

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

November 21, 2001
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Lester Heitke. Members present on a roll call were Mayor Heitke, Council Members Doug Reese, Ron Christianson, Bruce DeBlieck, Denis Anderson, Nancy Houlahan, Rick Fagerlie, Jim Dokken, and David Chapin; Present 9, Absent 0.

Also present were City Administrator Michael Schmit, City Attorney Richard Ronning, Police Chief Jim Kulset, Fire Chief Marv Calvin, Finance Director Steven Okins, Planning and Development Services Director Bruce Peterson, and City Clerk Kevin Halliday.

Proposed additions to the agenda included consideration of appointment/reappointments to Council Committees.

The Municipal Utilities Commission Minutes of November 13, 2001, were removed from the Consent Agenda.

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of November 7, Rice Hospital Board Minutes of November 14, Building Inspection Report for October, Pioneerland Library Board Minutes September 20, Kandiyohi Area Transit Board Minutes of October 9, Housing and Redevelopment Authority Board Minutes of October 9, Airport Commission Minutes November 5, Civic Center Task Force Minutes November 13, and Planning Commission Minutes of November 14, 2001. Council Member Fagerlie seconded the motion, which carried.

Council Member Christianson voiced appreciation for the Utilities Commission contribution to the YMCA. Council Member Christianson further expressed concern with the recommended salary of General Manager Nitchals and stated he was in disagreement with the amount. The Municipal Utilities Commission Minutes of November 13, 2001, were 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.

Mayor Heitke recognized a City employee retiring after 26 years of public service. The Mayor acknowledged Mary Davis, Administrative Assistant at the Police Department, thanking her and extending congratulations.

Mayor Heitke recognized Boy Scouts Tony Haffner and Tim Asmus with Troop #227.

At 7:11 p.m. Mayor Heitke opened a hearing on the issuance of Revenue Notes by the City of Brainerd to finance property for the Benefit of Lutheran Social Services. City Administrator Schmit informed the Mayor and Council that LSS is proposing to obtain tax exempt financing in the form of bonds issued by the City of Brainerd to purchase/refinance real property and motor vehicles in various municipalities throughout the State. Scandia Assisted Living Project located at 2323 Gorton Avenue is proposed to be refinanced with proceeds from the Notes. It was noted this would have no effect on the City's debt capacity. There being no one present to speak for or against the

proposed Revenue Notes, Mayor Heitke closed the hearing at 7:15 p.m.

Resolution No. 1 was introduced by Council Member Christianson, seconded by Council Member Chapin, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

APPROVING AND AUTHORIZING THE ISSUANCE OF REVENUE NOTES BY THE CITY OF BRAINERD, MINNESOTA UNDER MINNESOTA STATUTES, SECTIONS 469.152 THROUGH 469.165, AS AMENDED, TO FINANCE PROPERTY FOR THE BENEFIT OF LUTHERAN SOCIAL SERVICE OF MINNESOTA

WHEREAS, under the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152-469.165, as amended (the "Act"), each municipality and redevelopment agency of the State of Minnesota (as defined in the Act), including the City of Brainerd, Minnesota (the "City of Brainerd"), is authorized to issue revenue obligations to finance capital equipment and improvements to land and buildings for the benefit of a revenue producing enterprise to be owned by a contracting party (as defined in the Act); and

WHEREAS, under Section 469.155, subdivision 9, of the Act, the City of Brainerd is authorized to enter into and perform contracts and agreements with other municipalities as the governing bodies of the city and as the other municipalities may deem proper and feasible for or concerning the financing of a project under the Act, including an agreement whereby one municipality issues its revenue obligations in behalf of one or more other municipalities; and

WHEREAS, the City of Brainerd, has proposed to issue one or more revenue notes (the "Notes") and loan the proceeds derived from the sale of the Notes to Lutheran Social Service of Minnesota, a nonprofit organization (the "Borrower"), to finance the acquisition of motor vehicles and the acquisition and construction of improvements to existing buildings (the "Project"), to be located at the existing facilities of the Borrower in numerous municipalities in the State of Minnesota; and

WHEREAS, a portion of the Project will be located in the City of Willmar (the "City") and at the existing facilities of the Borrower throughout the State of Minnesota;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The portion of the Project to be located in the City (as described in the Notice of Public Hearing published prior to the date of consideration of this resolution) is hereby approved by the City and the issuance of the Notes by the City of Brainerd for such purpose (in the amount described in the Notice of Public Hearing) and in an aggregate principal not to exceed \$3,700,000 is hereby approved.

2. The Notes will be issued by the City of Brainerd to finance the Project and the Notes shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City, the City of Brainerd, or any other city; and the Notes, when, as, and if issued, shall recite in substance that the Notes, including the interest thereon, are payable solely from the revenues received from the Project and the property pledged to the payment thereof; and the Notes shall not constitute a general obligation of the City, the City of Brainerd, or any other city and shall not be secured by any taxing power of the City, the City of Brainerd, or any other city.

3. The Borrower shall pay any and all costs incurred by the City in connection with the portion of the Project located in the City, whether or not the Project is approved, the Notes are issued, or the Project is carried to completion.

