

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

March 17, 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 Ron Christianson, Bruce DeBlieck, Cindy Swenson, Rick Fagerlie, Jim Dokken, and Steven Gardner; Present 7, Absent 2 – Doug Reese and Denis Anderson were excused from the meeting.

Also present were City Administrator Michael Schmit, City Attorney Richard Ronning, Police Chief Jim Kulset, Fire Chief Marv Calvin, Finance Director Steven Okins, Community Education and Recreation Director Steve Brisendine, City Planner Megan Sauer, and City Clerk Kevin Halliday.

Additions included consideration of a special City Council meeting and comments by Attorney Jim Mogan regarding the Southwest Minnesota Housing Partnership Project.

Council Member Christianson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of March 3, Municipal Utilities Commission Minutes of March 10, Planning Commission Minutes of March 12, Building Inspection Report for February, Housing and Redevelopment Authority Minutes of February 12, and Community Education and Recreation Board Minutes of February 22, 2008. Council Member DeBlieck seconded the motion, which carried.

Mayor Heitke recognized Jeff Roiland, General Manager of En-Tel Communications who appeared before the Mayor and Council to present details of the acquisition of Bishop Communications Corporation, which includes En-Tel, by Iowa Telecommunications Services, Inc. Mr. Roiland offered a letter for the Mayor to sign consenting to the transfer of the franchise. City Clerk Halliday presented items to be considered by a Franchising Authority prior to granting consent to the transfer. Following discussion, Council Member Gardner moved to refer the matter to the Finance Committee with Council Member Dokken seconding the motion, which carried.

At 7:11 p.m. Mayor Heitke opened a hearing on an Ordinance Amending Sections 2, 3, and 5 of the Rate Schedule for Users of the City of Willmar Waste Water Treatment Plan. City Administrator Schmit explained an error in the Utility Replacement Charge, which should have been changed from \$3.00 to \$4.00 per month. Following discussion, Council Member DeBlieck moved to amend the Utility Replacement Charge as recommended with Council Member Gardner seconding the motion, which carried. Council Member Gardner moved to continue the Ordinance hearing to April 7, 2008, with Council Member DeBlieck seconding the motion, which carried.

Mayor Heitke acknowledged Attorney Jim Mogan, legal counsel for Gary Peterson, 2900 15<sup>th</sup> Street SW, requesting a hearing before the Board of Zoning Appeals on the Southwest Minnesota Partnership Project. Mr. Mogan stated that the Board meeting scheduled earlier was cancelled based on an interpretation of MS15.99 whereby land use decisions must be completed in 60 days or failure of an agency to deny a request is approval of the request. Mr. Mogan was simply asking the Council to call the hearing and let the citizens be heard.

City Attorney Ronning reviewed Mr. Mogan's letter submitted earlier in the day, and his opinion has not changed and offered the opinion the hearing would be an exercise in futility after the 60-day time period has expired.

Council Member Christianson offered a motion to direct Staff to convene a Board of Zoning Appeals hearing on the matter of the Southwest Minnesota Housing Partnership Project Conditional Use Permit. Council

Member Swenson seconded the motion, which carried on a roll call vote of Ayes 4, Noes 2 – Council Members Gardner and DeBlieck voted “No.”

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

The Finance Committee Report for March 10, 2008, was presented to the Mayor and Council by Council Member Fagerlie. There were six items for Council consideration.

Item No. 1 Pursuant to a February, 2008, liquor compliance check conducted by the Willmar Police Department, Staff presented to the Committee a list of two retail liquor establishments that violated Municipal Code Sec. 3-2 Selling or Giving Intoxicating Liquor to Persons to Whom Sale is Prohibited. Two establishments incurred their first violation for which representatives were present to explain measures being taken to eliminate future violations: Rick’s Royal Steakhouse represented by Owner Rick Suarez; and Café Persepolis represented by Owner Jon Emami. This matter was for information only.

Item No. 2 The Committee reviewed a proposed School Resource Officers Agreement between the School and City. The three-year agreement provides for the placement of three police officers within the Willmar School District. The only proposed changes from the previous agreement would increase the amount paid to the City to cover payroll costs for the three officers. The Committee was recommending the Council introduce a resolution to approve the agreement as presented.

Resolution No. 1 was introduced by Council Member Fagerlie, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

RESOLUTION NO. 1

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 an agreement between the City of Willmar and Independent School District No. 347 for School Resource Officers Agreement.

