

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

September 21, 2015
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 Ron Christianson, Andrew Plowman, Rick Fagerlie, Steve Ahmann, Denis Anderson, Audrey Nelsen, and Tim Johnson; Present 8, Absent 0.

Also present were Interim City Administrator Kevin Halliday, Planning and Development Director Bruce Peterson, Finance Director Steve Okins, Community Education and Recreation Director Steve Brisendine, Fire Chief Frank Hanson, Police Chief Jim Felt, Police Captain Michael Anderson, and City Attorney Robert Scott.

There were no proposed additions or deletions to the agenda.

Council Member Anderson offered a motion to adopt the Consent Agenda which included the following items: City Council Minutes of August 17, City Council Minutes of September 8, Finance Minutes of September 14, Labor Relations Minutes of September 16, Rice Hospital Board Minutes of September 2, Municipal Utilities Commission Minutes of September 14, Planning Commission Minutes of September and 15, Accounts Payable Report through September 17, 2015, and the Willmar Lakes Area CVB Reports.. Council Member Nelsen requested the Labor Relations Minutes of September 16 be corrected to reflect who was in attendance. It was noted that Council Members Johnson and Fagerlie were not in attendance. Council Member Christianson seconded the motion to approve the Consent Agenda as corrected, which carried.

At 7:01 p.m. Mayor Calvin opened the Hearing to consider an amendment to the Zoning Ordinance No. 1060 to rezone from R-4 (Medium Density Multiple Family Residential) to R-3 (Low Density Multiple Family Residential). Planning and Development Director Bruce Peterson explained the proposal was approved by the Planning Commission and proposed by Koosman Construction to develop single-family residential rental units on their property located off of 25th Street SE, 3rd Avenue SE, 2nd Avenue SE and Terraplane Drive SE, which is zoned R-4. Single-family homes are not permitted in the R-4 District. There is currently a mix of multi-family twin homes and four-plexes in the area, as well as commercial to the north and east. R-3 permits single family up to four-plexes. There being no one present to speak against the amendment to the Zoning Ordinance to rezone the property, Mayor Calvin closed the hearing at 7:02 p.m.

Council Member Christianson offered a motion to adopt, assign a number and order final publication of the Ordinance Amending the Zoning Ordinance to Rezone the property in Terraplane Estates. Council Member Anderson seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

Council Member Nelsen raised the question of the requirement by the Planning Commission to have stormwater detention plans submitted by the developer to the Engineering Department for approval. Planning and Development Director Bruce Peterson stated the final engineering plans will be completed and approved before any building permits are issued or the final plat has been signed.

Mayor Calvin introduced Dan Weir, Health Insurance Consultant for the SW/WC Service Cooperative that administrates the City, County, and Other Governmental Agency Health Insurance Pool. Currently the pool consists of about 50 counties, 150+ cities and 75+ other governmental agencies making them the largest single purchasing entity. Mr. Weir came before the Council to explain the basics of the pooling concept, provide details of the 2016 Health Insurance Renewal and explain new cost containment programs offered by the Cooperative. Mr. Weir gave a presentation on the self-funded arrangement which reduces the health

insurance rates. Each member of the cooperative's rates is based on its own use, although high-cost cases are put in a pool to help assume costs. Each pool member decides which plans they want to offer their employees. Mr. Weir noted that prescription drugs are becoming one of the highest cost factors and by the year 2023, prescription drugs may end up costing more than what is paid to doctors. The reason for that is a real rise in specialty drugs. He presented cost trends of the past five years and the Blue Cross trend over each year averaged 7.22%, the City's calculated increase needed was 7.06%, and the pool brought this down to 2.42% as a stakeholder member.

Mr. Weir then touched on a new initiative called "Clear Cost Health" whereby a new system gives real-time data of claims that are being paid on a secure website and shows within the Blue Cross network what those costs would be with other providers. This service is free to the employee. Mayor Calvin thanked Mr. Weir for providing information for a better understanding of the health insurance system.

Mayor Calvin recognized Loren Schultz, 901 Irene Avenue SE, who requested to address the Council during the Open Forum. Mr. Schultz spoke of a storm water plan he gave to the Army Corp of Engineers years ago and the capacity of the ditch system. He spoke of recent changes stating 50 feet setback of grass is not enough.

Sue Quist, 1451 Hansen Drive SW, addressed the Council stating the statement made during the Open Forum at a previous meeting that Council Member Christianson referred to his constituents as a special interest group was a false statement. She stated Council Member's intent was that he didn't trust the people that were the same members of the Moving Willmar Forward, Campaign for Calvin and Recall Ron and they lacked wisdom which was evidenced by their poor-decision making. She spoke of inappropriate solicitation of signatures for the petition to recall Ron Christianson.

The Community Development Committee Report for September 17, 2015 was presented to the Mayor and Council by Council Member Fagerlie. There were five items for consideration.

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

Item No. 2 Staff provided an update on the removal process for the home at 944 Olaf Avenue Northwest. The owners have not complied with the extension for removal as previously offered by staff and the Council. A formal order is the next step in the process to eliminate the hazardous building. A formal order has been drafted by City Attorney Robert Scott. The order provides for a 20 day period for the owners to make the necessary repairs to the house or to remove it. The order includes the direction for the City Attorney to proceed with this matter according to law.

The Committee was recommending the Council approve the Order for Removal and serve such order to the property owners. Council Member Fagerlie moved the recommendation of the Committee. Council Member Nelsen seconded the motion, which carried.

Item No. 3 Staff offered a status report on the efforts to remove the hazardous building at 810 Campbell Avenue Northwest. Following contact by the City Attorney, the property owner did apply for a demolition permit. It is expected that the structure will be removed in the fall of 2015. Staff will monitor the demolition permit for compliance. This was reviewed by the Council for information only.

Item No. 4 The Committee discussed progress on the Industrial Park expansion. It was noted that the project started out very well in the spring and most of the infrastructure work was completed on schedule. The contractor recently contacted the City regarding a concern about soil moisture within the road right-of-way. Their recommendation was to increase the amount of granular material, thereby, raising project costs. City engineering staff countered by saying that the soils were suitable if the contractor would work them and allow them to dry. The contractor is currently on site working on the streets. To accommodate the contractor on the soil issue, staff has tentatively agreed to a deadline extension to June 2016. This was received by the Council for information only.

Item No. 5. Staff reported on the status of the project design and financing. A recent trip to Washington DC by staff as part of a local contingent was also discussed. The local group met with the staff of Representative Peterson and Senator Klobuchar, and were able to meet with Senator Franken. The group included Bruce Peterson, Director of Planning and Development Services for the City, Mel Odens, County Public Works Director, and James Butterfield, Chair of the County Board. Other members of the group representing BNSF Railroad were French Thompson, Paul Cristina, and Gael Sullivan.

The message provided by the group to the elected officials in Washington was that the wye project served a number of purposes. It was an opportunity to diversify the local economy as the wye will afford the ability to extend a spur to the new Industrial Park. The project would reduce a major operational constraint for the railroad that will have local, regional, and national benefits. The project was a final component of a ten year initiative that included nearly \$120,000,000 in local investment to develop infrastructure and capacity for industrial development on the west side of Willmar. It was noted that the grant funds, if received, would be directed toward construction and not be used for soft costs. The planning, engineering, and design for the project has already been paid by project partners.

The primary purpose of this trip was to gather the final political support for the project. In the analyses of the first application in 2014, US DOT noted a lack of vocal political support. For this round, Governor Dayton has called with his support of the project. MN DOT Commissioner Charlie Zelle contacted the Washington congressional delegation stating MN DOT support for the project. Additionally, Senator Klobuchar was planning to call Secretary Fox to state that it was her priority project for the State of Minnesota. Representative Peterson has supported the project all along. At the end of the discussion with Senator Franken, he indicated that he too would offer vocal support for the project. The anticipated date for announcing the Tiger Grants is mid-October 2015. This Council received the wye project update for information only.

