

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

September 4, 2007
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, Rick Fagerlie, Jim Dokken, and Steven Gardner; Present 9, Absent 0.

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, Community Education and Recreation Director Steve Brisendine, and City Clerk Kevin Halliday.

Additions to the Agenda included consideration of Truth-in-Taxation hearing dates and Civic Center Drive trail improvements.

The Council requested the Planning Commission and Mayor's Housing Task Force Minutes be removed from the Consent Agenda.

Council Member Christianson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of August 20, Rice Hospital Board Minutes of August 15, Municipal Utilities Commission Minutes of August 27, Kandiyohi Area Transit Board Minutes of June 26, Willmar Police Commission Minutes of July 16, and Convention and Visitors Bureau Minutes of July 17, 2007. Council Member Reese seconded the motion, which carried.

The Council requested clarification on Item No. 3, Senior Living Facility Conditional Use Permit, in the Planning Commission Minutes. Following discussion, Council Member Anderson moved to approve the Planning Commission Minutes of August 22, 2007, with Council Member Gardner seconding the motion, which carried.

The Council requested clarification on Item No. 6, chain-linked or woven wire fences, in the Mayor's Housing Task Force Minutes. Following discussion, Council Member Gardner moved to accept the Mayor's Housing Task Force Minutes of August 27, 2007, with Council Member Anderson seconding the motion, which carried.

Mayor Heitke recognized two City employees retiring from public service. The Mayor acknowledged Tom O'Malley, who worked with the Engineering Department for 22 years, and Terry Albers, who worked with the Police Department for 28 years; thanking them for their dedicated service; and extending congratulations and best wishes in retirement.

At 7:20 p.m. Mayor Heitke opened a hearing to consider special assessments for unpaid weed/grass mowing. City Clerk Halliday presented to the Mayor and Council a list of properties which have unpaid weed and/or grass charges and was recommending these charges be certified against the real property. Randy and Jordan Martinez appeared before the Council with concerns regarding receipt of notices and placement of a sump pump hose after the City had ordered the property to be mowed.

Following discussion, Council Member Christianson offered a motion, which was seconded and approved, to strike parcel 95-715-2020 from the Resolution. Resolution No. 1 was introduced by Council Member Reese, seconded by Council Member Gardner, read by Mayor Heitke, and approved

on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

WHEREAS, Section 9-41 of the Willmar City Code states that such unpaid weed or grass mowing bills represent a lien of the real property receiving mowing services; and

WHEREAS, THE City Council of the City of Willmar has offered the owner his right to request an appearance before the Council to make objections to payment;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that the amount of the unpaid weed / grass mowing charges totaling \$1844.40 be certified to the County Auditor to be extended on the tax rolls of such real property in the same manner as other taxes for collecting in 2008 and collected by the County Treasurer, and paid to the City Clerk-Treasurer along with other taxes; and

BE IT FURTHER RESOLVED that the unpaid weed or grass charges be certified against the real property as follows:

1. Parcel No. 95-042-0620 \$105.00
Located at 804 17th Street SW; and Described as Barnstad's Second Addition
E. 155 ft. of S. 66 ft. of N. 121 ft. of Lot 4
2. Parcel No. 95-280-0090 \$347.15
Located at 825 5th Street SW; and Described as Hanson's Addition to Willmar Lot 8
Exc E 55 ft S 1/2 of Lot 9 Exc E 55 ft
3. Parcel No. 95-003-0150 \$135.00
Located at 313 8th Street NW; and Described Willmar, Town of (Original)
4. Parcel No. 95-310-0260 \$171.20
Located at 323 Becker Avenue SE; and Described as Highland Addition to Willmar
5. Parcel No. 95-003-6380 \$144.45
Located at 409 7th Street SW; and Described as Willmar, Town of (Original) Lot 12
Exc. E 50 Ft.
6. Parcel No. 95-220-0310 \$197.95
Located at 702 Litchfield Avenue SE; and Described as Ferring's Addition Lots 1 & 2 and
N'LY 1/2 of Vacated Alley Adj. S'ly Lot Line of Lots 1 & 2 Exc R-O-W.
7. Parcel No. 95-006-1830 \$171.20
Located at 607 4th Street SW; and Described as First Addition to the Town of Willmar
Lot 12 & S. 20 Ft. of Lot 13
8. Parcel No. 95-922-6160 \$171.20
Located at 1804 6th Street SW; and Described as Part SW1/4 OF NE1/4: Comm at a pt. on
E Line of SW1/4 of NE1/4, 297' N of SE Cor TH W 193', N 99', E 193', S 99' to Beg.
9. Parcel No. 95-740-1140 \$160.50
Located at 516 4th Street SE; and Described as Spicer's Addition
10. Parcel No. 95-220-0920 \$80.25
Located at 322 Ferring Street SE; and Described as Ferring's Addition
11. Parcel No. 95-220-1380 \$85.60
Located at 423 Julii Street SE; and Described as Ferring's Addition

