

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

March 1, 2004  
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, Jim Dokken, and David Chapin; 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, 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.

Proposed additions to the agenda included National League of Cities recognition, Caucus announcement, TABOR discussion and Mayoral appointment.

The Council requested that the Zoning Appeals Board 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 February 17, Municipal Utilities Commission Minutes of February 23, and Rice Hospital Board Minutes of February 13, 2004; and Mayoral appointment of Robert Flegel to the Willmar Citizens Cable Advisory Committee. Council Member DeBlieck seconded the motion, which carried.

The Council discussed an item in the Zoning Appeals Board Minutes regarding reduced setbacks for Erickson Land Company. Following discussion, Council Member Christianson moved to accept the Zoning Appeals Board Minutes of February 23, 2004. Council Member Houlahan seconded the motion, which carried.

Mayor Heitke recognized a City employee retiring after 25 years of public service. The Mayor acknowledged Bruce Monson, Willmar Police Officer, thanking him for his superb work in gang related Police work, and extended congratulations and best wishes in his retirement.

Mayor Heitke informed citizens in attendance that the Open Forum now scheduled would be the time to discuss their concerns regarding the 2004 Street Improvements. Wayne Olson requested that his family letter be read into the record regarding their position on 19<sup>th</sup> Avenue Northeast. Others in attendance voiced concerns with the process and time lines set by statute or policy for the planned improvements. The Mayor read letters from Dr. Dennis Peterson and Carter Greiner into the record. This matter was for information only.

The Public Works/Safety Committee Report for February 23, 2004, was presented to the Mayor and Council by Council Member Reese. There were five items for Council consideration.

Item No. 1 The Committee discussed the 2004 Improvement Program, which was tabled at the February 17, 2004, City Council meeting. Staff has been working to develop options and alternatives to address concerns and issues raised by area residents at the hearing. A neighborhood meeting and discussion with affected property owners was held prior to the start of

the Public Works/Safety Committee meeting. A handout was distributed to the Committee showing four options to consider for the 2004 Improvements, and staff briefed the Committee on the impacts with each option. The options primarily revolved around the implications of removing 11<sup>th</sup> Street SW and Pacific Avenue SW from the project. Following discussion, it was the general consensus of the Committee that the City either does the reconstruction as proposed or removes the entire reconstruction portion of the project.

Jack Behr and Wayne Olson raised questions regarding the notification process and the proposed assessment to the Eleanor Olson property for the construction of 19<sup>th</sup> Avenue NE.

The Committee was recommending the Council order the 2004 Improvements as presented at the February 17, 2004, hearing and authorize preparation of plans and specifications. Resolution No. 1 was introduced by Council Member Reese, seconded by Council Member Anderson, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

### RESOLUTION NO. 1

#### ORDERING 2004 STREET AND OTHER IMPROVEMENTS (AND DIRECTING PREPARATION OF FINAL PLANS AND SPECIFICATIONS)

WHEREAS, after due Notice of Public Hearing on the construction of street and other improvements for the City of Willmar, Minnesota, hearing on said improvements was duly held and the Council heard all persons desiring to be heard on the matter and fully considered the same.

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

1. It is advisable, expedient, and necessary that said improvements as described in the Notice of Hearing thereon be constructed, and the same are hereby ordered made.
2. The improvements described in said Notice of Hearing are hereby designated and shall be known as 2004 Street and Other Improvements.
3. The City's Engineer is hereby directed to prepare final plans and specifications for said improvements.
4. The City Council shall let the contract for all or part of the work for said improvements or order all or part of the work done by day labor or otherwise as authorized by Minnesota Statutes, Section 429.041, Subdivision 2, within one year of the date of this resolution ordering said improvements.

Dated this 1<sup>st</sup> day of March, 2004.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 2 The Committee reviewed correspondence from Doom and Cuypers, low bidder for the WEAC Air Conditioning Improvements. Doom and Cuypers is requesting to withdraw their bid without penalty due to circumstances allegedly beyond their control. Staff was recommending that the bid bond be forfeited and the bonding company pay the City the difference between the low bid and the second bid subject to bid bond limits.

Following review of the correspondence and discussion, the Committee was recommending the Council deny the request to forgive the penalty and require Doom and Cuypers forfeit their bid bond. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Houlahan seconding the motion, which carried on a roll call vote of Ayes 5, Noes 2 – Council Members Christianson and Dokken voted “No.”

The Committee was recommending the Council award the contract to Terwisscha Construction of Willmar and authorize the Mayor and City Administrator to sign on behalf of the City. Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Dokken, read by Mayor Heitke, 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 bid of Terwisscha Construction of Willmar, Minnesota for WEAC Air Conditioning Improvements 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 \$117,960.00.