Council Member Fagerlie made a motion to approve and file the Community Development Committee Report for September 17, 2015. Council Member Nelsen seconded the motion.

Interim City Administrator Kevin Halliday presented for the Council's consideration a resolution certifying the special assessments for Lot 1, Block 2, Pleasantview 4th Addition to Habitat for Humanity pursuant to the sale of the property authorized by the Council on September 8, 2015. \$9,191.62 for Project 2010 Street and Other Improvements with interest at the annual rate of 4.25% and special assessments totaling \$430.66 for Project No. 1105 – Street Lighting at an annual rate of 4.20% both for collection in the years of 2016 through 2025.

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

RESOLUTION NO. 1

WHEREAS, The City Council of the City of Willmar, Minnesota did authorize the sale of Lot 1, Block 2, Pleasantview 4th Addition to Habitat for Humanity, and

WHEREAS, the sale is contingent upon Habitat for Humanity paying all recorded special assessments against said property.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar, that special assessments totaling \$9,191.62 for Project 2010 Street and Other Improvements be certified to the County for collection in the years of 2016 through 2025 with interest at the annual rate of four and twenty-five hundredths (4.25%) percent, and special assessments totaling \$430.66 for Project No. 1105 – Street Lighting be certified to the County for collection in the years of 2016 through 2025 with interest at the annual rate of four and twenty hundredths (4.20%) percent.

Dated this 21st day of September, 2015.

/s/ Marv Calvin
Mayor

/s/ Kevin Halliday
Attest: City Clerk

Planning and Development Director Bruce Peterson brought forth for consideration the final plat for Cambridge Fourth Addition which is a replat of several lots from Terraplane Estates by Koosman Construction on the southeast portion of the City off of 25th Street SE. The proposed development consists of 16 single-family lots. The development is a planned-unit development with a private street and private utilities that will be governed by private covenants and articles of declaration. The Planning Commission has approved the final plat with several conditions regarding the filing of private covenants and declarations, private utility connections, stormwater detention, and rezoning the property to meet the single-family plan. All of those conditions will need to be met before the final plat is executed and filed to include the final stormwater plans that will be approved by the Public Works Department. It is staff's recommendation to approve the final plat as presented.

Council Member Anderson made a motion to approve the final plat for Cambridge Fourth Addition contingent on all conditions being met. Council Member Nelsen seconded the motion, which carried.

Planning and Development Director Bruce Peterson also brought forth for consideration the preliminary/final plat for Eastgate 2nd Addition. The proposed plat is a replat of a parcel in Eastgate Addition on 25th Street SE by Chips Holdings, LLC of Corcoran, MN. The proposed development consists of two lots in a commercial planned-unit development with a private street and private utilities and will be governed by private covenants and articles of declaration. The Planning Commission approved the final plat with conditions to be met prior to final plat signatures such as recording of declarations/covenants, utility easements to be noted on plat, and parking on the private street.

Council Member Christianson made a motion to approve the final plat for Cambridge Fourth Addition contingent on all conditions being met. Council Member Nelsen seconded the motion, which carried.

Planning and Development Director Bruce Peterson presented a rezone of property that follows the City's sale of property at the last Council meeting to Willmar Poultry. The property is currently zoned Government Institutional and Ag uses are not a permitted use in that zone. The ordinance is being introduced to legitimize the zoning of the site to facilitate the development of a nursery brooding facility by Willmar Poultry. Staff recommendation is to hold a public hearing on the proposed rezone.

Council Member Fagerlie made a motion to set a public hearing for consideration of the ordinance to rezone the property from GI to Ag on October 5, 2015 at 7:01 p.m. Council Member Anderson seconded the motion, which carried.

Interim City Administrator Kevin Halliday presented the proposed transfer of the Charter Cable franchise. In July the City received a FCC application form for franchise authority consent to transfer control of the cable franchise. The City has until October 29th to take action on the form or no action will result in automatic approval of the transfer of control to a new group of shareholders. Charter will be merging with other cable providers to form a company "New Charter." This form will amend the franchise to cover the new company. The City's cable attorney, Moss and Barnett, has made revisions to the resolution and it is staff's recommendation that the Council pass the resolution transferring the franchise from Charter to "New Charter."

