

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

November 7, 2001
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, Nancy Houlahan, Rick Fagerlie, Jim Dokken, and David Chapin; Present 9, Absent 0.

Also present were City Attorney Richard Ronning, 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, Administrative Assistant Audrey Peterson, and City Clerk Kevin Halliday.

The Mayor, Council and staff recited the Pledge of Allegiance.

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of October 17, Municipal Utilities Commission Minutes of October 11 and 29, Rice Hospital Board Minutes of October 18, Human Rights Commission Minutes of September 18, Kandiyohi Area Transit Board Minutes of September 18, October 11 and 23, Community Education and Recreation Board Minutes of September 27, Senior Citizen Council Minutes of October 3, Civic Center Task Force Minutes of October 2, 15 and 30, and Citizens Cable Advisory Committee Minutes of October 15, 25 and 30, 2001. Council Member DeBlieck seconded the motion, which carried.

At 7:06 p.m. Mayor Heitke opened the hearing on an Ordinance Regulating Barking Dogs in the City of Willmar. City Clerk Halliday presented details on the proposed Ordinance, which would make it unlawful for any person to keep a dog that habitually barks. Fred Cogelow and Mavis Gunderson appeared before the Council to speak in favor of the proposed Ordinance. Upon hearing all those who wished to be heard, Mayor Heitke closed the hearing at 7:22 p.m.

Following discussion, Council Member DeBlieck offered a motion to adopt, assign a number and order final publication of the Ordinance Regulating Barking Dogs in the City of Willmar. Council Member Reese seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Mayor Heitke acknowledged that no one had signed up to address the City Council during its scheduled Open Forum.

The Mayor and Council considered a recommendation from the Citizens Cable Advisory Committee regarding the awarding of a cable television franchise to Charter Communications and En-Tel Communications. City Clerk Halliday presented a summary of details from the negotiations clarifying various concepts that were included in the proposed agreements and those items omitted from the agreements. Council Member Reese, Chair of the Cable Advisory Committee, answered questions posed by fellow Council Members.

Following discussion, Council Member Christianson offered a motion to introduce and schedule a hearing on November 21, 2001, for an Ordinance Granting a Franchise to CC VIII

Operating, LLC, D/B/A Charter Communications, to Construct, Operate, and Maintain a Cable Communications System in the City of Willmar, Minnesota, Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulations and Use of the System and the Public Rights-of-Way in Conjunction with City's Right-of-Way Ordinance, Chapter 1; and Prescribing Penalties for the Violation of the Provisions Herein. Council Member Reese seconded the motion, which carried.

Council Member Reese offered a motion to introduce and schedule a hearing on November 21, 2001, for an Ordinance Granting a Franchise to En-Tel Communications, LLC, to Construct, Operate, and Maintain a Cable Communications System in the City of Willmar, Minnesota, Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulations and Use of the System and the Public Rights-of-Way in Conjunction with City's Right-of-Way Ordinance, Chapter 1; and Prescribing Penalties for the Violation of the Provisions Herein. Council Member Christianson seconded the motion, which carried.

The Finance Committee Report of October 22, 2001, was presented to the Mayor and Council by Council Member Anderson. There were four items for Council consideration.

Item No. 1 Representatives from the Friends of the Library and members of the Pioneerland Library Board appeared before the Committee to express concerns regarding the use of any excess sales tax revenues. They asked for clarification in regards to what was being proposed in the Mayor's 2002 Budget, if the reserve funds would be in an interest-bearing account, who actual has ownership of the funds, and what procedures needed to be followed to make sure there concerns are taken into consideration.

The Committee explained that it is presently reviewing the Mayor's proposed recommendation, gathering public input and will be compiling a final recommended budget to be considered at a public hearing on December 5, 2001. This matter was for information only.

