

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

August 18, 2014  
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Frank Yanish. Members present on a roll call were Mayor Frank Yanish, Council Members Denis Anderson, Ron Christianson, Steve Ahmann, Audrey Nelsen, Tim Johnson, Rick Fagerlie, Jim Dokken and Bruce DeBlicek; Present 9, Absent 0.

Others present were City Administrator Charlene Stevens, Police Chief Jim Felt, Public Works Director Sean Christensen, City Clerk Kevin Halliday, Planning and Development Director Bruce Peterson, Fire Chief Gary Hendrickson and City Attorney Robert Scott.

There were no proposed additions or deletions to the agenda.

Council Member Anderson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of August 4, Willmar Municipal Utilities Minutes of August 11, Mayoral Appointment of David Baumgart to the CER Joint Powers Board, Application for Exempt Permit – Pennock Lions Club, Application for Exempt Permit – Church of St. Mary, Accounts Payable Report through August 13, and the Willmar Community and Activity Center Minutes of August 5, 2014. Council Member Johnson requested the Willmar Community and Activity Center Minutes be pulled from the Consent Agenda for discussion. Council Member Ahmann seconded the motion adopting the remainder of the Consent Agenda, which carried.

Council Member Johnson commented on the Willmar Community and Activity Center Minutes and read a motion passed to show their support that the City of Willmar continue their commitment to the WCAC facilities and programs. The Chair, Earl Knutson of 722 SW 2<sup>nd</sup> Street SW, requested to address the Council. Mayor Yanish permitted him to come forward and speak. Mr. Knutson expressed the WCAC Council's concern as to what is going to happen to the Community Activity Center after LeAnne Freeman's retirement. They feel it is good to have someone there that is somewhat of a visionary and looks at the resources they have to continue their programs. They hope the City Council will replace Ms. Freeman with someone as skilled who will continue what she started. After some further discussion on the process of hiring for the position and clarification on how the position will be structured, a motion was made by Council Member Anderson to file the Willmar Community and Activity Center Minutes of August 5, 2014 as presented, seconded by Council Member Dokken, which carried.

At 7:09 p.m. Mayor Yanish opened the hearing for the street vacation of a portion of Willmar Avenue SW. Planning and Development Services Director Bruce Peterson explained the proposed vacation of a portion of Willmar Avenue SW that lies west of BNSF tracks and terminates at the junction of State Highway 40. The reason for the vacation is two-fold, ultimately it is part of the real estate transfer to Jennie-O Turkey Store and secondly it is necessary in order to proceed with the opening of the new section of Willmar Avenue SW. Bob Enos of 905 Trott Avenue SW expressed his reasoning as to why the public's input cannot make any difference at this time. The decision was already made for this project. After all were heard to speak for or against the vacation, Mayor Yanish closed the hearing at 7:12 p.m.

Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

VACATING A PORTION OF A PUBLIC STREET ROW

WHEREAS, the vacation of the portion of dedicated street as described below was initiated by the City:

That portion of Willmar Avenue SW lying westerly of the BNSF Railroad line and southerly of the south section line of Section 16, Township 119, Range 35 (Willmar Ave. SW)

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 streets on August 18, 2014; and

WHEREAS, the City Council of Willmar finds that it is in the best interests of the City of Willmar to vacate that portion of said street;

NOW, THEREFORE, BE IT RESOLVED, that the above described portion of dedicated street 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 August 25, 2014.

Dated this 18<sup>th</sup> day of August, 2014.

/s/ Frank Yanish  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

At 7:13 p.m. Mayor Yanish opened the hearing for the Ordinance Amending Ordinance No. 1265 by Approving a New Fee Schedule. Planning and Development Services Director Bruce Peterson explained that pursuant to Council action, staff was directed to pursue the adoption of a new building permit and plumbing permit fee schedule. The ordinance was prepared using the fees recommended by staff, and as discussed by the Community Development and full Council in June. He reviewed the building permit/inspection activities and revenues versus costs. The City currently uses the 1994 UBC fee schedule.

Bob Enos, 905 Trott Avenue SW, addressed the Council stating that the single largest threat to economic recovery in the United States right now is the flat activity in construction of new homes. Chad Kompelien, 310 County Road 9, presented correspondence from the Builders' Associations, stating building permit fees are, by law, not allowed to be used for other purposes other than that for which they are collected. He urged the Council to review the revenue and expenditures relating to raising the permit fees. After all were heard to speak for or against the proposed fee increase, Mayor Yanish closed the hearing at 7:24 p.m.