Dated this 1<sup>st</sup> day of March, 2004.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 The Committee reviewed a proposal from Short Elliott Hendrickson Inc. (SEH) for replacement of the loop detectors along First Street including as-built drawings. The City intends to let a contract this spring to mill and overlay First Street from Willmar Avenue to Litchfield Avenue and in doing so the existing loop detectors will be lost. The consultant would assist the City with proper loop detector sizing, placement, and technical specifications along with as-built drawings for several existing signal systems recently upgraded. The total cost for both services is a not-to-exceed figure of \$15,000, which includes reimbursables.

The Committee was recommending the Council accept the proposal from SEH and authorize the Mayor and City Administrator to enter into an agreement on behalf of the City. Resolution 3 was introduced by Council Member Reese, seconded by Council Member Houlahan, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

#### RESOLUTION NO. 3

Whereas the City of Willmar desires to retain a consultant to provide professional engineering services for replacement of the loop detectors along First Street including as-built

drawings along with as-built drawings for several existing signal systems recently upgraded for the City of Willmar; and

Whereas a proposal has been made by, and an agreement prepared to retain, the firm of Short Elliott Hendrickson Inc. of St. Paul, Minnesota in a not-to-exceed amount of \$15,000.00 for said services;

Now therefore be it resolved by the City Council of the City of Willmar that said agreement be approved and that the Mayor and City Administrator be authorized to execute the same.

Dated this 1<sup>st</sup> day of March, 2004.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 The Committee reviewed a cost proposal from Barr Engineering in response to a request for assistance in designing certain storm water projects. The proposal includes three work tasks: storm water modeling for South Swansson Field, Design of the South Swansson Field regional pond, and a 23<sup>rd</sup> Avenue SW ponding and piping analysis.

The Committee was recommending the Council accept the proposal of Barr Engineering and authorize the Mayor and City Administrator to enter into an agreement on behalf of the City. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Houlahan, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 4

Whereas the City of Willmar desires to retain a consultant to provide professional engineering services to design storm water modeling with a regional pond at South Swansson Field and a ponding and piping analysis for 23<sup>rd</sup> Avenue SW.

Whereas a proposal has been made by, and an agreement prepared to retain, the firm of Barr Engineering Company of Minneapolis, Minnesota in a not to exceed amount of \$22,000.00 for said services;

Now therefore be it resolved by the City Council of the City of Willmar that said agreement be approved and that the Mayor and City Administrator be authorized to execute the same.

Dated this 1<sup>st</sup> day of March, 2004.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 5 The Committee discussed concerns raised at a CBD business meeting pertaining to a variety of issues in the Central Business District including the future of the CBD, aesthetics, condition of the sidewalks and planters, garbage, and street lighting improvements. It was agreed that CBD representatives would be invited to the March 4, 2004 Community Development meeting to discuss these matters in greater detail. This matter was for information only.

The Public Works/Safety Committee Report for February 24, 2004, 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 DeBlieck, and carried.

At 8:40 p.m. Mayor Heitke opened a hearing on an Ordinance to repeal extraterritorial Building Code enforcement authority. Planning and Development Services Director Peterson informed the Mayor and Council that Kandiyohi County has requested the City relinquish Code enforcement authority in that extraterritorial area described in Ordinance No. 1109. The County has adopted the Building Code and has the staff/procedures in place to properly administer it. There being no one present to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 8:41 p.m.

Council Member Christianson offered a motion to adopt, assign a number, and order final publication of the Ordinance Repealing Ordinance No. 1109 Extending the Enforcement of the Minnesota State Building Code to Areas Not More than Two Miles Distance from the Corporate Boundaries of the City of Willmar. Council Member DeBlieck seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

At 8:51 p.m. Mayor Heitke opened a hearing on Ordinance Granting a Franchise to CenterPoint Energy Minnegasco and Establishing Terms and Conditions. City Administrator Schmit presented information to the Mayor and Council regarding the franchise. There being no one to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 8:52 p.m.

Council Member Reese offered a motion to adopt, assign a number, and order final publication of the Ordinance Granting a Franchise to CenterPoint Energy Minnegasco and Establishing Terms and Conditions. Council Member Dokken seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

At 9:00 p.m. Mayor Heitke opened a hearing on Ordinance Amending Sections 2, 3 and 5 of the Rate Schedule for Users of the Willmar Waste Treatment Plant. City Administrator Schmit presented information to the Mayor and Council regarding the increase in fees. There being no one to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 9:01 p.m.

Council Member Anderson offered a motion to adopt, assign a number, and order final publication of the Ordinance Amending Sections 2, 3 and 5 of the Rate Schedule for Users of the City of Willmar Waste Treatment Plant. Council Member DeBlieck seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

The Community Development Committee Report for February 5, 2004, was presented to the Mayor and Council by Council Member DeBlieck. There were three items for Council consideration.