Item No. 2 The Committee again reviewed sections of the Mayor's 2002 proposed budget. The major sections reviewed and discussed were the Non-Departmental requests, Capital Outlay and Fund Balance amounts. The Committee was reminded that Monday, November 26, 2001, is scheduled for the evening meeting to compile a final recommended Budget. The meeting will start at 5:00 p.m. at the Holiday Inn, and the entire Council, Mayor and Staff will be invited to attend. This matter was for information only.

Item No. 3 The Committee discussed a recommendation from the joint committee of Council Members and Municipal Utilities Commissioners to set the intergovernmental transfer agreement at 4.85 percent of the Utilities retained earnings for 2002 and 4.80 percent with a 4 percent increase cap for 2003. It was noted this would result in a decrease in proposed revenues for the 2002 Mayor's Proposed Budget of \$15,625. The Committee realized that the Council would either have to cut proposed appropriations or increase estimated revenues in other areas to maintain a balanced budget. This matter would be taken up at their November 26, 2001, Budget meeting.

The Committee was recommending to the Council approval of the two-year agreement as proposed, and that the Utilities and City start the process of review in 2003 at the same time as the City's Budget calendar. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Dokken seconding the motion, which carried.

Item No. 4 Staff informed the Committee that since the Heartland Community Action Agency receives funding from the Department of Children, Families and Learning to provide transitional housing and supportive service to homeless individuals and families, the funding source asks that each non-profit agency receiving this funding obtain the approval from their local

government. The Committee was recommending to the Council approval of the request as submitted. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Fagerlie seconding the motion, which carried.

The Finance Committee Report of October 22, 2001, 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 Chapin, and carried.

The Labor Relations Committee Report of October 29, 2001, was presented to the Mayor and Council by Council Member Houlahan. There was one item for Council consideration.

Item No. 1 Municipal Utilities Commissioners Stageberg, Geiger and Weiberg were present to review with the Committee the General Manager compensation package. The Commissioners believed there was a two-year understanding for the proposed salary, but the one-year commitment of the City Council was a halfway proposal. Therefore, the Commissioners were coming back for the remainder of the compensation package.

The proposed salary of \$85,034 for both calendar years 2001 and 2002 was shown to be within the range of the recently adopted Willmar Municipal Utilities step and grade schedule. It was noted that the salary proposal would be presented at the next scheduled MUC meeting and the minutes presented at the November 21, 2001, Council meeting. It was the consensus of the Labor Relations Committee to approve the salary at the time it's included in the MUC minutes. This matter was for information only.

The Labor Relations Committee Report of October 29, 2001, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Houlahan, seconded by Council Member Reese, and carried.

The Public Works/Safety Committee Report of October 30, 2001, was presented to the Mayor and Council by Council member Reese. There were four items for Council consideration.

Item No. 1 Kyle DeBlieck appeared before the Committee to present information on his Eagle Scout Project including the cost of materials and time involved to construct a covered picnic shelter at Hedin Park. Also presented were pictures of the final project, which included coordinating and directing 17 individuals. To meet the final requirement of the project, the Chairman of the Committee is required to sign and approve completion. This matter was for information only.

Item No. 2 Mike Nitchals, General Manager of Willmar Municipal Utilities (WMU), was present to address the Committee on three separate issues. The first being the recently installed bypass lighting outside their service territory. Mr. Nitchals explained the agreement between WMU and Kandiyohi Cooperative states they cannot provide service to structures outside the City limits unless the City owns them. In this particular instance the lights are the property of the State of Minnesota. To resolve the issue, the Chairman requested the Willmar Municipal Utilities Commission pay for the lighting.

The second issue up for discussion was the water main assessments waived by previous City Council action for the YMCA property. Mr. Nitchals stated the Commission was not approached on this issue and the water main assessments would need to be covered by WMU. The Committee was recommending to the Council to formally request the Willmar Municipal Utilities join with the City and participate in contributing to the YMCA. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Houlahan seconding the motion, which carried.

