

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

May 17, 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 DeBlicek, 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, City Attorney Richard Ronning, Police Chief Jim Kulset, Public Works Director Mel Odens, Finance Director Steve Okins, Community Education and Recreation Director Steve Brisendine, Planning and Development Services Director Bruce Peterson, and City Clerk Kevin Halliday.

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of May 3, Council Work Session Minutes of May 3, Rice Hospital Board Minutes of May 5, Municipal Utilities Commission Minutes of May 10, Building Inspection Report for March, Housing and Redevelopment Authority Board Minutes of April 13, Community Education and Recreation Board Minutes of April 23, Community Center Advisory Council Minutes of May 5, 2010; and Minnesota Lawful Gambling Application – VFW Post 1639. Council Member Anderson seconded the motion, which carried.

Mayor Heitke acknowledged several individuals who had signed up to address the City Council during its scheduled Open Forum. The Council Chambers were full with citizens concerned about the Council's consideration of training a Police officer in the 287(g) program sponsored by Immigration and Customs Enforcement (ICE). The general theme conveyed by the citizenry was that racial profiling would result from the efforts of Police under ICE training and program goals, the Federal government should be the only government implementing Federal immigration laws, and that local efforts should only be directed in efforts to keep families together. Senator Patricia Torres Ray commented on the funding bill for reimbursement to local governments for the ICE training as proposed by Senator Joe Gimse. Senator Gimse was present to provide clarity to the facts about his introduced legislation. Several citizens presented heartfelt stories of broken families following ICE activities. Some supported the Police Department efforts to get criminals off the street, but not at the cost of carrying citizenship proof and that the 287(g) program could be divisive to the Community even if it was unintentional. Some of the speakers promoted local government efforts to convince Federal officials to work on comprehensive immigration reform. The complete list of speakers is on file with the City Clerk. Mayor Heitke thanked those in attendance for their comments and said the Council will consider the 287(g) program under the Public Works/Safety Committee agenda item.

The Public Works/Safety Committee Report for May 11, 2010, was presented to the Mayor and Council by Council Member Reese. There were eight items for Council consideration.

Item No. 1 Staff informed the Committee that the City's current liquor ordinance does not list 3.2 percent Malt Liquor as being prohibited for sale or delivery to a person less than twenty-one (21) years old. Staff recommends amending Sections 3-2 and 3-87 of the ordinance to include all 3.2 percent Malt Liquor sales. Following discussion, the Committee was recommending the Council amend the present ordinance to also prohibit 3.2 percent Malt Liquor and introduce the amendment for hearing.

Council Member Reese offered a motion to introduce an Ordinance Amending Municipal Code Sections 3-2 and 3-87 Pertaining to the Sale of Intoxicating Liquor and 3.2 percent Malt Liquor and schedule a public hearing for June 7, 2010. Council Member DeBlieck seconded the motion, which carried.

Item No. 2 The Committee considered plans for a path project along County Road 41 from County Road 24 to Eagle Ridge Drive and County Road 24 from County Road 41 to Country Club Drive. Staff explained the paths were graded in conjunction with the County's road construction project in 2009 with the City completing the path with 6 inches of gravel and 3 inches of bituminous and noted Federal funding has been arranged for the project.

The Committee was recommending the Council approve the plans and specifications for Project No. 1004 and advertise for bids to be opened June 15, 2010. Resolution No. 1 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. 1

WHEREAS the City Engineer of the City of Willmar has presented to the City Council plans and specifications for Project No. 1004 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 1:30 p.m. on the 15th day of June, 2010, at the City Office Building, 333 Southwest Sixth Street, Willmar, Minnesota.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 Staff presented to the Committee plans for resurfacing two parking lots and the road connecting them at Swansson Field at an estimated cost of \$260,000. The City has received approval from the FAA to proceed with reconstruction of the parking lots. Staff is proposing funding the improvements with Local Option Sales Tax monies.

The Committee was recommending the Council approve the plans and specifications for Project No. 1003 and advertise for bids to be opened June 15, 2010. Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Christianson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 1 – Council Member Anderson voted “No.”

RESOLUTION NO. 2

WHEREAS the City Engineer of the City of Willmar has presented to the City Council plans and specifications for Project No. 1003 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 1:30 p.m. on the 15th day of June,

2010, at the City Office Building, 333 Southwest Sixth Street, Willmar, Minnesota.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 Staff informed the Committee that bids were opened on May 4, 2010, for Project No. 1001 and that the Council needs to set an Assessment Hearing for the 2010 Improvements. Following discussion, the Committee was recommending the Council call for an Assessment Hearing for the 2010 Improvements to be held June 7, 2010. Resolution No. 3 was introduced by Council Member Reese, seconded by Council Member DeBlieck, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 3

CALLING HEARING ON ASSESSMENTS FOR PROJECT NO. 1001  
2010 STREET AND OTHER IMPROVEMENTS

WHEREAS, the City Clerk-Treasurer with the assistance of the City Engineer has prepared an assessment roll for Project No. 1001 of the 2010 Street and Other Improvements, and said proposed assessment roll is on file with the Clerk-Treasurer and open to public inspection.

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

1. The Clerk-Treasurer shall publish notice that this City Council will meet to consider the proposed assessments on June 7, 2010, at 7:02 p.m. in the Council Chambers, Municipal Utilities Building, 700 West Litchfield Avenue, Willmar, Minnesota.
2. Said notice shall also be mailed to the owners of each parcel of property described in the assessment roll.
3. Such notice shall be in substantially the following form: (On file in the City Clerk's Office)
4. Said notice shall be published by the City Clerk-Treasurer in the official newspaper at least two weeks prior to the hearing and mailed by said Clerk-Treasurer to the owners of each parcel described in the assessment roll.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 5 The City Council referred the 287(g) Program back to Committee for further discussion. Staff was directed to obtain further information from ICE and other agencies currently trained under the program. The partnership requires a three-year Memorandum of Agreement that indicates the purpose is to identify and process for removal criminal aliens who pose a threat to public safety or a danger to the community. It defines the agencies authority for arrest, detention and charging the individual. The program trains and supervises the officers with a requirement of a two-year commitment.

Mayor Heitke called for a recess at 9:04 p.m. and reconvened the meeting at 9:16 p.m.

The Committee continued discussion of the benefits and possible concerns involved in the program. Charly Leuze of the West Central Integration Collaborative presented information to the Committee relating to concerns voiced to her by members of the Latino community. Ms. Leuze stated this program might harm the community's relationship with minorities. Pastor Naomi Mahler and Sister Mary Kay also spoke to the Committee expressing their feelings against such an agreement with ICE. The Council agreed by consensus that they would take no action at this time to implement training or enter into a Memorandum of Agreement with Immigration and Customs Enforcement. This matter was for information only.

Item No. 6 Rhonda Rae of Donohue and Associates briefed the Committee on activities for the month of April 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 6 for the 30-year loan to the Public Facilities Authority for the Clean Water Revolving Fund, and Pay Request No. 7 for the Public Facilities Authority for American Recovery and Reinvestment Act (ARRA). Assisted with seeking any funding opportunities from Water Resources Development Act and the EPA State and Tribal Assistance Grant 2010 for \$300,000.

Work continues with legal counsel and City staff to provide information on property acquisition. The JOTS permit modifications continue along with the procedure for monitoring the duration when bypasses occur. Requirements for asset management information and what is necessary for accounting and insurance purposes was initiated. Information was provided that includes a list of major process-related equipment, its replacement cost, and anticipated useful life. In addition, the capital costs for site improvements, structures, the collection piping, and force main piping costs.

An update on the percent complete for all structures including mechanical and electrical percentages was presented on construction-related activities for the conveyance system, wastewater treatment facilities, as well as the April budget summary. Details and a map of the construction are contained in the monthly report. Basically, 93 percent complete on all structures, 87 percent complete on mechanical, and 79 percent complete on electrical. This matter was for information only.

Item No. 7 Rhonda Rae of Donohue and Associates reviewed with the Committee the scope of the present design agreement for the decommissioning of the existing wastewater treatment plant. Under the current plan it is proposed to keep the administration, generator, screen and cold storage buildings. The other structures would be dismantled and buried in their existing area, covered with turf grass, and the space utilized as a park.

Recent discussions between Staff and Barr Engineering, related to five areas identified as stormwater retention projects, prompted discussions with Donohue and the MPCA to utilize the existing wastewater treatment plant site. These discussions prompted the idea to amend the decommissioning contract with Donohue and redesign the project to remove these structures in their entirety and regrade the area. Donohue has prepared a cost estimate to modify the plan sheets of which, Staff will be reviewing with Donohue.

The Committee was recommending the Council authorize Donohue to revise the decommissioning plan to allow for future stormwater improvements at the existing wastewater treatment plant site. Resolution No. 4 was introduced by Council Member DeBlieck, seconded by Council Member Christianson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

#### RESOLUTION NO. 4

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 of the City of Willmar are hereby authorized to enter into a contract amendment to supplement the Program Management and Design Services agreement dated May 15, 2006, between the City of Willmar and Donohue & Associates, Inc.. This contract was previously amended by Council actions on January 10, April 21, June 2, and October 20, 2008.

