

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

November 3, 2008  
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Lester Heitke. Members present on a roll call were Mayor Heitke, Council Members Doug Reese, Ron Christianson, Bruce DeBlieck, Denis Anderson, Cindy Swenson, 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, Planning and Development Services Director Bruce Peterson, Community Education and Recreation Director Steve Brisendine, and City Clerk Kevin Halliday.

Additions to the Agenda included announcements regarding the Coalition of Greater Minnesota Cities and National League of Cities. The item regarding a Storm Water Task Force was deleted from the Agenda.

The Council requested the City Council and Planning Commission Minutes be removed from the Consent Agenda

Council Member Reese offered a motion adopting the Consent Agenda which included the following: Municipal Utilities Commission Minutes of October 27, and Community Education and Recreation Board Minutes of October 21, 2008; Application for Exempt Permit, Rocky Mountain Elk Foundation; and Mayoral Appointment to the Willmar Lakes Area Convention and Visitors Bureau – David Feist and Janet Demuth. Council Member Christianson seconded the motion, which carried.

Council Member DeBlieck moved to remove from the table Council action on October 20, 2008, tabling Municipal Utilities Commission Resolution 43. Council Member Gardner seconded the motion, which carried. City Attorney Ronning informed the Mayor and Council that it was premature to donate public funds to the Citizens Energy Policy Group as the organization has no IRS status and is not incorporated. Following discussion, Council Member Gardner offered a motion to veto Resolution No. 43 of the MUC Minutes of October, 14, 2008. Council Member DeBlieck seconding the motion, which carried. Council Member DeBlieck moved to approve the City Council Minutes of October 20, 2008, with Council Member Gardner seconding the motion, which carried.

Following discussion of green space and plantings review, the Planning Commission Minutes of October 22, 2008, were approved as presented upon motion by Council Member Dokken, seconded by Council Member Gardner, and carried.

At 7:26 p.m. Mayor Heitke opened a hearing on an Ordinance Prohibiting any Person from Hosting an Event or Gathering Where Alcohol is Present and Being Possessed or Consumed by Persons Under Twenty-one Years of Age. Police Chief Kulset presented details of the proposed Ordinance intended to discourage underage possession and consumption of alcohol, even in the confines of a private residence, and hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol. There being no one present to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 7:28 p.m.

Council Member Reese offered a motion to approve, assign a number, and order final publication of the Ordinance Prohibiting any Person from Hosting an Event or Gathering Where Alcohol is Present and Being Possessed or Consumed by Persons Under Twenty-one Years of Age. Council Member Anderson 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 Finance Committee Report for October 27, 2008, was presented to the Mayor and Council by Council Member Anderson. There were six items for Council consideration.

Item No. 1 John Christianson distributed to the Committee the Willmar Design Center's financial report as of October 23, 2008, reflecting actual revenue and expenditures as well as annual 2008 budget amounts. He also provided a report detailing the City of Willmar's portion of the Design Center's revenue with associated expenses to date. After reviewing the 2008 information, the Willmar Design Center presented their request for a 2009 contribution from the City of Willmar of \$60,000 which is the same amount approved for 2008.

Bev Dougherty reviewed the following projects with which the Willmar Design Center is currently involved: Becker Avenue Market Street project; an application currently being completed for a Safe Routes to School Grant; Transportation Enhancements Funding Grant application which would provide \$135,063.60 to construct the Downtown-Robbins Island Connection which is a pedestrian and bicycle trail linkage; Minnesota Department of Employment and Economic Development inviting the City to formally apply for a grant of \$872,060 which would be used to rehabilitate commercial and residential property in the Central Business District as well as homeowner properties in the Eastside Neighborhood; improvements to the downtown's décor; improvement design for Selvig Park has been completed and plantings will be done in 2009; and the purchase of street furniture such as benches, trash receptacles, and bicycle racks in the Central Business District.

This matter was for information only.

Item No. 2 The Committee considered a request from Staff to increase the Police Department's Overtime budget by \$11,630 which reflects the amount received from the State of Minnesota for the 2008 Safe and Sober Grant. Officers are paid from the overtime budget line item for hours worked during the Safe and Sober Grant period. The State reimburses the Willmar Police Department for this overtime.

The Committee was recommending the Council consider a resolution authorizing an increase of \$11,630 in State Reimbursements Revenue to the Police Department's Overtime Expenditure Budget. Resolution No. 1 was introduced by Council Member Anderson, 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, the Willmar Police Department has received \$11,630 from the State of Minnesota for the 2008 Safe and Sober Grant period;

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, that the Finance Director be authorized to increase the Police Department's Overtime Expenditure Budget by \$11,630.00.

Dated this 3<sup>rd</sup> day of November, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 Staff informed the Committee that the Minnesota Department of Employment and Economic Development has approved the City of Willmar's application for a Bioscience Business Development Public Infrastructure Program grant in the amount of \$1,250,000 to further develop the MinnWest Technology Campus. Council authorization is required for the Mayor and City Administrator to execute the Grant Agreement.