Item No. 1 The Committee discussed the draft ordinance regulating exterior maintenance of residential structures, which was prepared last summer. The Committee had held off recommending the adoption of the ordinance pending adoption of the new building code. The

new code was to include new standards for existing buildings, but did not do a very good job of addressing the issue of exterior maintenance. Staff will present the ordinance at several Ward meetings over the next two months and the matter will be brought back to the Committee for discussion. This matter was for information only.

Item No. 2 The Committee reviewed information regarding the business subsidy requirements in Minnesota Statutes Chapter 116J. Under State law, the City has to have a policy in place prior to granting any financial subsidies including tax abatement or tax increment financing. Staff was directed to draft a policy for discussion at the next Committee meeting. This matter was for information only.

Item No. 3 The Committee considered a request by Gurley's Foods for tax abatement for a proposed expansion and discussed the process for granting a Tax Abatement, including the relationship with the County and School District.

The Committee was recommending the Council direct staff to pursue the abatement with Gurley's Foods contingent upon the adoption of a Business Subsidy Policy by the City Council. Council Member DeBlieck, seconded by Council Member Christianson, and carried.

The Community Development Committee Report for February 5, 2004, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member, seconded by Council Member Dokken, and carried.

The Community Development Committee Report for February 19, 2004, was presented to the Mayor and Council by Council Member DeBlieck. There were five items for Council consideration.

Item No. 1 Jeff Kimpling, from Willmar Municipal Utilities, presented to the Committee plans to cross the current airport with a 69KV transmission line. The proposed line will substitute for a line further to the west which is being eliminated due to the construction of the new airport. The new line would be ¼ mile west of the future County State Aid Highway 5 extension, and the plans have received Planning Commission approval. A preliminary corridor agreement was reviewed.

The Committee was recommending to the Council that the City and Willmar Municipal Utilities proceed with a formal agreement to reserve the proposed transmission line corridor. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Christianson seconding the motion, which carried.

Item No. 2 Steve Renquist, Economic Development Director for the Joint Economic Development Commission, was present to meet the Committee and provide an update on his office's economic development activities. Issues discussed included EDC goals, the ethanol plant project, WRTC reuse, loan funds, business retention and expansion, and marketing activities. This matter was for information only.

Item No. 3 Chairman DeBlieck provided the Committee with background information on the City's study of the control of phosphorous fertilizers. Bill Olson, of Eco-Agri Labs, spoke about phosphorous levels in different soil types and indicated most soils have adequate phosphorous. It was noted that most available information was questionable, and the main sources of the problem are fertilizer applied near a water body that could wash directly into the water or grass clippings that get washed into a storm sewer or lake. Mr. Olson suggested a phosphorous ban, with a provision

for new lawns or lawns tested and found in need of phosphorous. Application rates should not exceed the University of Minnesota Extension standards. Staff was directed to prepare an article in the next newsletter that would serve as an educational piece for the public. This matter was for information only.

Item No. 4 The Committee reviewed a draft Business Subsidy Policy prepared by staff and noted Minnesota Statutes now require a wage floor be a part of the Business Subsidy Policy. Upon review and discussion, the Committee suggested a \$10.00 per hour wage floor for projects receiving City assistance.

The Committee was recommending the Council set a hearing for March 15, 2004, to consider the Business Subsidy Policy with a \$10.00 per hour wage floor. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee, with Council Member Dokken seconding the motion, which carried.

Item No. 5 The Committee received from staff updates on the status of projects including Rice Hospital, commercial/industrial projects, and residential projects. This matter was for information only.

The Community Development Committee Report for February 19, 2004, 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.

The Finance Committee Report for February 23, 2004, was presented to the Mayor and Council by Council Member Anderson. There were two items for Council consideration.

Item No. 1 The Committee reviewed a recommendation from the Community and Recreation Advisory Board to purchase a second slide for the Dorothy A. Olson Aquatic Center. The recommendation was based on information provided by the supplier that if the slide is purchased some time in the future, the price would likely increase from \$70,000 to an estimated \$100,000. The City Council approved purchase of the slide on February 17, 2004, and directed staff to recommend funding sources

After reviewing possible funding sources, staff was recommending that the excess 2003 appropriations from the Leisure Services Department and money unspent for the resurfacing of Tennis Courts totaling \$70,000 be appropriated to the Capital Project Fund to cover the costs of purchasing the second slide.

The Committee was recommending the Council introduce a Resolution to reappropriate the funds as requested and authorize the Mayor and City Administrator to sign an agreement with Miracle Equipment for the second Slide. Resolution No. 5 was introduced by Council Member Anderson, seconded by Council Member Houlahan, read by Mayor Heitke, and approved on a roll call vote of Ayes 5, Noes 2 – Council Member Dokken and Chapin voted “No.”

