

WILLMAR CITY COUNCIL PROCEEDINGS
BY ELECTRONIC MEANS (GOTO MEETING)

June 15, 2020
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Marv Calvin. Members present on a roll call were Mayor Marv Calvin, Council Members Rick Fagerlie, Shawn Mueske, Kathy Schwantes, Vicki Davis, Fernando Alvarado, Julie Asmus, Andrew Plowman, and Audrey Nelsen. Present 9, Absent 0.

Also present were City Administrator Brian Gramentz, Police Chief Jim Felt, Fire Chief Frank Hanson, Finance Director Steve Okins, Public Works Director Sean Christensen, Park and Recreation Director Rob Baumgarn, Human Resource Director Samantha Beckman, Administrative Assistant Janell Sommers, and City Attorney Robert Scott.

Additions/Deletions to the agenda included Council Member Fagerlie's request to discuss the status of allowing baseball games at Taunton Stadium for the Willmar Stingers and the Rails. Mayor Calvin placed this as Item No. 12 on the agenda.

Council Member Fagerlie moved to approve the agenda, as presented. Council Member Mueske seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

Administrative Assistant Sommers reviewed the consent agenda.

- A. Emergency City Council Minutes of May 29, 2020
- B. City Council Minutes of June 1, 2020
- C. Willmar Municipal Utilities Board Minutes of June 8, 2020
- D. Carris Health-Rice Memorial Hospital Board Minutes of June 3, 2020
- E. Accounts Payable Report for May 28 – June 10, 2020
- F. Park and Recreation Board Minutes of May 20, 2020
- G. Police Commission Minutes of April 17, 2020
- H. Building Report for the Month of May, 2020
- I. Invest in Willmar Board Minutes of May 20, 2020
- J. Main Street Board Minutes of May 19, 2020

Council Member Mueske offered a motion to approve the Consent Agenda. Council Member Asmus seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

At 7:06 p.m. Mayor Calvin opened the Annual Stormwater public meeting. Sara Sietsema, Environmental Specialist presented the report for the MS4 permitting as required by the City's MS4 General Permit. Ms. Sietsema stated this permit gives publicly-owned stormwater infrastructure approval to discharge stormwater to lakes, streams, rivers and wetlands in Minnesota with the goal of improving water quality by reducing pollutants. The purpose of the meeting is to facilitate public education, outreach and gather public comments while updating the status of compliance with the MS4 permit conditions and implementation of the Stormwater Pollution Prevention Program (SWPPP). There were no call ins from the public during the meeting.

Following discussion, Council Member Fagerlie offered a motion to accept the report as presented. Council Member Mueske seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

The Public Works/Safety Committee Report for June 3, 2020 was presented to the Mayor and Council by Council Member Plowman. There were three items for consideration.

Item No. 1 Staff brought forth, for information, the public safety statistics for the month of May. This item was received for information only.

Item No. 2 It was a recommendation of the committee to approve the settlement agreement with Elm Farms Inc. in the amount of \$4,200. The City entered into a permanent utility easement with Elm Farms, Inc. on June 16, 2018 for utility purposes, under and across 0.75 acres of a portion of farm land for the Western Interceptor Storm Drain Project. Elm Farms allege the City exceeded the scope of the easement and violated the requirements of the easement which caused soil compaction, resulting in monetary damages. They, along with the City, have come to an agreement to resolve all issues related to the alleged violation with a formal document drafted by the City Attorney for a sum of \$4,200 as a full settlement of all claims.

Resolution No. 2020-083 Accepting the Settlement Agreement with Elm Farms, Inc. in the Amount of \$4,200 was introduced by Council Member Plowman. Council Member Alvarado seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Item No. 3 It was the recommendation of the committee to adopt the resolution entering into an agreement with Braun Intertec Corporation for construction material and compaction testing of the 2020 Street Improvement projects in the amount of \$62,273. This agreement will allow for various testing of soil, concrete, granular bedding, compaction and aggregate base material of the projects and will be paid from each project's contingency fund.

Resolution No. 2020-84 Awarding the Construction Material and Compacting Testing to Braun Intertec Corporation in the Amount of \$62,273 was introduced by Council Member Plowman. Council Member Asmus seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

The Public Works/Safety Committee Report of June 3, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Plowman. Council Member Asmus seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

The Finance Committee Report for June 4, 2020 was presented to the Mayor and Council by Council Member Nelsen. There were three items for consideration.

Item No. 1 Willmar Municipal Utilities (WMU) General Manager John Harren presented their 2019 Audit Report noting Operating Revenues of \$36,352,184 and Operating Expenditures of \$27,023,129. Net Nonoperating Revenues/Expenditures were \$686,686 and Transfers to the City of Willmar were \$2,136,842. The resulting Change in Net Position of \$7,878,899 was almost entirely transferred for use with Capital Projects. Mr. Harren reported concerns with the apparent trend of increasing Past Due Accounts.

The April, 2020 Financial Report was also presented to the Committee. Revenues are down about \$1,000,000 compared to this time period last year. WMU has pursued suspending certain expenditures estimated at \$2,500,000 which has enabled positive retained earnings.

Mr. Harren reported WMU is starting up the water treatment plant project that was put on hold over a year ago. This project is being pursued again because water usage is nearing capacity in the existing plant as well as concerns about water quality. WMU is looking at the possibility of bonding in 2021 for this project with an estimate of \$15,000,000. Additionally, the Electric Division is going to require an investment in the transmission system of about \$8,000,000 which is estimated to be completed by 2022.

The Committee was updated with WMU's response to the Covid Pandemic. The lobby remains closed until at least June 15th with a possibility of delaying that date until July 1st. Other items noted included the District Heating System that is coming to a close June 30th, WMU is moving its Call Center to Austin, Minnesota, identification of a site this year yet for WMU's new building, Catastrophic Event Planning, and the Downtown Street Lighting Project projected for 2021. This item was received for information only.

Item No. 2 Finance Director Steve Okins reported no new information has been received from the State to date. The Coalition of Greater Minnesota Cities held a webinar yesterday discussing possibilities. The link to this webinar will be forwarded to all council members once it becomes available. It is hoped more

information from the State will be available for the next Finance Committee Meeting scheduled for June 18, 2020. This item was received for information only.

Item No. 3 Michael Schramm of Carris Health/Rice Memorial Hospital is scheduled to attend the June 18th meeting to present their financial information. It was also noted no new council requests have been received to date. This item was received for information only.

The Finance Committee Report of June 4, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Nelsen. Council Member Asmus seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

The Labor Relations Committee Report of June 8, 2020 was presented to the Mayor and Council by Council Member Mueske. There were three items for consideration.

Item No. 1 Staff presented the job description for a Planning and Development intern and requested approval to post and fill the position. The internship was approved and budgeted for in the 2020 budget but position posting was delayed due to COVID-19 hiring freezes. It was the committee's recommendation to post and fill the internship.

Council Member Mueske offered a motion to approve the Committee's recommendation. Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Item No. 2 Staff discussed a repair that needs to be made at the DOAC before it would be possible to re-open and also presented possible re-opening options. Opening of the Splash Pad was also discussed and the need for staff members to be present to ensure social distancing, entry/exit points, proper disinfection measures, and clear signage posted stating applicable risks. It was the committee's recommendation for the DOAC to remain closed for maintenance and then re-assess after the repairs are completed.

Council Member Mueske offered a motion to approve the committee's recommendation. Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Another recommendation from the Committee was to open the Splash Pad with all of the parameters discussed. Council Member Mueske offered a motion to approve the Committee's recommendation. Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Item No. 3 Staff presented re-opening options for the WillmarBike program that included a reduced number of bikes in circulation and hubs, disinfecting protocols, and signage posted stating applicable risks. It was the recommendation of the Committee to re-open the WillmarBike program with those safety precautions in place.

Council Member Mueske offered a motion to approve the Committee's recommendation. Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

The Labor Relations Committee Report of June 8, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Mueske. Council Member Schwantes seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

Human Resources Director Samantha Beckman presented an updated COVID-19 Preparedness Plan for the City. The Governor's Executive Order 20-74 which went into effect June 10, 2020 required all critical businesses to implement a COVID-19 Preparedness Plan by June 29, 2020. The City developed and implemented a preparedness plan on May 7, 2020 before it was required for critical businesses to do so.

The final guidance for all parameters of the plan will be published by June 15, 2020. City Attorney Scott recommends the Preparedness Plan be adopted by the City Council in compliance with the above-referenced Order and that he or the City Administrator be allowed to make subsequent changes as necessary

to follow any applicable state agencies or executed order changes as they are issued if they do not substantially alter the plan.

Council Member Mueske offered a motion to approve the COVID-19 Preparedness Plan as presented and allow the City Attorney or City Administrator to make changes as necessary if they do not substantially alter the plan. Council Member Schwantes seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

Council Member Fagerlie brought forward a request he received from Rails Baseball Team to use the City's facilities to conduct baseball games. Council Member Fagerlie made a motion to open the City's baseball stadiums for amateur and college baseball teams by June 26th even if the Governor's Executive Order does not allow. Council Member Asmus seconded the motion for discussion.

City Administrator Gramentz addressed the Council stating the Executive Order from the Governor refers to the Minnesota Department of Health (DOH) for guidance and the Department of Natural Resource. Resources sequence baseball and softball as a moderate infectious type of activity and in essence state competitions and games are not to be played. Correspondence he has received from the League of Minnesota Cities Insurance Trust (LMCIT) whose risk management attorney has opined the City has insurance for the operation of the facility, but not for the players and fans. If the City allows use of these facilities, the City Council needs to document their decision and reasons for the decision in writing to help establish a discretionary immunity defense.

City Attorney Scott agreed the latest Executive Order references the DOH identifying these games as medium risk activities which raises the question of liability. He stated the risk to the City is low as long as the City documents the reasons why it allowed use. Once the City gives permission for the facility to be used in a way contrary to the DOH you do assume some risk. By making facilities available to the user, it is the user's responsibility to use those facilities in accordance to the DOH guidelines that are in effect on the date of the use. He further stated if the City is inclined to communicate it is going to allow games specifically to be played on a given date, it document specifically the reasons it is making that decision and make it incumbent on the user to establish safe protocols to be followed to minimize risk of transmission during a game.

Council Member Asmus stated she viewed a promotional video of the Stingers plan to meet guidelines should they be allowed to play and expressed interest in knowing what protocols the Rails have in place. Council Member Fagerlie addressed this saying the Minnesota Baseball Association has established guidelines for all their teams with 25% capacity.

City Administrator Gramentz mentioned the one thing that has been consistent through the last two Executive Orders is no more than 250 people in any one gathering as a defined number. Mayor Calvin stated he has received confirmation that if the players are segregated from the fans and there is no interaction they do not count toward the 250 capacity limit.

Council Member Schwantes expressed her concern for the motion being against Executive Orders and how does the City justify to other businesses and organizations that have wanted to open and were not able to do so.

Council Member Nelsen stated she was uncomfortable with what was brought forward and to make sure we are doing what is right for our community and open these facilities in accordance with the requirements that are currently in place.

Council Member Plowman stated his frustration of where we are picking as places of risks and the effects past orders have had on businesses.

Council Member Mueske expressed his approval of the plans for population density and protocols for protection of players and fans.

Council Member Alvarado stated he feels COVID-19 is not going to go away. We are in a lull at this time and have a false sense of security. He's excited for baseball with the parameters being set and can see possibilities for opening, yet we have an obligation to support our state and federal government. He supported the idea of if you play, it will be at your own discretion.

The motion to allow use of the City facilities for baseball games, then passed on a roll call vote of Ayes 5, Noes 3. Council Members Schwantes, Alvarado, and Nelsen cast the "no" votes.

The Council discussed the parameters. Park and Recreation Director Baumgarn stated he has been in conversation with the team representatives on protocols and use of the city facilities and he will work with City Attorney Scott and City Administrator Gramentz on details of a rental agreement/lease.

City Administrator Gramentz brought forward for consideration an extension to the Emergency Ordinance Exempting Temporary Signs from the Sign Ordinance Requirements. The ordinance exempting temporary signs from sign ordinance requirements during the local peacetime emergency passed on April 20, 2020 was set to expire by operation of the City Charter on June 19, 2020.

It is staff's recommendation to reinstate an emergency ordinance with identical provisions for another 60 days or until the local peacetime emergency ends.

Council Member Fagerlie offered a motion to adopt, assign a number and order publication of **Ordinance No. 1453 An Emergency Ordinance Temporarily Exempting Certain Signs from the Permit and Fee Requirements of Section 5.D.2. of the City of Willmar Zoning Ordinance.** Council Member Davis seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

Council Member Asmus offered the following comments: in light of the stormwater hearing tonight remind everyone to "mow in."

Council Member Plowman offered the following comments: "Thanks" to Public Works after the crazy winds we are experiencing these past days with good response.

Council Member Fagerlie offered the following comments: "Let's play baseball!"

The upcoming Committee meetings will be as follows: Public Works/Safety Committee – no meeting scheduled at this time; Finance Committee – Thursday, June 18th at 5:00 p.m.; Community Development Committee – no meeting scheduled at this time; and Labor Relations Committee – Monday, June 22nd at 6:15 p.m.

Council Member Mueske offered a motion to adjourn the meeting with Council Member Asmus seconding the motion which carried. The meeting adjourned at 9:02 p.m.

s/s Marv Calvin

MAYOR

Attest:

s/s Judy Thompson

SECRETARY TO THE COUNCIL

RESOLUTION NO. 2020-083

**A RESOLUTION ACCEPTING THE SETTLEMENT AGREEMENT WITH ELM FARMS, INC.
IN THE AMOUNT OF \$4,200**

Motion By: Plowman Second By: Alvarado

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota and Elm Farms, Inc., by owner Robert Hanson and owner Jim Huisinga agree to fully and finally resolve all issues between them related to the alleged violations of the easement to complete the Western Interceptor Storm Drain project pursuant to the Settlement Agreement and Mutual Release document for the terms and consideration in the amount of \$4,200.

Dated this 15th day of June, 2020

s/s Marv Calvin
MAYOR

ATTEST:

s/s Judy Thompson
CITY CLERK

RESOLUTION NO. 2020-084

**A RESOLUTION AWARDING THE CONSTRUCTION MATERIAL AND COMPACTING TESTING TO BRAUN
INTERTEC CORPORATION IN THE AMOUNT OF \$62,273.**

Motion By: Plowman Second By: Asmus

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the bid of Braun Intertec Corporation of St. Cloud, MN for the Construction Material and Compacting Testing for the 2020 Street Improvement Projects 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 \$62,273.

Dated this 15th day of June, 2020

s/s Marv Calvin
Mayor

Attest:

s/s Judy Thompson
City Clerk