The Committee was recommending the Council introduce a resolution authorizing the Mayor and City Administrator to execute the State of Minnesota DEED Grant Agreement for development of the MinnWest Campus as proposed. Resolution No. 2 was introduced by Council Anderson, seconded by Council Member Dokken, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

WHEREAS the Minnesota Department of Employment and Economic Development has approved the City of Willmar's application for a Bioscience Business Development Public Infrastructure Program Grant in the amount of \$1,250,000 to further develop the MinnWest Technology Campus;

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 enter into the Minnesota Employment and Economic Business Development Grant Agreement as presented.

Dated this 3<sup>rd</sup> day of November, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 Staff explained to the Committee that the Miltona Lions Organization of Miltona, MN, is making application to Conduct Off-Site Gambling to the Gambling Control Board for a Lions Convention to be held January 1, 2009, at the Holiday Inn Conference Center in Willmar. An application is required for the Lions to hold a raffle at this convention.

The Committee was recommending the Council introduce a resolution approving the application by the Miltona Lions Organization to conduct off-site gambling on January 1, 2009, at the Holiday Inn Conference Center in Willmar. Resolution No. 3 was introduced by Council Member Anderson, seconded by Council Member Gardner, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

REQUESTING THAT THE MINNESOTA GAMBLING  
CONTROL BOARD APPROVE THE APPLICATION TO CONDUCT  
OFF-SITE GAMBLING FOR THE MILTONA LIONS ORGANIZATION

WHEREAS, the Miltona Lions Organization has applied to the Minnesota Gambling Control Board to conduct off-site gambling at the Holiday Inn, 2100 East Highway 12, Willmar, Minnesota;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that the City approves of the application for the Miltona Lions Organization and respectfully requests that the State of Minnesota Gambling Control Board approve the application to conduct off-site gambling to the Miltona Lions Organization for the date of January 25, 2009.

Dated this 3<sup>rd</sup> day of November, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 5 The Committee continued its review of the Mayor's proposed 2009 budget by considering the proposed Non-Departmental Expenditures. Several items are consistent with past years' budgets. The amount for Willmar Fests has increased \$5,000 and Newsletter/Marketing has increased \$2,000 over 2008. New expenditures proposed include \$10,000 for the Child Guide Program and \$15,000 for Christmas Decorations. Other issues that have not yet been considered include the Citizens Energy Policy and the EDC's request to add funding for a local lobbyist.

Following discussion, it was the consensus of the Committee that the meeting scheduled for November 24, 2008, begin at 3:30 PM and allows one-half hour each for the HRA, MUC, and Rice Hospital. This matter was for information only.

Item No. 7 The Committee reviewed the following reports: Third Quarter Rice Trust, September Rice Trust, Cash/Investment Portfolio September 30, 2008, Third Quarter Investment Activity, and Third Quarter Interest Activity. This matter was for information only.

The Finance Committee Report for October 27, 2008, 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 Fagerlie, and carried.

The Public Works/Safety Committee Report for October 28, 2008, was presented to the Mayor and Council by Council Member Reese. There were six items for Council consideration.

Item No. 1 The Committee considered information on behalf of the Willmar Area Senior Citizens Council. The Senior Council and Staff have been looking into long-range planning and one item discussed by the group was the marketing and managing of program development. Surveys were dispersed and 624 were returned. Of those, 49% were in favor of a name change. The Senior Council is recommending the City Council consider changing the name from Willmar Area Senior Citizens Community Center to Willmar Community Center.

Following discussion, the Committee was recommending the Council approve the name change as suggested by the Senior Council to Willmar Community Center. Council Member Reese 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 discussed a proposed golf cart ordinance previously considered by the Council and had recommended changes to include permitting the individual, as well as the golf cart. Since that time, City Attorney Ronning was made aware of a July, 2008 court decision that entities enacting ordinances cannot be more restrictive than State Statute allows. This has resulted in the City's inability to require the applicant to have a valid driver's license, thus allowing a person whose driver's license has been revoked to be able to apply for a permit to drive a golf cart and/or not restricting the age to a person over 18 years. The court ruling also required the City Attorney to change the time of operation in the updated draft ordinance.

The Committee discussed the new information resulting from the court ruling at length with the consensus of the group not to pursue a golf cart ordinance at this time. This matter was for information only.

Item No. 3 Rhonda Rae of Donohue and Associates explained to the Committee action required by the City in accordance with Article 10 of the General Conditions of the Construction Contract with Graham Construction. This article allows the contractor to submit a claim for additional costs. In this case it is related to unforeseen soil conditions which were discovered in the southern portion of the JOTS Oxidation Ditches. When Graham Construction's field representative discovered the conditions, Donohue and Independent Testing Technologies (ITT) were notified. ITT then tested the soils finding unsuitable material that needed to be removed and replaced in order to be able to reach compaction. The non-compactable loam was hauled to the stockpile area to the north and replaced with clean granular. Based on the actual quantity removed and replaced, the amount of Allowance Modification No. 1 is \$17,191.77.