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday

Attest: CITY CLERK

Mayor Heitke recognized Ms. Holly Biron and Mr. Joe Sullivan representing Flaherty and Hood P.A. and the Coalition of Greater Minnesota Cities. Ms. Biron reviewed the past legislative session including issues of Local Government Aid and the Governor's veto of the Omnibus Tax Bill whereby the City of Willmar lost proposed LGA increases. Ms. Biron also presented information regarding a Special Session to address the I35 Bridge and disaster relief.

Mr. Sullivan reviewed environmental issues including lobbying efforts to insure the Pollution Control Agency sets phosphorus requirements on case-by-case basis, wastewater issues, and environmental mandates. Annexation and transportation issues were also included in Mr. Sullivan's presentation. Mayor Heitke thanked Ms. Biron and Mr. Joe Sullivan for their presentation.

Mayor Heitke acknowledged several individuals who signed up to address the City Council during its scheduled Open Forum. Speaking to the Council on flooding issues were Charles Oakes, Warren Jorgenson, Anne Lankey, Myron Carlson, Vera Novak, Ed Scherer and David Becker. Mayor read a letter from Rob and Joyce Jacobson also addressing flooding issues.

The Finance Committee Report for August 27, 2007, was presented to the Mayor and Council by Council Member Anderson. There were three items for Council consideration.

Item No. 1 The Committee considered a request from Staff that \$2,900 be transferred from available funds in the Machinery/Auto line item of the Fire Department's 2007 Capital Improvements Budget to Buildings/Structures. This transfer is necessary to cover expenditures at the fire station for rewiring the response clock.

The Committee was recommending the Council approve the request as presented. Resolution No. 2 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

BE IT RESOLVED by the City Council of the City of Willmar to authorize the Finance Director to amend the Fire Department General Fund Budget as follows:

Increase:	Capital Outlay-Building	\$2,900.00
Decrease:	Capital Outlay-Equipment	\$2,900.00

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 2 Steve Renquist, EDC Executive Director, appeared before the Committee to review the EDC 2008 budget. Mr. Renquist noted that 2008 revenue includes \$455,000 from the County Tax Levy which is the same amount levied for 2007 and 2006. The EDC is also proposing to utilize \$45,000 from the Agency's reserves as a funding source. Overall budgeted expenditures for 2008 in the amount of \$490,497 is a decrease of \$11,197 from the 2007 budget.

A brief history of fiscal agent services provided for the EDC was reviewed. Kandiyohi County

performed these services for two years with the intent that the City would assume this responsibility for the following two years. As of December 31, 2007, the City will have completed its second year. A brief discussion followed regarding additional costs that would be incurred if the EDC would need to seek fiscal agent services elsewhere. Mr. Renquist responded that the line item budgeting accounting costs would probably increase from \$3,500 to possibly \$9,000. Additionally, health insurance premiums may substantially increase if the EDC would need to obtain coverage through another company. Staff will research whether or not the EDC could continue participating in the City's health insurance program if fiscal agent services are terminated.

The Committee was recommending the Council approve the EDC 2008 Budget as proposed. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Gardner seconding the motion, which carried.

Item No. 3 Staff informed the Committee that the City of Willmar is required to provide the 2008 Preliminary Tax Levy amount to Kandiyohi County by September 15, 2007. Once submitted, this amount cannot be increased but may be decreased. The Mayor's proposed 2008 budget includes a levy in the amount of \$3,133,646 which is an increase of \$326,651 over 2007. The primary reason for the increase is due to the State of Minnesota's reduction in Local Government Aid for 2008, due to the governor's veto of the omnibus tax bill.

It was noted that the projected tax impact per property owner will be minimal. The proposed 2008 Tax Capacity Rate is 26.138 which is an increase of .515 or .02% over the 2007 Rate. Large capital projects of recent interest to various groups or neighborhoods throughout the community, i.e. railroad quiet zones, downtown ingress/egress, and storm water, are not included in the general operating budget. Fiscal constraints precluded the Mayor's consideration at this time. Other revenue sources can be pursued for these activities and/or the City Council has the option of increasing the proposed preliminary levy. In 2007 the City levied an additional \$200,000 to be used only for Public Works street improvements. The proposed 2008 levy includes a like amount also for the same purpose. The only new major revenue source being proposed in the 2008 budget is a natural gas franchise fee estimated to generate \$250,000 annually.

