

MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD
August 13, 2013

1. Mayor Cobb called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Barbara LaDoucer led the Pledge of Allegiance.
3. **ROLL CALL:**

 Present: Domenighini, Taylor-Vodden, Mello, Spears & Mayor Cobb
 Absent: None
4. **Agenda Review:** It was **moved** by Council Member Domenighini and **seconded** by Council Member Taylor-Vodden to accept the August 13, 2013 agenda as presented. The motion unanimously passed.
5. **Presentations & Proclamations:**
 - a) Christine May, Resource Development Coordinator of the American Red Cross presented a Certificate of Recognition to Ethan Mendes for his fundraising efforts and donation that he made to the organization.
 - b) Barbara LaDoucer presented the Mayor and City Council with a Certificate of Appreciation on behalf of the American Legion Auxiliary.
6. **Public Comment/Written Communications:** None
7. **Consent Agenda:**

It was **moved** by Council Member Taylor-Vodden and **seconded** by Council Member Domenighini to approve the Consent Agenda as presented. The motion unanimously passed and the following items were approved/adopted:
 - a) Approval of General, Payroll and Direct Deposit Check Registers (26304-26382; 32675-32729; Z04486-Z04556).
 - b) Approval of the Minutes of the Willows City Council Regular Meeting held July 9, 2013.
 - c) Approval of the Minutes of the Regular City Council Meeting held July 23, 2013.
 - d) Adoption of a Resolution amending the compensation plan and authorizing the termination of the voluntary furlough program for all Unrepresented City Employees and excluding City Council Members and all other Elected or Appointed members of the City of Willows Boards and Commissions.
8. **Public Hearings:** None
9. **Ordinances:** None

10. Items introduced by City Council or Administrative Staff for discussion purposes only:

The City Manager informed the Council that City Staff has completed a project that the former Council had asked to be done. The Public Works Director has rearranged the Council Chambers and moved the trophy case to a different location on the wall and re-mounted the City Council group photos in order to allow room for additional Council group photos in the future. All of the Council pictures are up to date, with the exception of our currently seated Council which has not yet had a group photo taken.

Next, the City Manager wanted to bring it to the Council's attention, in case there is an inquiry, that the City's website is having difficulty with the audio portion of the Council and Planning Commission meetings. The vendor who provides this service is experiencing some technical issues that they are trying to resolve. Something happened that caused all of the audio recordings on the website to disappear. The City's IT provider, Ray Morgan, has been working with the vendor and the City Clerk to try to work through these issues, but in the interim, the website will have no audio until such time as there is a resolution to this problem.

Finally, the City Manager informed the Council that it has been some time since they had authorized the submission of the HOME grant for the \$4.3M Senior Housing project on Sycamore Street. The grant has gone through the approval process and we are now to the point where the State has released the final contract to the City Manager for his review and signature. The City Attorney has already reviewed the contract, so as requested, the City Manager signed five original contracts and sent them back to the State. In his communications with the State, it is his understanding that it will take approximately a week to process. He has also heard from Pacific West Communities and their project manager is anxious to get this project started, so immediately upon the State's receipt of the contract, CDBG will authorize the funds and they will return a copy of the fully executed copy of the contract to the City, at which time the City can immediately begin to draw down on the \$4.3M. Essentially, the funding should be finalized and the Senior Housing Project should be starting in the near future. He anticipates that the Project may be starting up in the next 60 days, beginning with some site preparation work and clean up.

Council Member Spears stated that he believes he recalls that the Council was going to begin to undergo the process of the City Manager's evaluation at the second meeting in August and wonders if he understood that correctly. Council Member Taylor-Vodden recalls that the City Manager had previously stated that his evaluation comes up automatically around the time of his anniversary date. The City Manager stated that the Council has, at their discretion, the option to conduct his evaluation each year around his anniversary date of August 6. The last discussion that the Council had relative to his evaluation was that the currently seated Council has never defined a set of performance standards. Nothing has been discussed with any specifics of a criteria that the Council will use going forward in conducting his evaluation. He believes it is inappropriate to go backwards. This Council needs to establish some sort of threshold or baseline performance standards that they would hold him accountable for, and that is a collaborative effort. He did provide the Council with the information that was requested, and provided them with as much information that was available that could be released publically

from prior evaluations. Beyond that, he has been waiting for a request by the Council to schedule a Closed Session for that purpose and the Closed Session can be scheduled any time the Council desires. Mayor Cobb believes the Council should schedule a Closed Session to occur in order for the Council to bring forth all of the information that has been provided to them previously by the City Manager. The Council will discuss this information during the Closed Session and begin to implement some performance standards and criteria for which the City Manager's evaluation will be based. Mayor Cobb requested that Staff add an Executive Session item to the next City Council Meeting agenda to begin this process.

