The City Attorney is directed to proceed with this matter according to law.

Dated this 6th day of June, 2016.

By: _____
Marvin Calvin
Its: Mayor

By: _____
Larry Kruse
Its: City Administrator