It was noted the HRA's proposed 2008 levy also needs to be certified to the County by September 15, 2007, in the requested amount of \$141,796.

At this time, Mayor Heitke presented to the Council his proposed 2008 budget. Following discussion which included a recommendation that the preliminary levy be increased by an additional \$250,000 and that the proposed gas franchise fee be dedicated to storm water improvements, Resolution No. 3 was introduced by Council Member Anderson, seconded by Council Member Reese, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 2 – Council Members Christianson and Dokken voted "No."

RESOLUTION NO. 3

BE IT RESOLVED by the City Council of the City of Willmar, Kandiyohi County, Minnesota, that the following sums of money be levied for the current year collectable in 2008, upon the taxable property in said City of Willmar for the following purposes:

General Fund	<u>\$3,383,646.00</u>
	\$3,383,646.00

BE IT RESOLVED, that there is a sufficient sum of money in the Debt Service Funds of the City, together with the above Debt Service Fund Tax Levy, to pay principal and interest in 2007 on all outstanding bond issues, and the deferred annual tax levies previously certified to the County Auditor

are hereby canceled;

FURTHER, pursuant to a request by the Housing and Redevelopment Authority in and for the City of Willmar, for authorization to levy a special tax to be included as part of its fiscal year 2008 - 2009 Budget;

BE IT RESOLVED that the City Council of the City of Willmar, Minnesota, hereby authorizes the Housing and Redevelopment Authority to levy a special tax in the amount of \$141,796.00 pursuant to the powers vested under the Minnesota Statutes.

The City Clerk is hereby instructed to transmit a certified copy of this Resolution to the County Auditor of Kandiyohi County, Minnesota.

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Council Member Anderson offered a motion to 1) enact a natural gas franchise fee to be dedicated to storm water and flood control remedies and that Grass Lake to be included in remedies; 2) direct Staff to develop alternatives and a plan to address flooding concerns and it's anticipated this will be a multiyear plan; 3) after the storm water and flooding project is completed, the Council will either identify another City-wide project or, if none, sunset the fee; and 4) if the State Legislature restores Local Government Aid for 2008, the City's levy for 2008 would be reduced by the additional LGA funding up to a maximum of \$250,000. Council Member Gardner seconded the motion, which carried on a roll call vote of Ayes 5, Noes 3 – Council Members Christianson, Dokken and Fagerlie voted "No."

The Public Works/Safety Committee Report for August 28, 2007, was presented to the Mayor and Council by Council Member Reese. There were five items for Council consideration.

Item No. 1 Various members of the community that were affected by the rain event of August 20-21, 2007 appeared before the Committee. Staff overviewed the rainfall amounts throughout the City that started approximately 11:30 p.m. and subsided shortly after 12:15 a.m. Amounts varied from 1.75 inches on the north edge of the City to 4.3 inches in the south. Public Works crews were out by 12:30 a.m. coning problem areas and continued to work through the night.

Several street flooding areas were identified, mainly 10th Street and Kandiyohi Avenue SW, 19th Avenue SE, 15th Street and Richland Avenue SW and areas along 3rd Street SW. Staff also noted other smaller areas throughout the City impacted by the heavy rains. This rain was termed as a 100-year event. The City experienced a similar event two years ago after which Barr Engineering was hired to do a hydraulic study focusing on the area of 10th and Kandiyohi. Their findings suggested holding the water back in areas of retention. Three areas were suggested 1) Miller Park, 2) Garfield School, and 3) Kennedy School. City staff approached the school district and neighboring residents of Kennedy School who voiced opposition to the proposal.

Following a lengthy discussion, the Committee was recommending to the Council that Staff be directed to contact School officials to discuss the possibility of developing retention ponds at Garfield and Kennedy Schools; explore other areas such as the railroad property near Trott Avenue and Highway 40 and the City's Miller Park; prepare cost estimates for all alternatives including the purchase of several homes at 10th and Kandiyohi where an additional retention area could be developed; and

inform/encourage citizens regarding use of rain gardens on private property. Council Member moved to approve the recommendation of the Public Works/Safety Committee with Council Member Dokken seconding the motion, which carried.

Item No. 2 The Committee reviewed Change Order No. 1 for the Water View Business Park Street Improvements. The change order has no monetary value and only changes the completion date for the bituminous wearing course to June 15, 2008. The change is requested by Duinink Development Inc., the developer for the area.