The Committee was recommending the Council introduce a Resolution approving Allowance Modification No. 1 for Project 0812-C and authorize the City Administrator to execute it on behalf of the City. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Dokken, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 4

WHEREAS, the City of Willmar entered into Contract No. 0812-C with Graham Construction Services, Inc. for the construction of a new Wastewater Treatment Facility;

WHEREAS, the above contract has a contingency allowance of \$500,000 in Part 1 – GENERAL 1.02 Specific Allowances;

WHEREAS, as unforeseen soil conditions were discovered;

WHEREAS, it is necessary 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 hereby authorized as Owner Unanticipated Cost Allowance No. 1 for \$17,191.77.
2. Funding for additional work is covered within Contract No. 0812-C Part 1 – GENERAL 1.02 Specific Allowances reducing the Owner Unanticipated Cost Allowance from \$500,000 to \$482,808.23.
3. As specified in the above contract prior to final payment, an appropriate Change Order will be issued and the Contract Price shall be adjusted.

Dated this 3<sup>rd</sup> day of November, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 The Committee received a brief history from Staff of the biofilter constructed in 2003 to assist with odor problems at the Wastewater Treatment Plant. The useful life of the biofilter is three years and the original media was replaced in 2006. Staff is requesting the media again be replaced as records indicate the media has dropped about two feet from its original depth and odors are occurring more often. The estimated cost to remove, dispose and replace this media is approximately \$26,000. This media's useful life should take the City to the start up of the new plant, which is scheduled for the fall of 2010.

Quotes were received from several vendors for either the labor or materials to replace the media. The low quote to remove, dispose and replace the media came from Quam Construction in the amount of \$8,250.00. The recommended supplier for the wood chips is Central Wood Products of East Bethel Minnesota quoting \$17,359.50 for 700 yards of soft wood chips.

Following discussion, the Committee was recommending that Staff proceed with the media replacement and authorize the City Administrator to enter in agreements on behalf of the City. Resolution No. 5 was introduced by Council Member Reese, seconded by Council Member Dokken, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, 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 Central Wood Products of East Bethel, Minnesota for the wood chips and the quote of Quam Construction Co. of Willmar, Minnesota for the removal and replacement of the media for the Wastewater Treatment Plant Biofilter is accepted.

BE IT FURTHER RESOLVED that the City Administrator of the City of Willmar is hereby authorized to enter into agreements with the vendors for the terms and consideration of the contracts.

Dated this 3<sup>rd</sup> day of November, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Resolution No. 5 Staff updated the Committee of the alternatives that were evaluated by the joint members committee established to evaluate the intersection of TH 294/CR 24/Business 71. Eight alternatives were studied with three remaining for further evaluation. The final screening of the three retained alternatives will include a more detailed evaluation including impacts on Civic Center Drive due to diversion of traffic, delay to traffic for each alternative, long-term performance and updated layouts and cost estimates. Results of the final screening will be included in the draft feasibility report at the next meeting. This matter was for information only.

Item No. 6 Staff reported that three quotes were received for the construction of the storm pond on City property near the railroad tracks on Trott Avenue just west of 16<sup>th</sup> Street. This pond improvement was included in the improvement report accepted by the City Council in February, 2008 and is considered one of the seven storm water improvements slated by the City Council as a result of flooding issues. The low quote was received from Duinick Bros. Inc. of Prinsburg, MN in the amount of \$15,750.00 with a final completion date of November 21, 2008. This matter was for information only.

The Public Works/Safety Committee Report for October 27, 2008, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Reese, seconded by Council Member Christianson, and carried.

City Clerk Halliday informed the Mayor and Council that Johnson Java, LLC under the trade name of Northern Grounds, has applied for an On-sale Wine Liquor License at 333 Litchfield Avenue SW, Willmar. Following discussion, Council Member Christianson moved to approve of the On-sale Wine Liquor License as presented with Council Member Gardner seconding the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Planning and Development Services Director Peterson presented to the Mayor and Council for consideration a final plat for Browns Acres, a two-lot residential plant requested by Mike Brown of Developmental Partners. The two-lot plat is a split of an existing lot with a twin-home duplex. The split will allow separate ownership of each side of the twin home, and there will be an association to cover the shared wall and maintenance of the structure/land. Council Member Reese moved to approve the final plat for Browns Acres as presented with Council Member Christianson seconding the motion, which carried.

Mayor Heitke announced the Willmar Community Education and Recreation "Sampler Night" will be held on November 18, 2008 showcasing various educational opportunities for all citizens. He further announced the Holiday Parade will be held on November 22, 2008; and the Coalition of Greater Cities will hold a fall conference on November 20/21, 2008, at the Willmar Conference Center and the recent WWTP Groundbreaking was held on October 28, 2008.

City Clerk Halliday informed the Mayor and Council that the Board of Canvass will meet on November 6, 2008, to canvass the ballots from the General Election.

Mayor Heitke announced his intention to submit an application for the National League of Cities, second Vice President.

Announcements for Council Committee meeting dates were as follows: Finance, November 6; and Community Development, November 13, 2008.

There being no further business to come before the Council, the meeting adjourned at 8:24 p.m. upon motion by Council Member Reese, seconded by Council Member DeBlieck, and carried.

Attest:

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MAYOR

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