The third issue discussed was the possible reduction of assessments for the construction of 9th Street SW in exchange for an agreement to leave the area owned by the WMU a green space. They no longer have a purpose for the land, and therefore would be looking into selling the property for future development to help cover the assessments. The Committee informed Mr. Nitchals that this issue could be discussed at the time of the assessment hearing in the spring of 2002. This matter was for information only.

Item No. 3 Chief Kulset presented to the Committee correspondence and requested permission to collaborate with the Kandiyohi County Corrections to apply for a block grant in the amount of \$8,081.00. The grant is through the Minnesota Department of Economic Security and would be used for the County to hire a juvenile work crew supervisor. The Committee was recommending to the Council to approve of the Juvenile Accountability Incentive Block Grant.

Resolution No. 1 was introduced by Council Member Reese, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

BE IT RESOLVED by the City Council of the City of Willmar approve a grant application with the Minnesota Department of Economic Security for a Juvenile Accountability Incentive Block Grant in the amount of \$8,081.00.

Dated this 7th day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 Public Works Director Odens recapped the events leading to the safety issue Shank Constructors brought forward citing Section 5.6 Unforeseen Physical Conditions in the Wastewater Treatment Plant Digester specifications. The options brought forward at a previous meeting and received for information only included removal and replacement of the cover. The lowest cost of the three options was approximately \$35,000. The Committee then allowed staff to pursue a quote from a third party to complete the work.

KHC Construction out of Marshall, who has worked for the City in the past on the trickling filter, submitted a quote for \$18,000. Bonestroo has prepared a change order deduct for Shank Constructor's contract in the amount of \$5,591.00, which reflects the labor to do this portion of the contract prior to the safety issue surfacing. It is staff's recommendation to accept this change order. The Committee was recommending to the Council to accept Change Order No. 4 with a deduct amount of \$5,591.00.

Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Houlahan, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

DELETION TO EXISTING CONTRACT

WHEREAS, a contract has been awarded to Shank Constructors, Inc. of Brooklyn Park, Minnesota, on February 20, 2001, in the amount of \$1,880,400.00 for the construction of Waste Treatment Facility Improvements; and

WHEREAS, Change Order No. 1 increasing the amount by \$335,189.00, Change Order No. 2 decreasing the amount by \$18,793.00, and Change Order No. 3 increasing the amount by \$6,324.74 have previously been authorized; and

WHEREAS, it is desired to delete additional work from the above contract.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that deletion of work is herewith authorized to the above contract estimated by the Consulting Engineer to be \$5,591.00.

Dated this 7th day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

The Committee then considered the quote from KHC Construction of Marshall in the amount of \$18,000 to perform the necessary work to the second digester. Staff noted that the turnbuckle repairs if necessary are included in the price of the quote. The Committee was recommending to the Council to accept the quote of KHC Construction in the amount of \$18,000 and authorize the Mayor and City Administrator to enter into an agreement on behalf of the City.

Resolution No. 3 was introduced by Council Member Reese, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the quote of KHC Construction of Marshall, Minnesota for Waste Treatment Plant Digester Repair is accepted, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to enter into an agreement with the bidder for the terms and consideration of the contract in the amount of \$18,000.00.

Dated this 7th day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

The Public Works/Safety Committee Report of October 30, 2001, 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 Community Development Committee Report of November 1, 2001, was presented to the Mayor and Council by Council Member DeBlieck. There were four items for Council consideration.

Item No. 1 The Committee reviewed information regarding the National Flood Insurance Program. This matter was before the Council previously due to requests by the public that the City participate in order to allow the public to purchase insurance under the program. It was noted that Willmar was one of a few communities that does not participate in the National Flood Insurance Program. The Committee discussed the program and application process. A number of questions were raised that staff was not able to answer at the meeting. Staff will pursue answers to Committee questions and report back to the Committee at a later date. This matter was for information only.