The Council discussed the fees and the relationship of the revenues versus the costs. In 2013 the difference in costs of the revenues collected versus the fees expended was approximately \$1,100. If that trend continues, it was felt the City is covering its costs. Planning and Development Services Director Bruce Peterson addressed the reasons for the increase in the revenues in 2013 being mainly due to some large projects and there are some large commercial developments scheduled for 2014.

After a lengthy discussion by the Council, Council Member Fagerlie offered a motion to adopt, assign a number and order final publication of the Ordinance Amending Ordinance No. 1265 by Approving a New Fee Schedule. Council Member Anderson seconded the motion, which failed on a roll call vote of Ayes 0, Noes 8.

Mayor Yanish acknowledged the request of Doreen Magnuson, 712 SW 13<sup>th</sup> Street, to speak in the Open Forum. Ms. Magnuson stated she is discouraged with the Council and would like to see more unity. She advocated the need to have less back stabbing and pouting done by everybody.

The Community Development Committee Report for August 11, 2014 was presented to the Mayor and Council by Council Member Fagerlie. There were five items for consideration.

Item No. 1        There were no public comments.

Item No. 2        Kim Fedders, Regency East & West Mobile Homes Park Manager for the past three years, was present to discuss the operation and maintenance of the parks with the Committee. She noted there had been a number of improvements made to the parks and that they have evicted numerous bad tenants and removed many dilapidated homes. Other improvements include tree removal, landscape changes, and infrastructure improvements. Currently, the east park has 40 mobile homes and the west park has 80 homes. Most are occupied by families; many are long-term tenants. Ms. Fedders is unaware of any long range plans to make major changes to the parks. The owners have indicated an interest in purchasing some mobile homes to rent. Both parks have been listed for sale, but there is not an imminent buyer.

The Committee asked about storm shelters. There is a storm shelter at each park, however, due to vandalism they are usually kept locked. Approximately 10 tenants and the maintenance people have keys to the shelters. Ms. Fedders said that they have minimum contact with the County, who is the licensing authority for mobile home parks. She mentioned some tax issues that they had with the County relative to demolished homes. She said the number of police calls are down due to the demolition of vacant and abandoned homes. There is no electricity available to the homes so they are no longer attractive to squatters. She also said the City staff works well with management.

She went on to mention that the Police Department will not pick up stray dogs within the park, but they didn't know why. Staff was asked to find out why animal control was not being extended into the parks. Ms. Fedders also asked the City for help in demolishing a wood-sided mobile home and wondered if the Fire Department would be willing to do a burn. Ms. Fedders concluded her comments by saying that there is no playground equipment in either of the parks because the teenage tenants have destroyed it.

The Committee told Ms. Fedders that they recognize and appreciate the improvements made to the parks, but that expectations remain high for park maintenance and aesthetics. This was received by the Council for information only.

Item No. 3        Staff presented a draft copy of the final plat of Willmar Industrial Park Fourth Addition. This is the portion that is being platted west of County Road 5. Staff said they still anticipate bidding the dirt work and infrastructure services for 2014 construction. It all depends upon the wetland mitigation process. The wetland technical panel was not able to visit the site until the end of July, thereby delaying final approval on mitigation efforts for the wetlands in that Industrial Park. The Committee discussed stormwater drainage within the expanded Industrial Park as well as access. Staff pointed out that all the lots would be accessible from interior roads and that no driveways will be allowed from CSAH 5 or Highway 40. This was received for information only.

Item No. 4        Under Old Business Staff informed the Committee that they were addressing some concerns by Council Member Ahmann and would be returning to the Committee with some defined procedures for the Business Subsidy Process. It was noted that some of the information being requested may

be considered private and that the Council may not be legally entitled to review it. This was received for information only.

Item No. 5 There was no new business to come before the Committee.

The Community Development Committee Report for August 11, 2014, 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 DeBlieck, and carried.

The Cable Advisory Committee Report for August 13, 2014 was presented to the Mayor and Council by Council Member Christianson. There were three items for consideration.

Item No. 1 Information Systems Coordinator Ross Smeby gave all members the opportunity to ask questions on the services and overview of the Willmar Regional Access Channels. Cable Coordinator Rudy Vigil summarized the function of the WRAC Studio, how funding is received and who the services are provided for. Linda Mathiasen asked a question if school board meetings are retained and how they are accessible. Mr. Vigil informed them that the official policy is to retain footage for a period of one year and the meetings are accessible via ustream.com. Mr. Vigil also stated that he would provide her with the website link to access the live feed on the school board meetings. The question was asked by Ms. Mathiasen who is able to view the WRAC Channels. She was advised that only cable subscribers in the county have access to the channels, but that the shows are also available online. This item was received for information only.

Item No. 2 Information Systems Coordinator Ross Smeby then presented the proposed PEG Agreement with Charter Cable. This agreement, which was proposed by Charter, would allow them to move the local channels from 8, 18, and 19 to the 180 range. Cable Coordinator Rudy Vigil explained to the committee that the City had retained the services of Moss and Barnett Law Firm for assistance in drafting the new agreement with Charter Cable. As part of the agreement, the technical standards for the channels would have to be kept at or above their current service level and the City would receive payment in kind of \$3,000 worth of air time to advertise the new channel locations and up to \$2,000 for new signage on the front of the WRAC building.

The Committee was recommending to the Council to approve the PEG agreement with Charter. Resolution No. 2 was introduced by Council Member Christianson, seconded by Council Member Anderson, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 2

#### A RESOLUTION GRANTING CHARTER COMMUNICATIONS A WAIVER FROM ITS CABLE FRANCHISE REQUIREMENT AND ALLOWING CHARTER TO RELOCATE LOCAL COMMUNITY PROGRAMMING TO HIGHER CHANNEL NUMBER LOCATIONS

WHEREAS, CC VIII OPERATING, LLC, 1/k/a Charter Communications ("Charter") operates a Cable System to provide Cable Service within City of Willmar, Minnesota ("City") pursuant to a Franchise Agreement with the City ("Franchise");

WHEREAS, Exhibit B, paragraph 1 of the Franchise sets forth specific public, educational and government ("PEG") access channel location requirements;

WHEREAS, Exhibit B, paragraph 4 of the Franchise provides that Charter shall not relocate any PEG access channel to a different channel number unless agreed to in writing by the City;

WHEREAS, Charter has requested the City's consent to relocate all present PEG access channels on or about September 1, 2014 from the current channel locations, Channels 8, 18 and 19, to new channel neighborhood in the 180 series of channels together with PEG channels of other cities in the region; and

WHEREAS, the PEG channel relocation will result in Charter providing only the channel locations as outlined in Attachment A hereto to an all-digital platform ("Relocation").

NOW, THEREFORE, in consideration of the promises set forth in this Agreement, City resolves as follows:

1. The City consents to the one-time relocation of the current PEG access channels as outlined in Attachment A, effective September 1, 2014. Charter agrees not to further relocate the PEG access channels as outlined in Attachment A without City approval.
2. The PEG access channels shall continue to be located on the basic service tier.
3. Charter will notify its subscribers of the PEG access channel relocation via direct mail and shall provide further notice of the new PEG access channel locations as set forth in subparagraphs 3 A-D below.

A. Charter shall list the PEG access channel locations in its on-air program guide. The parties acknowledge that Grantee contracts with a third party or parties to provide on-screen and on-line program listings. Grantee shall provide the City with information about the service provider(s) so that detailed program information for each PEG Channel can be included in the on-screen and online listings. It shall be the responsibility of the City, or its designee, to provide such detailed program information to the third-party entity or entities that produce such listings for Grantee in accordance with each such entity's normal format and scheduling requirements and at the City's cost.

B. In addition to the obligations set forth in the Franchise at Exhibit B, paragraph 5, Charter shall provide in-kind air time during the 12 months following enactment of this Resolution on advertiser supported channels (e.g. USA, TNT, TBS, Discovery Channel, etc.), on a run-of-schedule basis assessed at commercially reasonable rates Charter charges to commercial advertisers in the region, for the purpose of airing a City-produced announcement, not to exceed thirty (30) seconds in length, explaining the PEG access channel(s) relocation. The aggregate value of the in-kind air time shall not exceed Three Thousand and No/100 Dollars (\$3,000). The City may request assistance from Charter to produce the announcement and Charter shall then be entitled to offset the cost of production of the announcement from the above \$3,000 air time set aside. Upon request, Charter will provide the City documented verification of the advertising carried to demonstrate compliance with this obligation. In addition, Charter shall reimburse the City up to Two Thousand and No/100 Dollars (\$2,000) for the City's documented out-of-pocket costs related to replacement of the signage on the front of the City's studio facility so long as the new signage does not include channel numbers. Such reimbursement shall be provided by Charter directly to the City with 30 days of the City providing copies of receipts to Charter.

C. For approximately sixty (60) days after the Relocation, Charter shall provide a bill message to all subscribers in the City that specifically notes the PEG access channel relocations.

D. Charter shall, for a minimum of sixty (60) days following adoption of this Resolution, provide a scroll on the Weather Channel on its Cable System within the City notifying viewers of the PEG channel relocation.

4. Charter agrees that on or after January 1, 2017, the City may provide a written request that one (1) PEG access channel be converted to a high definition ("HD") channel. Charter shall have ninety (90) days from the date of receipt of the City's request to implement the HD PEG channel. The City shall only be responsible for the production costs associated with the provision of an HD channel, any and all costs associated with any modification of the PEG access channels or signals, including signal transport, after the PEG access channels/signals leave the City's designated playback facility shall be borne entirely by Charter. A subscriber to the Basic Cable Service Tier only who has a Charter HD capable set-top box will

be able to receive the HD PEG channel on that outlet without any additional cost. Upon request from a subscriber who does not have an HD capable set-top box, Charter will replace the subscriber's SD set-top box(es) with HD capable set-top box(es) at the same monthly set-top box charge to the subscriber so the subscriber can view the City's PEG HD channel.

5. Charter will provide the PEG access channels to subscribers in the City in both SD and HD formats as set forth herein using compression rates and functionality equivalent to that employed by Charter to deliver the primary signals of local television broadcast stations on its cable system. The placement of PEG access channels on the system shall not make these PEG channels more vulnerable to interference or ingress than the primary signals of local broadcast stations. Nothing herein shall require Charter to provide dual carriage of any PEG Channels.

6. The obligations set forth in this Resolution shall continue beyond the expiration of the Franchise and shall be incorporated into any renewal Franchise unless otherwise mutually agreed to by the parties in the renewal Franchise.

Dated this 18<sup>th</sup> day of August, 2014.

/s/ Frank Yanish  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Ross Smeby and Rudy Vigil were present at the City Council meeting to answer questions pertaining to the channel numbers being changed for City Council members.

Item No. 3 Information Systems Coordinator Ross Smeby explained to the committee the scope of current building projects, repairs and improvements that are currently needed for the WRAC building. Based on the quotes received, the current cost for repairs was estimated to be \$25,000 dollars. It was the Committee's recommendation to the Council to transfer \$25,000 from the WRAC reserve fund for improvements.

Resolution No. 3 was introduced by Council Member Christianson, seconded by Council Member Anderson, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

BE IT RESOLVED by the City Council of the City of Willmar to authorize the Finance Director to transfer \$25,000 from the WRAC Reserve Fund in the following amounts to the accounts as listed:

101.41409.0224	\$4,000
101.41409.0225	\$5,825
101.41409.0334	\$3,400
101.41409.0335	\$8,875
101.41409.0338	\$1,400
101.41409.0446	\$1,500

Dated this 18<sup>th</sup> day of August, 2014.

/s/ Frank Yanish  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Future meetings dates for the committee were discussed and the committee will meet on an as needed basis.

The Cable Advisory Committee Report for August 13, 2014, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Christianson, seconded by Council Member Anderson, and carried.

The Finance Committee Report for August 14, 2014 was presented to the Mayor and Council by Council Member Anderson. There were nine items for consideration.

Item No. 1        There were no comments from the public.

Item No. 2        Mayor Frank Yanish presented his proposed 2014 Budget totaling \$33,272,396. Of the total budget, \$15,530,066 is for General Operating; \$2,080,306 is for Capital Improvements; \$1,788,913 is for Special Revenue/Internal Services; \$2,581,227 is for Debt Service; and \$11,291,884 is for the Wastewater Treatment Plant. It was noted that the General Operating portion of the budget includes \$1,823,386 in transfers for Capital Improvements. The proposed tax levy of \$4,201,028 is \$61,294 more than last year due to new construction valuations with \$4,054,028 for General Operating and \$147,000 for the Street Program. An overview of the estimated revenues and expenditures was presented. Revenues include an anticipated minimal increase in Local Government Aid. Changes in budgeted expenditures include: 1) Elimination of the Human Resources position that was unfilled in 2014; 2) Smaller transfer to the Capital Reserve; and 3) Reduction in capital purchases and projects.

Chair Anderson noted that the City will be using the last of the Local Option Sales Tax funds in 2015. He also restated that the tax levy is the same as last year but valuations have caused it to increase approximately \$61,294. Vice-Chair Johnson raised concerns about funding that will be needed for future capital improvements and asked that research be done to find potential revenue sources to be allocated for the projected capital needs over the next 5 – 10 years. Council Member Ahmann suggested an assessment for everyone in the City for street maintenance and repair. It was noted that the City is required to assess at least 20 percent of the properties in each street improvement project. Council Member Deblieck expressed concerns about maintaining the City Parks. Council Member Christianson asked about specific items listed on the Capital Improvements Plan. Potential funding sources for projected capital improvements needed over the next several years will be researched for future meetings.

Chair Anderson noted that there will be future Council Work Sessions to discuss the Capital Improvement Plan (copy on file at City Offices), Pavement Management, Community Partners, Willmar Municipal Utilities, Hospital and HRA, and other items as requested by the Council. The Finance Committee will continue to review and discuss the proposed 2015 budget over the next several meetings prior to the public hearing to be held in December, 2014. This matter was for information only.

Item No.3        Staff explained that the air conditioning unit that cools the basement of City Hall needs to be replaced. Noting the unit is 20 years old, staff reported that the coils in the condenser have burned out, the compressor has quit working and the Freon needs to be replaced to be within current regulations. There are unused funds totaling \$5,585 in the 2014 Engineering Other Services Budget which could be allocated to cover the additional cost of replacing this air conditioner.

The Committee was recommending the Council reallocate \$5,585 from the 2014 Engineering Other Services Budget to City Hall Capital Outlay to cover the additional cost for replacement of the air conditioning unit.

Resolution No. 4 was introduced by Council Member Anderson, seconded by Council Member Nelsen, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 4

BE IT RESOLVED by the City Council of the City of Willmar to authorize the Finance Director to reallocate \$5,585 from the 2014 Engineering Other Services Budget to the 2014 City Hall Capital Outlay Budget as follows:

Increase:	City Hall Capital Outlay Expenditures	\$ 5,585
Decrease:	Engineering Other Services Expenditures	\$ 5,585

Dated this 18<sup>th</sup> day of August, 2014.

/s/ Frank Yanish  
MAYOR

/s/ Kevin Halliday  
Attest: CITY CLERK

Item No.4 It was noted that the following items will be scheduled for future Finance Committee meetings: Liquor License Violations, City Auditorium Funding, Multi-Family Waste Treatment Schedule and Definitions, and 2013 Departmental Overages. This matter was for information only.

Item No. 5 There was no old business.

Item No. 6 There was no new business.

The Finance Committee Report for August 14 2014, 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.

City Clerk Kevin Halliday presented for the Council's consideration information concerning the removal/trimming of a hedge at 1202 SW 7 ½ Street found to be in noncompliance of the Municipal Code Chapter 9, Article I. In the case of nonpayment of the charge against the property, the costs can be certified as a special assessment against the property. Council Member Anderson moved to schedule a hearing for 7:02 p.m. on September 2, 2014, with Council Member Christianson seconding the motion, which carried.

City Clerk Kevin Halliday then presented for consideration of a hearing, the list of properties with nonpayment of weed/grass mowing charges. Pursuant to Municipal Code, Chapter 9, Article III the property owner was given notice and failed to comply. The City abated the nuisance and the charges against the subject properties can be certified as a special assessment against the properties concerned. Council Member Anderson moved to schedule a hearing for 7:03 p.m. on September 2, 2014, with Council Member Christianson seconding the motion, which carried.

Also for consideration of a hearing was the collection of unpaid charges for an infectious tree removal. Pursuant to Municipal Code, Chapter 9, Article IV, the City abated the nuisance and the charges against the subject properties can be certified as a special assessment against the properties concerned. Council Member Anderson moved to schedule a hearing for 7:04 p.m. on September 2, 2014, with Council Member Christianson seconding the motion, which carried.

City Administrator Charlene Stevens explained to the Council that the City has had an agreement with Kandiyohi County and the Eagle Lake Sanitary Sewer District since 1990. The agreement is set to expire on August 25, 2016. As per the agreement, the City must give at least two years notice to the County and Eagle Lake Sanitary Sewer District if the City intends to renegotiate the agreement. Staff's recommendation is to give the notice as required, but the City fully intends to work with both entities to renegotiate. A motion



was made by Council Member Anderson to formally present Kandiyohi County and the Eagle Lake Sanitary Sewer District with the notice of termination. Council Member Christianson seconded the motion, which carried.

Due to the Labor Day holiday, Council Member Fagerlie moved to reschedule the first Council meeting of the month of September from September 1 to September 2, 2014. Council Member DeBlieck seconded the motion, which carried.

There was no New Business to come before the Council.

There was no Old Business to come before the Council.

Announcements for Council Committee meeting dates were as follows: Finance, August 25 and Public Works/Safety, August 26, 2014. Council Member DeBlieck reminded everyone that the Vision 2040 Things to Do Committee will be showing the Lego movie at Robbins Island on Friday August 27<sup>th</sup> at dusk, with the WEAC building serving as backup in the case of inclement weather.

There being no further business to come before the Council, the meeting adjourned at 8:44 p.m. upon motion by Council Member Anderson, seconded by Council Member Christianson, and carried.

Attest:

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MAYOR

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SECRETARY TO THE COUNCIL