Council Member Spears then asked if the City Manager has received any additional information or input from Council about the possible implementation of a formal complaint process. He stated that the Council decided some time back that they would table discussions about a formal complaint process until after the budget was adopted. Now the Council is past the budget adoption and the Council has discussed it one time after the budget was passed but he's not sure anything was ever decided. The City Manager stated that the Minutes of the meeting that the Council approved earlier this evening reflect that there was a subsequent conversation that took place with the Council during that meeting and that the Council was provided information and he is still waiting for the Council to respond to his request for comments. He stated that there has never been a response from any member of the Council since the last drafts went out. He did have a conversation with Council Member Mello relative to the topic, but he hasn't submitted any additional information or requested any additional follow-up. Council Member Taylor-Vodden recalls that the Council had a very long conversation about whether the complaint process was even an appropriate format and that it seemed to be more geared towards the Police Department for an Internal Investigation where members of the public could not voice their concerns in an open and public process. The City has a City Manager who is available directly in public meetings and at his office for people to voice a complaint. Additionally, the Council is also available to the public. She stated that the last time the City Manager had a performance evaluation and they opened up that process to the public to volunteer to be interviewed by members of the Council about the City Manager's performance, she was the only Council Member that interviewed the one person that signed up for that process, and that individual gave a very positive review. She is concerned that the Council keeps churning the water with no real intent, other than setting up a procedure that she frankly doesn't believe deserves to exist. She thought the Council has already hashed this topic out and decided that it wasn't the proper kind of format, and again, it seemed to be more geared to an internal complaint process versus an open process. Anybody can come and complain to her any time and she is accessible and she feels the City Manager is the same. Everybody on the Council and the City Manager are open to people at any meeting so she doesn't see how having someone turning in a complaint form has any validity. Mayor Cobb concurred with Council Member Taylor-Vodden, stating that he recalls that is definitely one of the things that the Council discussed during that meeting. He doesn't know if the Council ever had a resolve or not out of that particular meeting. Council Member Spears stated that he did not think they did have any resolve which is the reason that he is bringing it back up because the last he heard was that the City Manager was still waiting for more input from the individual Council Members with any suggested modifications, additions, deletions, etc. so he could then forward something back to the Council for them to take a look at. Mayor Cobb stated that he recalls that, but he doesn't believe that the City Manager has ever gotten anything back. The City Manager concurred, stating that he has received no

further comments back from the Council. Mayor Cobb stated that if it is the wish of the Council to have another meeting to resolve this issue, that is up to the Council to decide and it is not a unilateral decision that he can make. Council Member Domenighini stated that the entire Council is all guilty of not responding to the City Manager, but he thinks the Council should decide just to use the Comment form that has been drafted, put the form on the counter at City Hall and see what happens and if anything comes of it. He stated that he wouldn't be surprised if a whole year passed and nobody used one of those forms. He doesn't see the need to have another meeting to discuss this item, unless it is absolutely necessary for the Council to formally adopt the comment form. He believes the City Manager could probably just take the draft and make sure it is properly formatted and grammatically correct and place it on the counter and see what happens. Council Member Taylor-Vodden stated again that she just doesn't think it is necessary and doesn't believe that it is the proper procedure in this case. She stated that anybody can come to an open meeting or come to her personally and she is happy to pass along their comments or complaints. Additionally, people generally prefer to remain anonymous when they have a complaint so if the City uses a form that people have to sign their name to, she just doesn't think they will do it. She believes that implementing a formal written complaint process is a technique to cause trouble and to urge people to get the form and fill it out. While she was going through the process of evaluating the City Manager's performance and they opened up the process to the public, the people that stood up and had a complaint about the City Manager stated that they didn't know the City Manager but that they "knew somebody" who had a problem or they "knew somebody" that had some beef with him. She doesn't want to set up a system where the City is receiving third-party information where you have somebody saying that they know that "so and so did this". If the City is going to have a system at all, it has to be direct experience with a City employee and she is concerned that they won't get it that way. Mayor Cobb stated that he has said many times in meetings the hierarchy of the complaint process and how to go about getting an investigation through this – whether it be a City employee, a Department Head, the City Manager or one of the Council Members or the Council as a whole – so he is standing firm how he feels about this. Council Member Mello stated that he likes the idea of having the comment form on the counter. People come up to him at his place of employment and they always offer a lot of comments and suggestions and he would like to be able to tell the people that he is currently working but there is a form that they could pick up at City Hall and if they have any questions, suggestions, complaints, or inquiries, they could fill out the form, put his name on it and it will be given to him. He likes the simple comment form with maybe a very simple policy printed on the back of the form. Mayor Cobb asked Council Member Mello who he has in mind to be the person that would be responsible in reviewing these complaints. Council Member Mello believed that they could be reviewed by the City Clerk, to which Mayor Cobb raised a question of what would then happen if the complaint was about the City Clerk and the person wants to remain anonymous. Council Member Mello stated that maybe the form should instruct the person filling it out that they could bypass City Hall and mail or hand-deliver the form directly to the City Council or to a specific Council Member. Mayor Cobb then asked how that would be any different than a Council Member just receiving a phone call or a letter as is currently the process. Mayor Cobb believes it would be easier to use the organization chart to handle complaints, i.e., if a person has a complaint about a City Employee, the complainant would see the employee's Department Head; if a person has a complaint about a Department Head, the person sees the City Manager, etc. This would alleviate any paperwork and alleviate anybody from being embarrassed or afraid to make a criticism or a complaint. Council Member