Dated this 21st day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

At 7:17 p.m. Mayor Heitke opened a hearing on an Ordinance Granting a Franchise to CC VIII Operating, LLC, D/B/A Charter Communications to Construct, Operate and Maintain a Cable Commissions System in the City of Willmar. Brian Grogan of Moss and Barnett presented a summary of cable franchising laws and the negotiation process that took place since the City received a request from Charter Communications to renew its expiring 15-year franchise. Mr. Grogan reviewed the cable franchise criteria in the proposed Ordinance, customer service issues, cable standards, and penalties that can be used to correct deficiencies. Jon Melander with Charter Communications expressed appreciation to the Mayor and Council for their efforts in the development of a new cable franchise agreement. Upon hearing all those who wished to be heard, Mayor Heitke closed the hearing at 7:25 p.m.

Council Member Christianson offered a motion to adopt, assign a number and order final publication on an Ordinance Granting a Franchise to CC VIII Operating, LLC, D/B/A Charter Communications, to Construct, Operate and Maintain a Cable Communications System in the City of Willmar, Minnesota, Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulations and Use of the System and the Public Rights-of-Way in Conjunction with City's Right-of-Way Ordinance, Chapter 1; and Prescribing Penalties for the Violations of the Provisions Herein. Council Member Reese seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

At 7:25 p.m. Mayor Heitke opened a hearing on an Ordinance Granting a Franchise to En-Tel Communications, LLC, to Construct, Operate and Maintain a Cable Commissions System in the City of Willmar. Gene South, President of En-Tel, expressed appreciation for the opportunity to address the Mayor and Council and informed them of En-Tel's new headquarters on East Highway 12. Mr. South voiced concerns of a strained relationship during franchise negotiations due to the cost of PEG channel criteria in the franchise for a start-up company, but voiced a strong desire to continue in a professional relationship to make the citizens of Willmar the true winner. Mr. South asked the Council to embrace competition, as En-Tel Communications will be a vital part of the City. Mr. South stated En-Tel considers Willmar a "rose" and was recommending that the Council approve the Ordinance. Upon hearing all those who wished to be heard, Mayor Heitke closed the hearing at 7:35 p.m.

The Council discussed the PEG access fee and acknowledged that the \$30,000 corporate contribution dropped during negotiations would require implementation of the fee to purchase equipment for live cable casting.

Council Member DeBlieck offered a motion to adopt, assign a number and order final publication on an Ordinance Granting a Franchise to En-Tel Communications, LLC, to Construct, Operate and Maintain a Cable Communications System in the City of Willmar, Minnesota, Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulations and Use of

the System and the Public Rights-of-Way in Conjunction with City's Right-of-Way Ordinance, Chapter 1; and Prescribing Penalties for the Violations of the Provisions Herein. Council Member Anderson seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

During the scheduled Open Forum Mayor Heitke read a letter from Morgan Grant and Cynthia Sapp regarding handicapped parking at the Willmar Public Library. Madlyn Taylor addressed the Mayor and Council about handicapped parking and general parking issues at the Library and also suggested a drop-box. This matter was referred to Committee for further study.

The Finance Committee Report of November 15, 2001, were presented to the Mayor and Council by Council Member Anderson. There were five items for Council consideration.

Item No. 1 K.A.T. Director John Groothuis presented and explained a request to have the City participate in the funding of a replacement transit bus. The total funding would be split 80 percent (\$48,000) from the State of Minnesota and 20 percent (\$12,000) from the local joint powers board. This would mean that Kandiyohi County would be responsible for \$6,000 and the City of Willmar for the remaining \$6,000. Mr. Groothuis advised the Committee that Commissioner Peterson has indicated the County's willing to participate and was asking the City to fund the remaining \$6,000.

The Committee explained to Mr. Groothuis that this would be discussed at the Budget meeting of November 26, 2001, and staff would let him know after the meeting if the request was included in the 2002 recommended Budget. This matter was for information only.

Item No. 2 Pioneerland Library Board Member Eric Wieberg came before the Committee to express his concerns regarding future funding for capital and technological needs for the Willmar Library and Pioneerland Library System. Mr. Wieberg indicated that the System is in the process of changing its software programs that track book collections and that the amount and age of the present computers are inadequate to meet the future needs of the system.

The Committee explained that this is not proposed to take place until the year 2005, but was being explained now because of the potential funding source of the excess sales tax collections. This matter was referred to the Five-year Capital Improvement Program and received for information only.

Item No. 3 The Committee considered a request for the use of excess City auction proceeds to fund the expansion of the present City impound lot. Since this item was revenue neutral, the Committee was recommending to the Council to introduce a resolution to amend the Public Works Budget to fund the expansion of the present City impound lot. Resolution No. 2 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

BE IT RESOLVED by the City Council of the City of Willmar to authorize the Finance Director to make the following changes within the Public Works Department within the General Fund:

Increase: Sale of Material	\$14,100.00
Increase: Transfer Out Capitol Improvement – Impound Lot	\$14,100.00

Dated this 21st day of November, 2001.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday

Attest: CITY CLERK

Item No. 4 The Committee reviewed a license renewal request from Bennett Ventures Inc. d.b.a. ACE Cash Express. Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit any application for licensure as a currency exchange to the governing body of the municipality in which the currency exchange conducts business. The law further requires the governing body of the municipality to render a decision regarding the renewal of the license within 60 days.