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

RESOLUTION NO. 2

**APPROVING THE PROPOSED TRANSFER OF
THE CABLE FRANCHISE CURRENTLY HELD BY
CC VIII OPERATING, LLC D/B/A CHARTER COMMUNICATIONS**

WHEREAS, CC VIII Operating, LLC (hereinafter referred to as “Grantee”), currently holds a cable television franchise (“Franchise”) granted by the City of Willmar, Minnesota (“City”).

WHEREAS, Grantee owns, operates and maintains a cable television system in the City (“System”) pursuant to the terms of the Franchise.

WHEREAS, on May 23, 2015, Charter Communications, Inc. (“Charter Communications”), the ultimate parent company of Grantee, directly and indirectly, with its subsidiary CCH I, LLC (“New Charter”), entered into agreements with Advance/Newhouse Partnership and A/NPC Holdings LLC (collectively “A/N”), the ultimate parent company of Bright House Networks, LLC (“BHN”), Time Warner Cable Inc. (“TWC”), and Liberty Broadband Corporation (“Liberty”) (collectively “the Agreements”), the purpose of which are to effectuate the acquisition of BHN and merge with TWC (the “Transactions”); and

WHEREAS, Charter Communications will merge with and into New Charter, and all shares of Charter Communications will be converted into shares of New Charter, and New Charter will assume the Charter Communications name; and

WHEREAS, pursuant to the Agreements, A/N, TWC shareholders, and Liberty will acquire ownership interests in New Charter; and

WHEREAS, on or about July 1, 2015 the City received from Grantee, FCC Form 394 - Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise (“Application”); and

WHEREAS, Federal law, and the terms of the Franchise require that the City take action to consider the Application within one hundred twenty (120) days of the date of receipt, or on or before October 29, 2015; and

WHEREAS, Minnesota state law and the Franchise require the City’s advance written consent prior to the Grantee’s change in ownership; and

WHEREAS, as a result of the proposed Transactions Grantee has requested consent from the City to the proposed change in ownership; and

WHEREAS, the City has reviewed the proposed Transactions, and based on information provided by Grantee and information otherwise publicly available, the City has elected to approve the proposed Transactions subject to certain conditions as set forth herein.

NOW, THEREFORE, the City of Willmar, Minnesota hereby resolves as follows:

1. All of the above recitals are hereby incorporated by reference as if fully set forth herein.
2. The Franchise is in full force and effect and Grantee is the lawful holder of the Franchise.
3. The City hereby consents and approves the proposed Transactions.
4. Grantee will be the lawful holder of the Franchise after completion of the Transactions.
5. The City’s consent to the Transactions shall not serve to waive any rights City may have under applicable law to hold Grantee liable for any and all liabilities, known and unknown, under the Franchise.
6. In the event the proposed Transactions contemplated by the foregoing resolution are not completed, for any reason, the City’s consent shall not be effective and shall be null and void.

Dated this 21st day of September, 2015.

/s/ Marv Calvin
Mayor

/s/ Kevin Halliday
Attest: City Clerk

Announcements for Council Committee meeting dates were as follows: Labor Relations (Full Council), 4:45 p.m. at City Hall, September 22, Finance, 4:45 p.m. at City Hall, September 28; and Public Works/Safety, 4:45 p.m. at City Hall September 29, 2015.

Mayor Calvin presented the proposal for a Council Retreat from Big River Group, LLC. The retreat has been scheduled for Friday, October 16th starting at 1:30 p.m. and estimated to last until 5:30 p.m. with the location yet to be determined.

Council Member Christianson offered a motion to adjourn the meeting with Council Member Fagerlie seconding the motion, with carried. The meeting adjourned at 8:07p.m.

Attest:

MAYOR

SECRETARY TO THE COUNCIL