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 Staff presented to the Committee proposed revisions to the City of Willmar’s schedule of rental rates and fees recently adopted by the Council. Rates pertaining to the Aquatic Center need to be amended to compensate for the City’s costs to provide services. The Committee was recommending the Council introduce a resolution adopting the revised schedule of rental rates and fees for the Aquatic Center.

Resolution No. 2 was introduced by Council Member Fagerlie, seconded by Council Member DeBlieck, read by Mayor Heitke, and approved on a roll call vote of Ayes 5, Noes 1 – Council Member Dokken voted “No.”

RESOLUTION NO. 2

WHEREAS, the City Council of the City of Willmar duly establishes fees for service, sets fees for permits and licenses, and establishes rental rates for City equipment.

NOW, THEREFORE, BE IT RESOLVED that the below listed fees be duly adopted for the year 2008 and the same hereby ordered kept on file in the office of the City Clerk-Treasurer.

COMMUNITY EDUCATION AND RECREATION:

Aquatic Center:		
Individual season pass	\$ 73.00	85.00
Family of 2	100.00	125.00
Family of 3	110.00	135.00
Family of 4	120.00	145.00
Family of 5	130.00	155.00
Family of 6 or more		165.00
Daily Admission Rate	4.00	
Observers	2.00	
Group Admission	3.00 per person	
Star Light	3.00	
<u>Discount Coupons:</u>		
10 Coupons	\$ 35.00	
20 Coupons	60.00	
<u>Pool Rental:</u>		
2-hour minimum	\$100.00 per hour plus guard/staff fees	

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 The Library funding discussion was tabled until a future Committee meeting because individuals wishing to address this issue are out of town at this time. This matter was for information only.

Item No. 5 The Committee reviewed the following reports: Local Option Sales Tax, WRAC-8, CVB, Rice Trust, Central Minnesota Community Foundation, and Rice Hospital. This matter was for information only.

Item No. 6 Council Member Christianson reported on information he obtained regarding the Westwinds project application submitted by the Southwest Minnesota Housing Partnership. Mr. Christianson read excerpts from the application to inform the Council. Mayor Heitke requested the document be submitted to the City Clerk and made available to the public. This matter was for information only.

The Finance Committee Report for March 10, 2008, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Fagerlie, seconded by Council Member Gardner, and carried.

The Public Works/Safety Committee Report for March 11, 2008, was presented to the Mayor and Council by Council Member Christianson. There were six items for Council consideration.

Item No. 1 The Committee considered a request from the Willmar Design Center to again offer the "Becker Market" every Thursday for the months of June through September. The request includes blocking off Becker Avenue between 4<sup>th</sup> and 5<sup>th</sup> Streets similar to the last two years. The time the market will be open is from 3:00 – 6:30 p.m. and will allow for the 20-foot strip along Becker Avenue for the passage of emergency vehicles.

The Willmar Design Center also requested permission to block 4<sup>th</sup> Street between Litchfield and Becker

Avenues on Thursday, August 14<sup>th</sup> from 3:00 – 9:00 p.m. for the first annual fundraiser – “Dinner in the Street.” Dinner will be served and vendors open until such time as the Barn and other activities end.

City Administrator Schmit raised the question of liability insurance being required by ordinance in licensing similar events termed as “street fairs.” In the two years past, a permit has not been obtained for the Becker Market. The Committee discussed the situation and decided to bring this item directly to the City Council without a recommendation and with further review by Staff and City Attorney.

City Clerk Halliday offered comments regarding risks inherent with this activity and permit process inconsistencies. Nancy Johnson, representing the Becker Market Committee, and Beverly Dougherty, representing the Willmar Design Center offered comments regarding the community benefits of the Becker Market and provided results of a survey to review liability insurance in similar “growers markets” in other Minnesota cities.

Council Member Gardner moved to approve the request to block off streets for the Becker Market and Dinner in the Streets contingent upon attaining proper insurance coverage. Council Member Swenson seconded the motion, which carried.

Item No. 2 The Committee reviewed a lease agreement and general services agreement for a KAT bus shelter at the corner of 4<sup>th</sup> Street and Becker Avenue SW. The Committee discussed the maintenance responsibilities, snow removal, and insurance issues. Snow removal and general maintenance would be done by the City as spelled out in “Exhibit B.” The structure will be owned by KAT with the City leasing them the land for a term of three years and automatically renewing for an additional three-year term thereafter unless either party gives other party 90-days written notice of its intent to terminate the lease at the end of any three-year term.

The Committee was recommending the Council approve both the lease and general services agreements and authorize the Mayor and City Administrator to sign on behalf of the City. Resolution No. 3 was introduced by Council Member Christianson, seconded by Council Member Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

### RESOLUTION NO. 3

Whereas the City of Willmar desires to enter into a Lease Agreement with Kandiyohi Area Transit (KAT) for real estate at the corner of 4<sup>th</sup> Street and Becker Avenue SW for purposes of construction and maintenance of a bus shelter; and

Whereas an agreement has been prepared detailing the terms of the lease;

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 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 3 Due to growth and additional street infrastructure in the City, Willmar is under the maximum allowable municipal state aid street mileage. Staff proposes adding 0.94 miles of street to the state aid system. The two segments proposed to be added are: Lakeland Drive SE from Willmar Avenue SE to Trott Avenue SE and 22<sup>nd</sup> Street SW from 19<sup>th</sup> Avenue SW to 15<sup>th</sup> Avenue SW. The District State Aid Engineer has

approved the additions and Staff recommends these areas to complete the arterial and collector systems.

The Committee was recommending the Council adopt both resolutions establishing municipal state aid highways as presented. Resolution No. 4 was introduced by Council Member Christianson, seconded by Council Member Dokken, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

RESOLUTION NO. 4

ESTABLISHING MUNICIPAL STATE AID HIGHWAYS

WHEREAS, it appears to the City Council of the City of Willmar that the street hereinafter described should be designated Municipal State Aid Street under the provisions of Minnesota Law.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Willmar that the road described as follows, to-wit: Lakeland Drive SE from Willmar Avenue SE to Trott Avenue SE be, and hereby is established, located, and designated a Municipal State Aid Street of said City, subject to the approval of the Commissioner of Transportation of the State of Minnesota.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to forward two certified copies of this resolution to the Commissioner of Transportation for his consideration, and that upon his approval of the designation of said road or portion thereof, that same be constructed, improved and maintained as a Municipal State Aid Street of the City of Willmar to be numbered and known as Municipal State Aid Street 175-152-005.

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Resolution No. 5 was introduced by Council Member Christianson, seconded by Council Member Gardner, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

RESOLUTION NO. 5

ESTABLISHING MUNICIPAL STATE AID HIGHWAYS

WHEREAS, it appears to the City Council of the City of Willmar that the street hereinafter described should be designated Municipal State Aid Street under the provisions of Minnesota Law.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Willmar that the road described as follows, to-wit: 22<sup>nd</sup> Street SW from 19<sup>th</sup> Avenue SW to 15<sup>th</sup> Avenue SW be, and hereby is established, located, and designated a Municipal State Aid Street of said City, subject to the approval of the Commissioner of Transportation of the State of Minnesota.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to forward two certified copies of this resolution to the Commissioner of Transportation for his consideration, and that upon his approval of the designation of said road or portion thereof, that same be constructed, improved and maintained as a Municipal State Aid Street of the City of Willmar to be numbered and known as Municipal State Aid Street 175-154-025.

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 4 The Committee considered a final pay request for Project No. 0713, the interim improvements at the Wastewater Treatment Plant that consisted of "excess flow" pump replacement to carry the plant through until the new plant is constructed. The final amount due the contractor, Shank Constructors, is the retainage in the amount of \$14,810.00.

The Committee was recommending the Council adopt a resolution to accept the Project as presented and issue final payment. Resolution No. 6 was introduced by Council Member Christianson, seconded by Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

RESOLUTION NO. 6

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT: Project No. 0713 – Existing WWTF Interim Modifications  
CONTRACTOR: Shank Constructors, Inc.  
DATE OF CONTRACT: April 17, 2007  
BEGIN WORK: May 7, 2007  
COMPLETE WORK: March 5, 2008  
APPROVE, CITY ENGINEER: March 5, 2008

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

1. The said City of Willmar Project No. 0713 be herewith approved and accepted by the City of Willmar.
2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:		\$148,100.00
Change Orders		\$0.00
FINAL NET CONTRACT AMOUNT, PROPOSED:	\$148,100.00	
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED:		\$148,100.00
Less Previous Payments		\$133,290.00
FINAL PAYMENT DUE CONTRACTOR:	\$14,810.00	

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No. 2 Craig Holmes of Donohue and Associates briefed the committee on various activities that took place in February, 2008, related to the WWTP Relocation Project. The trial for the pipe corridor acquisition has concluded. The phosphorus trade issue has been discussed with the City of Mankato and a summary will be presented to Committee in the near future. The Water Pollution Control Revolving Fund Loan application has also been prepared and submitted to the Minnesota Public Facilities Authority. In construction activity contract administration continues for Phase I and II of the interceptor projects. This matter was for information only.

Item No. 6 City Administrator Schmit informed the Committee that there will be a neighborhood informational meeting on April 8, 2008, for the Garfield School detention pond. This matter was for information only.

The Public Works/Safety Committee Report for March 11, 2008, was approved as presented upon motion by Council Member Christianson, seconded by Council Member Fagerlie, and carried.

City Clerk Halliday presented to the Mayor and Council for consideration a Civic Center Arena Special Event Permit. The Civic Center has rented space to the West Central Builders Association, a non-profit corporation, who will hold a three-day show in April. The WCBA plans to offer free alcohol to members after closing and a Special Event Permit is required. The Blue Heron on the Green has applied for the permit. Following discussion, Council Member Fagerlie offered a motion to approve the permit as presented with Council Member Christianson seconding the motion, which carried on a roll call vote of Ayes 6, Noes 0.

City Administrator Schmit presented to the Mayor and Council a final plat for Landmark Business Park, a commercial plat consisting of nine lots and 2 outlots being developed by Chad Monson. The Planning Commission has approved the final plat with the condition that reapportionment of assessments be completed or paid in full prior to final plat recording. Following discussion, Council Member Gardner moved to approve the final plat for Landmark Business Park with Council Member Dokken seconding the motion, which carried.

City Administrator Schmit presented to the Mayor and Council for consideration a Right-of-Way Plat for 5<sup>th</sup> Street Southeast. It was noted the Planning Commission has considered and approved of the plat. Following discussion, Council Member Christianson moved to approve the 5<sup>th</sup> Street Southeast Right-of-Way Plat as presented with Council Member Gardner seconding the motion, which carried.

City Administrator Schmit informed the Mayor and Council that the Willmar Municipal Utilities is requesting two partial easement releases of two blanket easements. Both easements are outside the City limits and are being requested to be released for land sales. Following discussion, Resolution No. 7 was introduced by Council Member DeBlicek, seconded by Council Member Gardner, read by Mayor Heitke, and approved on a roll call vote of Ayes 6, Noes 0.

#### RESOLUTION NO. 7

##### RESOLUTION SETTING A PUBLIC HEARING TO CONSIDER THE VACATION/RELEASE OF UTILITY EASEMENTS

BE IT RESOLVED by the City Council of the City of Willmar that the Council conduct a public hearing at 7:05 p.m. on Monday April 7, 2008, in the Council Chamber at the Municipal Utilities Commission Building, 700 West Litchfield Avenue, Willmar, Minnesota.

BE IT FURTHER RESOLVED that the purpose of the hearing will be to consider the vacation/release of blanket utility easements affecting the following described property:

RELEASE #1: The North 660 feet of the South 2,077 feet of the East 535 feet of the E ½ of the SE ¼ of Section 23, Township 118, Range 36.

RELEASE #2: The South 636 feet of the North 1,978 feet of the West 622.3 feet of the NW ¼ of Section 27, Township 119, Range 35.

BE IT FURTHER RESOLVED that any person having an interest in said matter is invited to appear in person or be represented by counsel to be heard on this matter.

Dated this 17<sup>th</sup> day of March, 2008.



/s/ Lester Heitke  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Announcements for Council Committee meeting dates were as follows: Finance, March 24; Community Development, March 27; and Public Works/Safety, April 1, 2008.

Following discussion, Council Member Gardner moved to conduct a Special City Council meeting on March 31, 2008, at 5:00 p.m. to discuss the 2008 Street Improvement Project. Council Member DeBlieck seconded the motion, which carried.

Fire Chief Calvin presented to the Mayor and Council the 2007 Fire Department annual report. Following a question and answer period, the report was ordered placed on file in the City Clerk's Office.

Council Member Gardner announced that it was his intent to offer at the March 31, 2008, Special City Council meeting, a motion to rescind the action of the Council directing Staff to convene the Board of Zoning Appeals for the purpose of considering the Southwest Minnesota Housing Partnership conditional use permit.

There being no further business to come before the Council, the meeting adjourned at 9:13 p.m. upon motion by Council Member Fagerlie, seconded by Council Member Swenson, and carried.

Attest:

\_\_\_\_\_  
MAYOR

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