#### RESOLUTION NO. 5

BE IT RESOLVED the final budget for the Dorothy Olson Aquatic Center be approved and that the Mayor and City Administrator be authorized to enter into a contract change order to provide for the second slide.

FINAL AQUATIC CENTER PROJECT BUDGET  
ESTIMATED TOTAL COST \$1,869,861

Other Services:	
Mtcn. Other Improvements	\$1,477,846.00
Other Services	<u>267,000.00</u>
Total:	\$1,744,846.00
Other Charges:	
Licenses/Taxes	\$ 400.00
Prof. Services	124,000.00
Advertising	<u>615.00</u>
Total:	\$ 125,015.00
Grand Total:	\$1,869,861.00

Receivables:	
City-Cap. Improvement	\$ 40,000.00
City-General	55,069.00
City-Municipal Utilities	285,000.00
City	285,537.00
Other-Donations	<u>1,204,255.00</u>
Total:	\$1,869,861.00
Financing:	
City-Cap. Improvement	\$ 40,000.00
City-Municipal Utilities	285,000.00
City-General	55,069.00
City	285,537.00
Other-Donations	<u>\$1,204,255.00</u>
Total:	\$1,869,861.00

Dated this 1<sup>st</sup> day of March, 2004.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 2 The Committee discussed with staff existing policies with regard to City fund balances. Staff informed the Committee that the levels are reviewed throughout the year. These reviews occur during the Budget process with the Mayor, in review of the Year-end Financial Report and again during the Departmental report to the full Council. This matter was for information only.

The Finance Committee Report for February 23, 2004, 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.

Planning and Development Services Director Peterson informed the Mayor and Council that Erickson Land Company, LLP proposes the rezoning of property east of North Lakeland Drive from Ag/GB to R-2 for purposes of residential PUD development. The proposal is consistent with the Comprehensive Plan and has been approved by the Planning Commission. Council Member Reese offered a motion to introduce an Ordinance Amending Ordinance No. 1060 to Rezone Certain Property and to schedule a hearing for March 15, 2004. Council Member Christianson seconded the motion, which carried.

Council Member Anderson moved to remove Trentwood Estates Preliminary Plat and Erickson Land Company Conditional Use Permit Planned Unit Development. Council Member Reese seconded the motion, which carried. Planning and Development Services Director Peterson explained Trentwood Estates is a 108-lot PUD proposed by Erickson Land Company, LLP. The Plat has been approved by the Planning Commission with conditions relating to right-of-way issues, drainage, open space, and setbacks. Council Member Christianson moved to approve the Preliminary Plat for Trentwood Estates with the same conditions, contingent upon the adoption of the Ordinance to rezone the site. Council Member Reese seconded the motion, which carried.

Council Member Anderson moved to approve Items No. 4 and 5 of the Planning



Commission Minutes of February 11, 2004. Council Member Reese seconded the motion, which carried.

Announcements for Council Committee meeting dates were as follows: Community Development, March 4; and Public Works/Safety, March 8, 2004.

Mayor Heitke announced that the March 2, 2004, Caucus will be held at the Junior High School (Republican Party) and Bethel Lutheran Church (Democrat Party).

Mayor Heitke acknowledged receipt of a plaque from the National League of Cities for the City's 20 years of service in shaping policy.

Mayor Heitke presented a draft resolution from the League of Minnesota Cities for Council consideration to combat the effort in the Legislature to pass the Taxpayers' Bills of Rights (TABOR) introduced last year. The bill would result in a Constitutional amendment that would limit State spending to inflation plus population growth; require refunds of any surpluses; require Minnesotans to approve by general election any proposed district tax or bonded debt increases; and more.

Resolution No. 6, opposing tax and expenditure limitation proposals, was introduced by Council Member DeBlieck, seconded by Council Member Houlahan, and read by Mayor Heitke. Following discussion and a request to have more time to review the Resolution, Council Member Reese moved to table Resolution No. 6 with Council Member Chapin seconding the motion, which carried.

City Clerk Halliday presented to the Mayor and Council the 2003 City Clerk-Treasurer Departmental annual report. Following a question and answer period, the report was ordered placed on file in the City Clerk's Office.

Community Education and Recreation Director Brisendine presented to the Mayor and Council the 2003 Community Education and Recreation Departmental annual report. Following a question and answer period, the report was ordered placed on file in the City Clerk's Office.

There being no further business to come before the Council, the meeting adjourned at 10:23 p.m. upon motion by Council Member Reese, seconded by Council Member DeBlieck, and carried.

Attest:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
SECRETARY TO THE COUNCIL