The Committee was recommending the Council approve Change Order No. 1 and extend the bituminous wear course completion date. Resolution No. 4 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. 4

WHEREAS, Duinink Bros., Inc. of Prinsburg, Minnesota, contractor for the City of Willmar Project No. 0703 – Water View Business Park Street Improvements, desires to have the completion date for the bituminous wearing course changed to June 15, 2008.

NOW, THEREFORE, BE IT RESOLVED that the Project No. 0703 have the bituminous wearing course completion date changed to June 15, 2008.

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 The Committee considered a change order for the underground utility work in the Water View Business Park Development under contract with S. J. Louis Construction. The project includes the construction of the underground utilities and their tie in at the intersection of 28th Avenue SE. This area required additional curb and gutter, sidewalk, sod and seed, and paving to accommodate a larger area of construction.

The Committee was recommending the Council approve Change Order No. 2 and add to the contract with S. J. Louis Construction. 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, a contract has been awarded to S. J. Louis Construction Inc. of Waite Park, Minnesota, on September 10, 2006, in the amount of \$1,323,113.40 for construction of utility Improvements in the Water View Business Park Development and identified as City Project No. 0603; and

WHEREAS, Change Order No. 1 decreasing the amount by \$86,358.78 has previously been authorized; and

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

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

1. Additional work is herewith authorized to be added to the above contract estimated by the consulting engineer to be \$19,825.00.
2. Funding for the additional work is from within the Project Budget.

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 The Committee considered a final estimate for the construction of sewer, water and road items in the Valley Brook area (Project No. 0602). The contract came in under budget and Staff recommended approval and final payment to Duinick Bros. Inc. in the amount of \$37,399.85.

The Committee was recommending the Council approve the final estimate to Duinick Bros. Inc. for Project No. 0602. Resolution No. 6 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. 6

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT:	Project No. 0602 – 2006 Sewer and Water Improvements
CONTRACTOR:	Duinick Bros. Inc.
DATE OF CONTRACT:	June 22, 2006
BEGIN WORK:	August 18, 2006
COMPLETE WORK:	June 1, 2007
APPROVE, CITY ENGINEER:	August 28, 2007

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

1. The said City of Willmar Project No. 0602 be herewith approved and accepted by the City of Willmar.
2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:	\$288,586.20
Change Orders (None)	\$0.00
FINAL NET CONTRACT AMOUNT, PROPOSED:	\$288,586.20
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED: \$286,574.16	
Less Previous Payments	\$249,174.31
FINAL PAYMENT DUE CONTRACTOR:	\$37,399.85

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 5 The Committee received from Staff a scope of work in the Bergquist Park Nature Area by which two weir devices would be installed to prevent further erosion and sediment. The project was initiated by the Lake Association, DNR, Soil and Water Conservation District, Hawk Creek Watershed District, and Kandiyohi County Water Board. The City has been approached by these entities to coordinate the project. The estimated cost of the project is \$25,000 with the City's contribution to the project being staff time.

Following discussion, the Committee was recommending the Council approve the Bergquist Park Project as presented and authorize staff to proceed. Council Member Reese moved to approve the recommendation of the Public Works/Safety Committee with Council Member Fagerlie seconding the motion, which carried.

The Public Works/Safety Committee Report for August 28, 2007, 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 Fagerlie, and carried.

The Mayor and Council considered a preliminary plat for Water View Business Park Second Addition. Will Matsuck, Olson and Associates, was present to explain the proposed split lot concept. Council Member Reese offered a motion to approve the Preliminary Plat for Water View Business Park Second Addition. Council Member Anderson seconded the motion, which carried.

Announcements for Council Committee meeting dates were as follows: Finance, September 10; Labor Relations, September 12; and Community Development, September 13, 2007.

Council Member Anderson offered a motion to set the City's Truth-in-Taxation Budget hearing for December 3, with December 17, 2007, as a continuation hearing if necessary. Council Member Gardner seconded the motion, which carried.

Public Works Director Odens informed the Mayor and Council that bids were opened for Project No. 0712 – Civic Center Drive Trail Improvements. Following review of the bids, Resolution No. 7 was introduced by Council Member Dokken, seconded by Council Member Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, 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 bid of Voss Plumbing and Heating of Paynesville, Minnesota, for Project No. 0712 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 \$58, 858.50.

Dated this 4th day of September, 2007.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

There being no further business to come before the Council, the meeting adjourned at 10:15 p.m. upon motion by Council Member Reese, seconded by Council Member DeBlieck, and

carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL