

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

January 7, 2008  
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, Cindy Swenson, Jim Dokken, and Steven Gardner; 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.

Additions to the Agenda included the tabled Charter Commission motion from December 17, 2007, and a Hawk Creek Watershed Project announcement.

Mayor Heitke announced, and congratulated, Council Member Denis Anderson who recently received an award from Jennie-O Turkey Store for his 40 years of service.

The Council requested the Municipal Utilities Commission Minutes dated December 31, 2007, be removed from the Consent Agenda.

Council Member Christianson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of December 17, Municipal Utilities Commission Minutes of December 24, Planning Commission Minutes of December 26, Community Ed. and Recreation Advisory Council Minutes of November 30, Police Commission Minutes of December 6, 2007; Exempt Permit Application, Willmar Sertoma Club; and Mayoral Reappointments: MUC – Doug Lindblad and Jerry Gesch, Cable Advisory Committee – Robert Flegel, Rice Hospital Board – Steve Cederstrom, Economic Development Commission Operations Board – Milan Schmiesing; and Planning Commission – Carol Laumer. Council Member Reese seconded the motion, which carried.

Council Member DeBlieck discussed the recent Power Sales Agreement with CMMPA. Municipal Utilities Commissioner Bob Bonawitz provided details of the 30 megawatt proposal. The Municipal Utilities Commission Minutes of December 31, 2007, were approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member DeBlieck, seconded by Council Member Dokken, and carried.

At 7:38 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Willmar Ordinance No. 1192, by Establishing a Franchise Fee. City Clerk Halliday presented details of the proposed Ordinance establishing a natural gas franchise fee. Ken Warner, representing the Chamber of Commerce, questioned the dedicating of the funds collected going to the flood control issues which were discussed, but not part of the Ordinance. Mr. Warner was also looking for a sunset date and questioned the biannual review process in Section 3. John Sullivan spoke in opposition of the Ordinance, stating the fee is really a tax and not best for tax-exempt properties. Gerry Gesch urged the Council to get going on the Grass Lake Project and dedicate the funds to water concerns until the problem is resolved. Upon hearing all those who wished to be heard, Mayor Heitke closed the meeting at 7:46 p.m.

Council Member Reese offered a motion to adopt, assign a number, and order final publication of an Ordinance Amending Willmar Ordinance No. 1192 by Establishing a Franchise Fee. Council Member Gardner seconded the motion, resulting in a roll call vote of Ayes 4, Noes 3 – Council Member Christianson, Swenson, and Dokken voted "No." The Ordinance failed for failure to obtain the five votes needed for adoption.

Representatives of Turch and Associates, David Turch and Kodiak Hill-David, appeared before the Mayor and Council to present an annual update. As the City's Federal lobbyist, they reported on successful Federal grants as follows: \$300,000 Willmar Municipal Utilities power generation study; \$141,700 Gang Enforcement Team; and \$23,500 for meth education. The \$15 million water resources (new Wastewater Treatment Plant) authorization must now be taken to the Appropriations Committee in 2008. It was also noted that Senator Coleman, Representative Peterson, and Representative Oberstar are up for re-election in 2008. This matter was for information only.

Mayor Heitke acknowledged several individuals who had signed up to address the City Council during its scheduled Open Forum. Terrill Reimber inquired as to the status of the Police Civil Service Commission, and Jerry Gesch and Laura Becker expressed concerns regarding flooding issues.

The Community Development Committee Report for December 20, 2007, was presented to the Mayor and Council by Council Members DeBlieck. There were three items for Council consideration.

Item No. 1 The Committee discussed recommendations offered by the Mayor's Housing Task Force. It was a consensus of the Committee that as the educational process unfolds, all educational information should be printed for distribution in three languages. The Committee addressed recommendations in the order offered by the Task Force.

Section No. 1. The Committee discussed amending the exterior maintenance ordinance with stricter standards and was of the opinion that Staff could maintain a complaint-based system of enforcement for these types of violations. The Committee was recommending to the Council that Staff draft amendments to the exterior maintenance ordinance and bring the matter back to the Council for the ordinance adoption process. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

Section No. 2. Because the issues under Exterior Storage and Off-Street parking generally fall under the purview of the Planning Commission, Staff suggested that the Commission should review them and offer their comments to the Council. Following discussion, the Committee was recommending the Council refer the recommendations in Section 2 to the Planning Commission to draft amendments to the Zoning Ordinance and to bring them back to the Council for the ordinance adoption process. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

Section 3. The Committee discussed the Animals, Noise, Snow and Ice sections recommendations offered by the Task Force and was recommending to the Council that Staff and the City Attorney draft amendments to the Municipal Code and bring the matter back to the Council for the ordinance adoption process. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Swenson seconding the motion, which carried.