Item No. 2 Staff explained to the Committee the E-Commerce Readiness Program as offered by the Minnesota Department of Trade and Economic Development. The E-Commerce Readiness Program is a process that communities can go through to demonstrate their telecommunications and technology capabilities, and ability to provide those services for the business community.

The Committee discussed the process involved in obtaining the certification and benefits to the community, and was recommending to the Council that staff be directed to pursue E-Commerce Readiness certification. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Fagerlie seconding the motion, which carried.

Item No. 3 The Committee received information about several current and future commercial and industrial projects. Also discussed was the future planning for the redevelopment of the current airport. Staff noted that industrial contacts and inquiries have been reduced due to the down turn in the economy. It was noted that a meeting was scheduled for later in November to discuss the possible re-use of empty cottages at the Regional Treatment Center. Some suggestions include security facilities or a possible business and technology incubator. This matter was for information only.

Item No. 4 Responding to questions from several Council Members, staff explained to the Committee the need for, and the rationale behind, the Planner position. This matter will be decided as part of the 2002 budget process and was for information only.

The Community Development Committee Minutes of November 1, 2001, 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 Chapin, and carried.

City Clerk Halliday informed the Mayor and Council that Lutheran Social Services has contacted the City of Willmar requesting that a public hearing be scheduled on November 21, 2001, for a resolution approving and authorizing a Revenue Bond for the City of Brainerd on behalf of LLS. Following discussion, Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Chapin, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 4

CALLING PUBLIC HEARING ON THE PROPOSED ISSUANCE OF A
REVENUE NOTES BY THE CITY OF BRAINERD UNDER MINNESOTA STATUTES,

SECTIONS 469.152 THROUGH 469.165, AS AMENDED, TO FINANCE PROPERTY FOR
THE BENEFIT OF LUTHERAN SOCIAL SERVICE OF MINNESOTA

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, that the Council shall conduct a public hearing on the proposed issuance by the City of Brained, Minnesota of bonds to finance capital equipment and improvements to land and buildings for the benefit of a revenue producing enterprise to be owned by a contracting party pursuant to the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152-469.165, as amended (the "Act"). The hearing will be held by the City Council at City Hall, 333 SW 6th Street, Willmar, Minnesota, at 7:05 p.m. on Wednesday, November 21, 2001. The portion of the Project proposed to be located in the City is described in the form of Notice of Public Hearing attached hereto as Exhibit A, which is hereby approved. The City Clerk is authorized and directed to cause the Notice of Public Hearing to be published once, at least 14 days prior to the date of the hearing.

Dated this 7th day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

City Clerk Halliday presented to the Mayor and Council for consideration a Resolution deferring special assessments for Project No. 0101. According to Minnesota Statutes 435.193 senior citizens 65 years of age or older, meeting certain income guidelines, can defer special assessments placed against homestead property. Resolution No. 5 was introduced by Council Member Reese, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 5

WHEREAS, the City Council of the City of Willmar, Minnesota, did order the reconstruction of certain streets during the year 2001; and

WHEREAS, Minnesota Statutes, Sections 435.193 to 435.195 allows local governments making a special assessment to defer the payment of that assessment for any homestead property owned by a person 65 years of age or older or retired by virtue of a permanent and total disability; and

WHEREAS, certain property owners have made application to the City for delayed payment of tax on special assessments and have met the criteria contained in Minnesota Statutes for said deferment.

NOW, THEREFORE, BE IT RESOLVED by the Willmar City Council that special assessments as hereinafter designated be certified to the County and deferred for the years of 2002 through 2011 with interest at the annual rate of six (6.0%) percent.

BE IT FURTHER RESOLVED that the option to defer payments will terminate and all deferred payments and interest become payable if a) the owner dies and the surviving spouse is not eligible; b) the property or a portion of the property is sold, transferred or subdivided; c) the property loses its homestead status; or d) the City determines that to require immediate or partial

SECRETARY TO THE COUNCIL