Since no known problems have been experienced, the Committee was recommending to the Council approval of the renewal as requested. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Houlahan seconding the motion, which carried.

Item No. 5 The Committee reviewed sections of the Mayor's 2002 proposed budget. The major sections reviewed and discussed were Fund Balance amounts and time requirements of the City Component Units and Joint Power Agreements. The Committee was reminded that November 26, 2001, is scheduled for the meeting to compile a final recommended Budget. This matter was for information only.

The Finance Committee Report of November 15, 2001, 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 DeBlieck, and carried.

The Mayor and Council considered a request from the Municipal Utilities Commission to certify unpaid utility charges as a lien on real property. Following discussion, Resolution No. 3 was introduced by Council Member DeBlieck, seconded by Council Member Houlahan, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

WHEREAS, Section 16-127 of the Willmar City Code states that such unpaid utility bills represent a lien of the real property receiving utility services; and

WHEREAS, the Willmar Municipal Utilities Commission has offered the owner his right to request an appearance before the Commission to make objections to payment; and

WHEREAS, the Willmar Municipal Utilities Commission has adopted Resolution No. 58 on November 13, 2001, requesting the Willmar City Clerk-Treasurer to certify the unpaid utility charges as a lien on the real property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that the amount of the unpaid utility charges totaling \$2,546.85 be certified to the County Auditor to be extended on the tax rolls of such real property in the same manner as other taxes for collecting in 2002 and collected by the County Treasurer, and paid to the City Clerk-Treasurer along with other taxes; and

BE IT FURTHER RESOLVED that the unpaid utility charges be certified against the real property as follows:

1. Parcel No. 95-820-0410 \$173.01
 Located at 629 7th Street N
 Described as Section 10, Township 119, Range 35, Block 003
 Thorpe & Lien's Addition to Willmar; E 85' of N'LY 113' of Lot 1
2. Parcel No. 95-834-0010 \$92.59
 Located at 308 8th Street NW
 Described as Section 15, Township 119, Range 35, Lot 001, Block 001
 Victorian Estates Townhouses
3. Parcel No. 95-222-1240 \$410.97
 Located at 607 Charlotte Street SE
 Described as Lot 004, Block 007
 Ferrings 2nd Addition
4. Parcel No. 95-222-0010 \$681.76
 Located at 501 Charlotte Street SE
 Described as Lot 001, Block 002
 Ferrings 2nd Addition
5. Parcel No. 95-843-0730 \$207.48
 Located at 708 17th Street SE
 Described as Section 13, Township 119, Range 35, Lot 003, Block 007
 Welshire Addition
6. Parcel No. 95-715-1110 \$393.90
 Located at 2205 23rd Street SW
 Described as Section 21, Township 119, Range 35, Lot 001, Block 003
 Southgate Second Addition
7. Parcel No. 95-780-1080 \$355.02
 Located at 1416 SW 7th Street
 Described as Bock 005, Lots 8 & 9
 Sunnyside
8. Parcel No. 95-212-0040 \$232.12
 Located at 2661 NE Fairway Dr.
 Described as Section 02, Township 119, Range 35, Lot 004, Block 001
 Fairway Park Estates

Dated this 21st day of November, 2001.

/s/ Lester Heitke
 MAYOR

/s/ Kevin Halliday
 Attest: CITY CLERK

Planning and Development Services Director Peterson presented to the Mayor and Council a final plat for Schmitt Addition, a one-lot subdivision that is the site of Culver's Restaurant. It was noted the Planning Commission has approved the plat. Council Member Christianson moved to

approve the final plat for Schmitt Addition with Council Member Houlahan seconding the motion, which carried.

Planning and Development Services Director Peterson presented to the Mayor and Council a final plat for Eagles Landing Phase II Garden Homes, a four-lot plat intended for single-family housing. It was noted the Planning Commission has approved the plat. Council Member Anderson moved to approve the final plat for Eagles Landing Phase II Garden Homes with Council Member DeBlieck seconding the motion, which carried.

Mayor Heitke presented the following reappointments for Council consideration: Municipal Utilities Commission, Alice Weiberg; Pioneerland Library Board, Mary Heusing; Rice Hospital Board, Mary Jo Schmidt; and Zoning Appeals Board, Richard Emery. Council Member Reese moved to approve reappointments as presented with Council Member Dokken seconding the motion, which carried.

Mayor Heitke presented for Council consideration the appointment of Verna Kelly to the Rice Hospital Board. Council Member Reese moved to approve the appointment with Council Member DeBlieck seconding the motion, which carried.

Announcements for Council Committee meeting dates were as follows: Finance, November 26; and Community Development, November 29, 2001.

There being no further business to come before the Council, the meeting adjourned at 8:22 p.m. upon motion by Council Member Christianson, seconded by Council Member DeBlieck, and carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL