

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

September 21, 2009
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 Ron Christianson, Bruce DeBlieck, Denis Anderson, Steve Ahmann, Rick Fagerlie, Jim Dokken, and Tim Johnson; Present 8, Absent 1 - Doug Reese 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.

Council Member DeBlieck offered a motion adopting the Consent Agenda which included the following: City Council Minutes of September 8, Municipal Utilities Commission Minutes of September 4, Rice Hospital Board Minutes of September 9, Planning Commission Minutes of September 9, Housing and Redevelopment Minutes of August 25, Charter Commission Minutes of August 26, and Community Center Minutes of September 2, 2009. Council Member Anderson seconded the motion, which carried.

At 7:02 p.m. Mayor Heitke opened a hearing on an Ordinance Authorizing the Issuance of a \$1,788,716 General Obligation Wastewater Revenue Note of 2009 and a \$447,179 Forgivable Loan. City Administrator Schmit informed the Mayor and Council that the funds are to finance relocation and collection system for the \$2,235,895 Phase II-D6 Pump Station Project. There being no one present to speak for or against the proposed Ordinance, Mayor Heitke closed the hearing at 7:04 p.m.

Following discussion, Council Member Anderson offered a motion to adopt, assign a number and order final publication of the Ordinance Authorizing the Issuance of a \$1,788,716 General Obligation Wastewater Revenue Note of 2009 and a \$447,179 Forgivable Loan. Council Member Fagerlie seconded the motion which carried on a roll call vote of Ayes 7, Noes 0.

Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Christianson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 1

**RESOLUTION ACCEPTING THE OFFER OF THE MINNESOTA PUBLIC FACILITIES AUTHORITY
TO PURCHASE A \$1,788,716 GENERAL OBLIGATION SEWER REVENUE NOTE OF 2009,
PROVIDING FOR ITS ISSUANCE AND AUTHORIZING EXECUTION OF A BOND PURCHASE
AND PROJECT LOAN AGREEMENT**

(For Resolution in its entirety, see City Council Proceedings file dated
September 21, 2009, located in the City Clerk's Office)

At 7:07 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Municipal Ordinance No. 1060, the Willmar Zoning Ordinance. Planning and Development Services Director Peterson informed the Mayor and Council that KLC of Willmar has requested the rezoning of two lots in Terraplane Addition from GB (General Business) to R-4 (Medium Density Multiple Family) for the development of multi-family residential apartment units. There being no one present to speak for or against the Ordinance, Mayor Heitke closed the hearing at 7:08 p.m.

Council Member Fagerlie offered a motion to adopt, assign a number and order final publication of an Ordinance Amending Municipal Ordinance No. 1060, the Willmar Zoning Ordinance. Council Member Christianson seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

At 7:09 p.m. Mayor Heitke opened hearing on a request to vacate/relocate a portion of a storm water utility easement. Planning and Development Services Director Peterson informed the Mayor and Council of a request from KLC of Willmar for the vacation/relocation of a portion of a 20-foot storm water easement and pipe to a newly-created lot line of the replatted Cambridge Addition. There being no one present to speak for or against the request to vacate/relocate a portion of a storm water utility easement, Mayor Heitke closed the meeting at 7:10 p.m.

Resolution No. 2 was introduced by Council Member Christianson, seconded by Council Member Anderson, reviewed by Mayor, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 2

VACATING A PORTION OF A STORM WATER EASEMENT

WHEREAS, the vacation of that portion of the storm water easement as described below was initiated by the developer KLC of Willmar: 20' easement consisting of the east 10' of Lot 1, Block 2, Landmark Business Park and the west 10' of Lot 2, Block 2, Landmark Business Park;

WHEREAS, the proposed vacation has been approved by the Planning Commission of the City of Willmar; and

WHEREAS, published notice and mailed notice of the proposed vacation and the hearing thereon have been given as provided by Subdivision 6 of Section 9.01 of Article IX of the Willmar City Charter; and

WHEREAS, a hearing was duly held on the proposal to vacate that portion of said storm water easement on September 21, 2009; and

WHEREAS, the City Council of Willmar finds that it is in the best interest of the City of Willmar to vacate that portion of said storm water easement;

NOW, THEREFORE, BE IT RESOLVED, that the above described portion of dedicated storm water easement be, and hereby is, vacated.

BE IT FURTHER RESOLVED that a certified copy of the Resolution be filed with the Kandiyohi County Recorder on or after September 28, 2009.

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

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

Mayor Heitke recognized Bradley Peterson, Flaherty and Hood, who presented the Coalition of Greater Minnesota Cities legislative session report for 2009. Mr. Peterson reviewed land use and tax increment financing ideas and local government aid strategies.

The Finance Committee Report for September 14, 2009, was presented to the Mayor and Council by Council Member Anderson. There were four items for Council consideration.

Item No. 1 Staff explained to the Committee that the City Council recently adopted a resolution establishing an escrow/trust fund for the lesser of 25 percent of the actual cash value of the property at the time of loss or 25 percent of the settlement when there is fire-damaged property requiring clean up and/or repair. Upon satisfactory completion of the work, that amount would be released to the owner. Staff was recommending that interest earned from the time of deposit until completion of the needed repairs also be paid to the property owner.

The Committee was recommending the Council introduce a resolution directing Staff to pay interest earned on the escrowed funds from the time of deposit to completion of repairs. Following discussion, it was noted in Minnesota Statutes that the interest "shall" be retained for the City to cover expenses of administering the program and that dispensing the interest is not an option. This matter was for information only.

Item No. 2 The Committee considered four property owner land leases covering land located between Highway 116 and Highway 55 for the remainder of 2009 at a rate of \$1 each. Staff explained regulations require a cover crop for this area once the tile has been installed. By executing these leases, the owners could rework the construction area soil conditions as they would normally in the fall in preparation of the 2010 growing season in lieu of the City planting ground cover. The same four properties currently have 2010 leases in place.

The Committee was recommending the Council introduce a resolution authorizing the Mayor and City Administrator to execute the four land leases as presented. Resolution No. 3 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, 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 Mayor and City Administrator be authorized to execute a Land Lease Agreement for the 2009 agricultural season 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)

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 Staff informed the Committee that the Charter Commission has invited the City Council and Department Heads to voice their comments during a future Commission meeting. After discussion, it was determined that available Council Members will attend on September 23, 2009, and Department Heads will attend October 14, 2009. This matter was for information only.

Item No. 4 Mayor Heitke presented his proposed 2010 Budget totaling \$22,086,858 and reviewed the proposed revenues and expenditures. Of the total budget, \$12,001,196 is for General Operating; \$817,650 is for Capital Improvements; and \$9,268,012 is for Other Operating and Debt. The property tax levy will increase \$43,380 under the Mayor's proposal to \$3,568,705. After the State's projected decrease of approximately \$620,000 due to the unallotment, the Local Government Aid is anticipated to be \$4,052,790 for 2010.

Mayor Heitke offered possible revenue sources not included in his 2010 budget but that could be considered by the Committee: 1) revising the Building Permit Fee structure which was last changed in 1994; 2) revising the Landlord fees for the Rental Registration Program which was last changed in 1992; 3) adding a Natural Gas Franchise fee which could generate \$250,000 annually; and 4) adding Boulevard maintenance fees which would charge for tree removal, curb and gutter maintenance, etc.

After the Mayor's presentation, the Committee requested Staff to research the possibility of changing insurance companies for Fire Department calls and consideration of reducing part-time employees in an effort to trim the budget.

The Committee will review the proposed 2010 budget over the next several meetings prior to the public hearing to be held in December. This matter was for information only.

The Finance Committee Report for September 14, 2009, 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 Dokken, and carried.

The Public Works/Safety Committee Report for September 15, 2009, was presented to the Mayor and Council by Council Member Christianson. There were six items for Council consideration.

Item No. 1 The Committee reviewed a history of the Street Closure Policy whereby Staff is allowed to approve the seven to nine requests a year administratively rather than bringing each application before the Council. The policy currently states "no thoroughfares or collector streets may be used unless the street closure is for a city-wide function." This recently resulted in the denial of one application which was reversed by the City Council.

Staff presented a proposed amendment to the policy which states "Any application for a street closure of a thoroughfare or collector street for a private function shall be submitted to the City Council for consideration." It was Staff's recommendation to modify the policy as stated. The Committee discussed the revision and directed Staff to have the wording reviewed by the City Attorney and bring the item back for further discussion. This matter was for information only.

Item No. 2 Staff presented a second \$250.00 donation from UNICEL (Rural Cellular Corporation) to be received by the Fire Department. The Committee was recommending the Council accept the additional \$250.00 donation from UNICEL to be placed in the Fire Department's Budget and send acknowledgement of its receipt. Resolution No. 4 was introduced by Council Member Christianson, seconded by Council Member Anderson, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 4

WHEREAS, the City of Willmar has received a donation from UNICEL(Rural Cellular Corporation) in the amount of \$250.00 to the Willmar Fire Department;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Willmar, Minnesota, that the City accept the donation valued at \$250.00 and that the City Administrator be directed to express the community's appreciation.

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 John Bryant, Donohue and Associates, presented to the Committee five items for consideration. The total of the cost reductions and additions associated with the changes is \$30,889.28 and is the fourth such modification for this project. The total amount of unanticipated allowances comes to \$184,657.95 leaving a remaining balance of \$315,342.05.

The Committee was recommending the Council approve allowance modification #4 to Project No. 0812-C. Resolution No. 5 was introduced by Council Member Christianson, seconded by Council Member DeBlieck, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 5

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 (WWTF); and

WHEREAS, Change Order No. 1 and Change Order No. 2 decreasing the amount by \$397,788 and \$10,000 respectively have been previously authorized; and

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

WHEREAS, Unanticipated Allowance No. 1, Unsuitable Soils, increased the amount by \$17,191.77 out of a \$500,000 allowance and has been previously authorized; and

WHEREAS, Unanticipated Allowance No. 2, Addition of Polyurea Coating on Interior of 54" Interceptor Piping to Headworks, increased the amount by \$75,775.90 out of a \$500,000 allowance and has been previously authorized; and

WHEREAS, Unanticipated Allowance No. 3 which contains the following: Item 1: Upsize Manholes 9, 14 and 17; Item 2: Decrease size of 2 – Ferric Chloride Tanks from 12' diameter – 8,100 gallon tanks to 2 – 10' diameter – 6,600 gallon tanks; Item 3: Decrease sizes of discharge piping at RWW pumps and decrease sizes of flowmeters; Item 4: Change exit lighting at the Headworks Building to be explosion proof – Class 1 Division 1; Item 5: Reduction of 3 Screw Pump motor starters from 150hp to 125 hp; Item 6: Provide optional DA2 software to flowmeters in Headworks Building; Item 7: Change embeds in Final Building 265 and JOTS Selector Building 232 to stainless steel; Item 8: Add 3 groundwater monitoring stations at Clarifiers; Item 9: Add lockable disconnects at valves and actuators; Item 10: Add wiring and controls for Aerator oil immersion heaters; Item 11: Add power conduits for Flow Indicating Transmitters, increased the amount by \$60,801.00 out of a \$500,000 allowance and has been previously authorized; and

WHEREAS, it is recommended to approve Unanticipated Allowance No. 4 which contains the following: Item 1: Soil Corrections at Building 200 – Administration Building; Item 2: Delete Milestone No. 1 including Temporary Sludge Lines; Item 3: Design, Fabricate, and Erect Stainless Steel Chemical Mixer Support for Chemical Storage Tank; Item 4: Add Blown Fuse Indicators to Panels and Relays to Monitor I/O Power; Item 5: Eliminate two (2) Differential Relays in Switchgear N. 205-SWGR-1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that:

1. Additional work is hereby authorized as Owner Unanticipated Cost Allowance No. 4 for \$30,889.28.
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 \$346,231.33 to \$315,342.05.
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 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 Staff reviewed Project No. 0814-D4, the southern interceptor, force main and outfall from the new Wastewater Treatment Facility to the BNSF railroad which was awarded in August, 2008 to S.R. Weidema. In order to provide access east and west from County Road 55 for the farm fields south of the interceptor, Kvam Farms has requested the addition of two access drives. A price was negotiated with the contractor and identified as Change Order No. 1. A driveway permit for these locations has been approved by Kandiyohi County. Donohue is recommending the City accept this change order, which increases the contract price with S.R. Weidema by \$7,097.60.

The Committee was recommending the Council accept Change Order No. 1 to Project No. 0814-D4 in the amount of \$7,097.60 and adjust the budget accordingly. Resolution No. 6 was introduced by Council Member Christianson, seconded by Council Member Dokken, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 6

WHEREAS, the City of Willmar entered into Contract No. 0814-D4 with S. R. Weidema, Inc. for the construction of Southern Interceptor, Forcemain and Outfall (from the new WWTF to the BNSF railroad);

WHEREAS, no Change Orders have been previously authorized; and

WHEREAS, Kvam Farms' semi trucks are unable to access fields from the existing access drives north of the interceptor alignment; and

WHEREAS, new southern access drives east and west from County Road 55 are needed in order to access Kvam Farms' fields south of the interceptor alignment; and

WHEREAS, it is recommended to approve two access drives constructed according to County specifications east and west off County Road 55 for Kvam Farms in order to provide access to farm fields south of the interceptor alignment.

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that Change Order No. 1 be approved; as a result, the contract amount will be increased in the amount of \$7,097.60 for Project 0814-D4 Southern Interceptor, Forcemain and Outfall (from the new WWTF to the BNSF Railroad).

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Resolution No. 7 was introduced by Council Member Christianson, seconded by Council Member DeBlicke, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 7

Project 0814-D4 Conveyance System III

OTHER SERVICES:		FINANCING:	
Maintenance of Other Improvements	\$6,276,638	State-PFA	<u>\$6,793,017</u>
Other Services	<u>316,379</u>	Total:	\$6,793,017
Total:	\$6,593,017		

OTHER CHARGES:	
Other Charges:	<u>\$ 200,000</u>
Total:	\$ 200,000

GRAND TOTOAL: \$6,793,017

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 5 Staff presented Change Order No. 1 for Project No. 0803 – 5th Street SE which reflects costs associated with two additional catch basins and some pipe needed to match the mall parking lot and additional aggregate and bituminous. The contractor also received a bituminous incentive for pavement density. The total amount of the change order is \$11,855.79 bringing the contract total to \$755,452.89. The project was essentially completed in 2008 with the retainage held into 2009. Staff is also recommending accepting the project and issuing final payment to Duininck Inc. in the amount of \$50,547.26 and adjusting the budget to reflect the change order.

The Committee was recommending the Council approve Change Order No. 1, accept the project and authorize final payment and revise the budget accordingly. Resolution No. 8 was introduced by Council Member Christianson, seconded by Council Member DeBlicke, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 8

WHEREAS, a contract has been awarded to Duininck. Inc. of Prinsburg, Minnesota, on August 11, 2008 in the amount of \$743,597.10 for Project No. 0803 – 2008 5th Street SE Street and Other Improvements; and

WHEREAS, it is desired to add to the above contracted amount due to additional aggregate, bituminous, and storm sewer items to match grade.

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 in the amount of \$9,372.09 and identified as Change Order No. 1.
2. Funding for the additional work is from the project budget.

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Resolution No. 9 was introduced by Council Member Christianson, seconded by Council Member DeBlieck, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 9

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT: Project No. 0803 – 5th Street SE
CONTRACTOR: Duinick, Inc.
DATE OF CONTRACT: August 11, 2008
BEGIN WORK: September 3, 2008
COMPLETE WORK: May 26, 2009
APPROVE, CITY ENGINEER: September 15, 2009

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

1. The said City of Willmar Project No. 0803 be herewith approved and accepted by the City of Willmar.
2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:	\$743,597.10
Change Order No. 1	11,855.79
FINAL NET CONTRACT AMOUNT, PROPOSED:	\$755,452.89
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED:	\$755,452.89
Less Previous Payments	704,905.63
FINAL PAYMENT DUE CONTRACTOR:	\$ 50,547.26

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Resolution No. 10 was introduced by Council Member Christianson, seconded by Council Member DeBlieck, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 10

PERSONNEL SERVICES		RECEIVABLES	
Overtime Reg. Employees	\$500.00	Property Owners	\$58,294.00

Salaries Temp. Employees	\$500.00	City (MUC)	\$87,630.00
Employer Pension Contr.	<u>\$500.00</u>	City (Levy)	\$400,000.00
TOTAL	\$1,500.00	City (CIF)	\$184,076.00
		City (LOST)	\$20,000.00
SUPPLIES		City (Utility fee)	<u>\$78,000.00</u>
Office Supplies	\$300.00	TOTAL	\$828,000.00
Small Tools	\$1,200.00		
Motor Fuels & Lubricants	\$500.00	FINANCING	
Postage	\$1,000.00	Bonds	\$330,000.00
Mtce. of Other Improvements	\$1,000.00	City Levy	\$400,000.00
General Supplies	<u>\$1,500.00</u>	City (Utility Fee)	\$78,000.00
TOTAL	\$5,500.00	City (LOST)	<u>\$20,000.00</u>
		TOTAL	\$828,000.00
OTHER SERVICES			
Printing & Publishing	\$2,000.00		
Mtce. of Other Impr.	<u>\$755,455.00</u>		
TOTAL	\$757,455.00		
OTHER CHARGES			
Insurance & Bonds	\$1,000.00		
Prof. Serv. (Mn/DOT)	\$15,000.00		
Adm. OH (Transfer)	\$37,545.00		
Other Charges	<u>\$10,000.00</u>		
TOTAL	\$63,545.00		
GRAND TOTAL	\$828,000.00		

Dated this 21st day of September, 2009.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 6 The Committee reviewed a final estimate for Project No. 0807, street lighting on 15th Street SW and Oxford Drive. The contract was completed by Willmar Electric Service and final payment consists of the five percent retainage. Staff recommended issuing final payment in the amount of \$815.42. The Committee was recommending the Council accept Project No. 0807 and authorize final payment to Willmar Electric Service as presented. Resolution No. 11 was introduced by Council Member Christianson, seconded by Council Member DeBlieck, reviewed by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 11

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT: Project No. 0807 – Street Lighting
 CONTRACTOR: Duinick, Inc.
 DATE OF CONTRACT: April 14, 2009
 BEGIN WORK: May 21, 2009
 COMPLETE WORK: June 23, 2009
 APPROVE, CITY ENGINEER: September 15, 2009

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