BE IT FURTHER RESOLVED, the contract is hereby amended as follows:

Task	Current Amount	Change	Revised Amount
Program Management	\$ 587,578	\$ 0	\$ 587,578
Design/Construction Service	3,279,471	87,276	3,366,747
EAW/Permits	73,000	0	73,000
Allowances	345,000	0	345,000
Bidding	<u>272,342</u>	<u>0</u>	<u>272,342</u>
TOTAL	\$ 4,557,391	\$ 87,276	\$ 4,644,667

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 8 Staff informed the Committee that quotes were opened for Project No. 1005 – Street Lighting Improvement to Westwind 3<sup>rd</sup> Addition. Four bids were received with the low quote being that of Willmar Municipal Utilities for \$13,786.34. The developer pays the costs for the improvements. The cost estimate for the project was \$24,504 and staff recommended acceptance of the quote.

The Committee was recommending the Council accept the quote of Willmar Municipal Utilities in the amount of \$13,786.34 and authorize the City Administrator to enter into an agreement 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

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 Municipal Utilities of Willmar, Minnesota for Project No. 1005 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 \$13,786.34.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

The Public Works/Safety Committee Report for May 11, 2010, 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.

The Finance Committee Report for May 12, 2010, was presented to the Mayor and Council by

Council Member Anderson. There were six items for Council consideration.

Item No. 1 Staff explained to the Committee that the Southwest/West Central Service Cooperative is proposing to revise the Joint Powers Agreement which provides Group Employee Benefits for participating governmental units. The significant change proposed is in Section 10, Solicitation of Bids, which now allows Pool members to "...solicit bids and other information from competing sources of health coverage at any time other than within the five months prior to the end of the Carrier Contract...". Under the existing agreement, any member that solicited bids from other carriers would have been removed from the Pool.

The Committee was recommending the Council introduce a resolution authorizing the execution of the proposed Joint Powers Agreement with the Southwest/West Central Service Cooperative. Resolution No. 6 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. 6

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that the City Administrator be authorized to enter into a Joint Powers Agreement between the City of Willmar and Southwest/West Central Service Cooperation for Group Benefits and other Financial and Risk Management Services.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 2 Staff presented to the Committee six land leases for Waste Water Treatment Conveyance System for 2010 covering the area between Highway 116 and Highway 55 at a rate of \$100 per parcel plus an additional parcel, which is substantially smaller in area, in the amount of \$82. EPA regulations require a cover crop on this land once the tile has been installed. By executing these leases, the owners could rework the construction area soil as they would normally in lieu of the City planting ground cover.

Following discussion, the Committee was recommending the Council introduce a resolution authorizing the Mayor and City Administrator to execute the six land leases as presented. Resolution No. 7 was introduced by Council Member Anderson, seconded by Council Member Johnson, 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 of the City of Willmar, a municipal corporation of the State of Minnesota, that the Mayor and City Administrator be authorized to execute Land Lease Agreements for Waste Water Treatment Conveyance System Land Leases between the City of Willmar and the following property owners:

- |                          |  |
|--------------------------|--|
| Mark O. Kvam,            | Sections 30 & 29, Township 119N, Range 35W (24.45 acres) |
| Kvam Limited Partnership | Section 24, Township 119N, Range 36W (10.7 acres)        |
| Andrew Kvam Trust        | Section 19, Township 119N, Range 35W (.82 acres)         |
| Ivan Groothuis Trust     | Section 24, Township 119N, Range 36W (11.49 acres)       |
| Thomas A. Kvam           | Section 20, Township 119N, Range 35W (9.4 acres)         |

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 Staff informed the Committee that the City of Willmar has received \$178,575 from the League of Minnesota Cities under the Workers Compensation Insurance Retrospective Premium Plan. This is \$28,575 more revenue than originally budgeted for 2010. This matter was for information only.

Item No. 4 Staff explained to the Committee that after numerous meetings held since the Airport terminal opened in 2006, a proposed Memorandum of Understanding has been created between the City of Willmar, HNTB Corporation, Bonestroo, Inc., and Everstrong Construction, Inc., in an effort to alleviate water leakage during periods of heavy rainfall. Under this Memorandum of Understanding, HNTB, Bonestroo, and Everstrong will be responsible for retrofitting all the windows, rebuilding the walls under the windows, and regarding around the exterior of the building. The City will realign the downspouts and rain gutters. Once these improvements are done satisfactorily, the City will release funds held to HNTB. City Attorney Ronning is reviewing this MOU and will be addressing the issue of remedies should water leakage recur.

The Committee was recommending the Council introduce a resolution to authorize execution of the Memorandum of Understanding subject to approval by the City Attorney. Resolution No. 8 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. 8

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that the City enter into a Memorandum of Understanding with HNTB Corporation, Bonestroo, Inc. and Everstrong Construction, Inc. with regard to the Willmar Municipal Airport Terminal Building.

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 5 Staff reported to the Committee that they are currently working on additional cuts of approximately \$500,000 to the 2010 Budget in anticipation of further State Legislature action that may address deficit issues. Economic conditions were discussed. Mayor Heitke requested an additional Council Work Session to prioritize city services and to discuss 2010 Budget issues. The June 14, 2010, Finance Committee Meeting has been tentatively scheduled for 400 p.m. in the Fire Station meeting room with a Council Work Session to immediately follow. This matter was for information only.

Item No. 6 The Committee considered a request to construct a ticket booth at Taunton Stadium at an anticipated cost of \$7,500. Staff requested that funds for this project be reappropriated from capital expenditures originally budgeted in 2009 for a \$20,000 concession stand at North Swansson field.

Staff presented a detailed quote updating the cost of the project to \$8,400. The Committee was

recommending the Council introduce a Resolution to reappropriate unspent funds from Leisure Services' 2009 Concession Stand project to construct a ticket booth at Taunton Stadium. Resolution No. 9 was introduced by Council Member Anderson, seconded by Council Member Johnson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 1 – Council Ahmann voted “No.”

RESOLUTION NO. 9

BE IT RESOLVED by the City Council of the City of Willmar to authorize the Finance Director to make the following changes to the Leisure Services Capital Improvement Budget:

Increase:	2010 Ticket Booth	\$8,400.00
Decrease:	2009 Concession Stand	\$8,400.00

Dated this 17<sup>th</sup> day of May, 2010.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

The Finance Committee Report for May 10, 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 Christianson, and carried.

The Community Development Committee Report for May 13, 2010, was presented to the Mayor and Council by Council Member DeBlieck. There were three items for Council consideration.

Item No. 1 Staff presented to the Committee a brief plan for the expansion of the Industrial Park and the redevelopment of the former airport. The plan has three components: 1) a negotiated repayment to MnDOT for prior airport obligations, 2) Industrial Park/redevelopment activities, and 3) the sale of land by auction. The Committee viewed aerial photos of the site and staff explained the different phasing of development. The route and timing of the western collector was also discussed. The proposal to sell surplus land at auction received considerable discussion, and several Council Members expressed a desire to take a more cautious approach to the sale of land.

The Committee was recommending the Council adopt the plan as presented with the following change: That the initial sale of land by auction be limited to the 60 – acre parcel south of highway 40 and the 80 – acre parcel west of CSAH 55. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

Item No. 2 Staff updated the Committee on the status of the Environmental Assessment for the release of land at the former airport. A notice of public review has been published for the document. Electronic copies of the EA document have been provided to over 20 local, state and federal agencies. The end of the review period is in early June. It was further noted that the historical designation process, specifically the process to develop a preservation and conservation easement, was moving forward. A draft has been reviewed, marked up, and returned to the FAA. It is hoped that the historic issues can be addressed in a timely manner and a land release can be obtained by mid-summer 2010. This matter was for information only.

Item No. 3 The Committee received updates on the following: Willmar Forklift facility, VanHeuveln properties in foreclosure, Mahanaim Church, and the John's Supper Club building. This matter was for information only.

The Community Development Committee Report for May 13, 2010, 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 Dokken, and carried.

The Mayor and Council considered Staff's annual recommendations relating to municipal tort liability limits. City Clerk Halliday presented details of statutory municipal tort liability limits, which for 2010, are set at \$400,000 per claimant, and \$1,200,000 per occurrence. On July 1, 2010, the limits will increase to \$500,000 per claimant and \$1,500,000 per occurrence. If the City does not waive the statutory tort limits, an individual claimant would be able to recover no more than \$400,000 on any claim to which the statutory tort limit applies. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be \$1,200,000. These limits would apply regardless of whether or not the City purchases the optional excess liability coverage. Should the City waive the statutory tort limits and does not purchase excess liability coverage, a single claimant could potentially recover up to \$1,200,000 on a single occurrence. Following discussion, Council Member Anderson offered a motion to not waive the statutory tort liability limits. Council Member DeBlieck seconded the motion, which carried.

The item to consider a request to vacate a portion of Pacific Avenue SW and 8<sup>th</sup> Street Southwest was removed from the Agenda.

Announcements for Council Committee meeting dates were as follows: Finance, May 24; and Public Works/Safety, May 25, 2010.

There being no further business to come before the Council, the meeting adjourned at 10:35 p.m. upon motion by Council Member Anderson, seconded by Council Member Christianson, and carried.

Attest:

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MAYOR

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SECRETARY TO THE COUNCIL