Section 4. The Committee discussed the Rental Housing Ordinance recommendation at length. No action was taken by the Committee. Rather, personal responsibility and accountability was encouraged in dealing with garbage containment and pick-up. This matter was for information only.

Item No. 2 The Committee discussed the on-going issue of the \$1 million State grant for airport expenditures. Staff offered the opinion that reimbursement for land did not look promising at this point. The airport capital improvement program for the next several years was discussed. Staff requested that the Council authorize staff to work to amend the previous legislation to allow the City to spend the \$1 million grant on other airport items.

The Committee was recommending the Council authorize Staff to pursue an amendment to the 2005 legislation granting the City \$1 million for airport expenditures. Council Member DeBlieck moved to approve the

recommendation of the Community Development with Council Member Christianson seconding the motion, which carried.

Item No. 3 The Committee discussed an idea of a moratorium on approving new residential lots. The Committee took no action, and this matter was for information only.

The Community Development Committee Report for December 20, 2007, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member DeBlieck, seconded by Council Member Christianson, and carried.

The Public Works/Safety Committee Report for January 2, 2008, was presented to the Mayor and Council by Council Member Reese. There were four items for Council consideration.

Item No. 1 The consideration of a request for an off-sale 3.2% malt liquor license for Lakeview Quick Mart was referred back to Committee by the Council for further discussion. City Clerk Halliday presented the facts for discussion including Minnesota Statutes, hours and days for 3.2% malt liquor sales, and details of selling at retail food stores. The Statutes allow cities of the fourth class to issue an off-sale and on-sale intoxicating liquor license to the same licensee. Willmar, a third class city, may not offer this type of licensing, but may offer off-sale and on-sale 3.2% malt liquor licenses to the same licensee.

The Committee discussed writing a proposed ordinance to include restrictions on the hours of sale and what, if any, age restrictions would apply to clerks selling 3.2% malt liquor at licensed places of business. Because of the need to clarify the laws governing the sale of off-sale 3.2% malt liquor, this matter was referred back to Staff for further information to be presented at the next Committee meeting. This matter was for information only.

Item No. 2 The Committee reviewed Change Order No. 6 requesting a deduct of \$1,120.00 to the contract with Chester Contracting for the construction of the Civic Center/Blue Line Building Connection. The change order deletes a retaining wall on the south side of the addition. The Committee was recommending the Council approve Change Order No. 6 for a deduct of \$1,120.00 and authorize the City Administrator to sign on behalf of the City.

Resolution No. 1 was introduced by Council Member Reese, seconded by Council Member DeBlieck, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

#### RESOLUTION NO. 1

WHEREAS, a contract has been awarded to John Chester Contracting of Willmar, Minnesota, on February 20, 2007, in the amount of \$935,500.00 for construction of the connection of the Civic Center to the Blue Line Center under the direction of Engan and Associates as architect; and

WHEREAS, Change Order No. 1 decreasing the amount by \$109.00 has previously been authorized; and

WHEREAS, Change Order No. 2 increasing the amount by \$9,803.00 and Change Order No. 3 increasing the amount by \$14,058.00 has previously been authorized; and

WHEREAS, Change Order No. 4 increasing the amount by \$2,111.00 has previously been authorized; and

WHEREAS Change Order No. 5 increasing the amount by \$15,449.00 has previously been authorized; and

WHEREAS, it is desired to deduct work to the above contract.

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

1. Deletion of work is herewith authorized to the above contract estimated by the architect to be \$1,120.00.

Dated this 7<sup>th</sup> day of January, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 The Committee received from Staff the proposed list of improvements for 2008. The list includes reconstruction, overlay, new construction, street lighting, and miscellaneous projects. Staff briefly reviewed the streets to be constructed or reconstructed and the miscellaneous items proposed.

This year's improvements include reconstruction of various residential streets, the overlay of 15<sup>th</sup> Street SW from 19<sup>th</sup> Avenue SW to 1,365 feet south to coincide with the proposed Don Williamson development and Minnesota Avenue SW from 9<sup>th</sup> to 10<sup>th</sup> Streets due to the storm pond program. New construction of residential lots is being proposed by several developers. This would include underground utility work and street lighting.

Underground utility work is planned in conjunction with the possibility of the County reconditioning Willmar Avenue SW from 1<sup>st</sup> to 18<sup>th</sup> Streets. The signals at 24<sup>th</sup> Avenue SW and 1<sup>st</sup> Street will be studied for justification and deck maintenance to the 1<sup>st</sup> Street Bridge is proposed as a result of the recent inspection by Mn/DOT. Storm ponds will be designed for both Garfield School and on Trott Avenue SW to help alleviate ponding problems at 10<sup>th</sup> Street and Kandiyohi Avenue. Walk paths are proposed to be extended, as well as crack sealing in various areas.

The Committee was recommending the Council order preparation of the Improvement Report for the 2008 Improvements as presented. Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

#### RESOLUTION NO. 2

#### ORDER IMPROVEMENT REPORT

WHEREAS, it is proposed to construct the following improvements under the 2008 Improvement Project:

grading, gravel base, curb and gutter, tiling, bituminous pavement, sidewalk, service lines, sanitary sewer, storm sewer, water main, street lighting, and signal system

and to assess the benefited property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Section 429.011 to 429.111 (Laws 1953, Chapter 398, as amended).

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

That the proposed improvement be referred to the City Engineer for study, and that he is instructed to report to the Council advising the Council in a preliminary way as to whether the proposed improvement is feasible, and as to whether it should be best made as proposed or in connection with some other improvement, and the estimated cost of the improvement as recommended.

Dated this 7<sup>th</sup> day of January, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Council Member Gardner offered a motion to direct Staff to evaluate the area of 10<sup>th</sup> Street and Kandiyohi Avenue SW for stormwater project alternatives per the recommendations of the City Attorney in a letter to the Council and present their findings to the Council by June, 2008. Council Member DeBlicek seconded the motion, which carried.

Item No. 4 The Committee reviewed an email received by Staff relating to the use of LED street lighting fixtures. It was felt more input into the possibility of implementing these types of fixtures is needed. This matter will come back before the Committee and was for information only.

The Public Works/Safety Committee Report for January 2, 2008, 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 Christianson, and carried.

Council Member Gardner moved to remove from the table the December 17, 2007, Labor Relations Committee motion to convene the Charter Commission. Council Member Anderson seconded the motion, which carried. The original motion recommending the Council authorize the necessary steps to convene the Charter Commission was discussed at length. The prevailing thought was to continue discussing the matter with the City Attorney at a special meeting, and the motion was defeated. Council Member Anderson moved to call a Council Work Session to study the matter and call for a completion date of February 15, 2008. Council Member Dokken seconded the motion, which carried.

City Clerk Halliday informed the Mayor and Council that Apple American Ltd. Partnership of Minnesota dba Applebee's Neighborhood Grill & Bar has been sold to a new corporate owner under the name of Applebee's Restaurants North LLC. Council Member Reese moved to approve the license transfer as presented with Council Member Christianson seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

City Administrator Schmit informed the Mayor and Council that it is necessary to reschedule the seconding meeting in January due to the Martin Luther King Day holiday and the second meeting in February due to the Presidents' Day holiday. Council Member Dokken moved to reschedule the January 21, Council meeting to January 22, and reschedule the February 18, Council meeting to February 19, 2008. Council Member Anderson seconded the motion, which carried.

Announcements for Council Committee meeting dates were as follows: Finance, January 14; Public Works/Safety, January 15; and Community Development, January 17, 2008.

Council Member Gardner informed the Mayor and Council that there will be a Hawk Creek Watershed Project Annual Meeting at 8:00 a.m. on Wednesday, January 23, 2008, at the Kandi Entertainment Center. An item of discussion will be stormwater/rainwater gardens. This matter was for information only.

There being no further business to come before the Council, the meeting adjourned at 9:37 p.m. upon motion by Council Member Gardner, seconded by Council Member Dokken, and carried.

Attest:

MAYOR

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SECRETARY TO THE COUNCIL