Mello stated that there are a lot of good suggestions out there and he would even like to just see a suggestion box. He stated that a complaint was really the least of his concerns. He would just really like to see the public get more involved in making suggestions because they are his eyes out there in the City. Council Member Spears stated that he fully agrees with everything that Mayor Cobb said as far as the organization chart concept, and the document that was submitted and proposed by Council Member Spears follows that very concept. The only difference is that the complaint is put in writing. The City Manager then stated that he does not want to appear to not be responsive to the needs of the Council, but at the same time he questions the necessity of having a formal written complaint process in place. He also questions the effectiveness that it will have when creating such confusion that the public won't understand and then the City is in a new battle because they don't have the same process for all employees. The process doesn't apply to a Council Member because they are elected officials, so there is going to be confusion. As far as comments go, there is every opportunity for people to comment regularly and they do so. As far as concerns or comments about roads or infrastructure, the City has a system in place on the website where a person can enter a request for service and the Public Works Department reviews and addresses the request, and this service is used on a regular basis. The City's website also has a contact page on it that people can use to make comments, suggestions, complaints, inquiries, etc. that the City Manager checks regularly. He reviews the comments and distributes them to the appropriate department in order for the situation to be properly addressed. Essentially, there is already a process currently in place where comments are coming in regularly and they are being addressed appropriately and responses are being provided. If the City puts a process out there that defines the organization chart and somebody wants to complain about a Police Officer, there will be a problem because Police Officers have a complaint process that is defined by State Statute and it must be conducted in that manner. He fears that there may be public confusion if the City has a myriad of conflicting processes in place. He wondered how many complaints we are really even talking about. The Council is literally spending hours discussing something when there is maybe only one complaint. He continued, stating that at the request of the Council, he had put in place everything that the Council has described in two pages. He distributed it to every member of the Council and everybody has had an opportunity to review it. Initially he received some Council input so he revised the form and redistributed it to the Council for additional review and comments. He then had one Council Member turn in a 1 page comment form that they preferred, and another Council Member turned in a lengthy, 8 or 9 page, comprehensive complaint form that basically mimics the form used in Law Enforcement. He made some minor edits to those documents and redistributed those to the Council for additional review and comments. Several months have gone by and he has not received any comments back from any member of the City Council, with the exception of Council Member Mello who came to ask him if he shouldn't also have input in the process along with the Council Members. He explained to Council Member Mello that he has had input in the process in that he drafted the original form, and he had also provided the Council with suggestions about the additional two forms that he received. At this point he can't do any more with this until the Council decides if they want to do something or they don't. He will be happy to do whatever the Council directs him to do, but his professional opinion is that this is not a necessary item. He stated that there has never been a complaint filed that hasn't been addressed with the current process. If somebody is not satisfied with the response that they receive to a complaint there is the Glenn County Grand Jury that has an official complaint process and a person can get the form off of the County website or out of the Grand Jury's final report. If the Grand Jury doesn't

give the satisfaction that a person wants, there is the State Attorney General's office. All of those avenues have been pursued in the past with complaints about the City of Willows and City Management, and all to no avail. The complaints had been reviewed and they have been put to rest. He doesn't understand why the City needs to try to define a new process and be unique, as no other cities in the State that he is aware of has this type of process in place.

Jeff Williams, of the audience, addressed the Council and stated that he was in favor of the City having a formal complaint process because he stated that he has previously shared his complaints with Council Members and he never did hear back and there was no resolution.

Doug Ross, citizen and Reporter for the Sacramento Valley Mirror, spoke in favor of citizens having input in the discussions regarding a complaint policy.

Council Member Mello stated that he doesn't have a problem with telling a person who has a complaint to bring it to the attention to a Council Member; he just really likes the idea of a comment form more than anything. Council Member Domenighini agreed, stating he was thinking more along the lines of a comment form, and he doesn't see a comment form as becoming an avenue for a complaint against an employee. Mayor Cobb asked the City Manager roughly how many complaints have been received about a City employee since January. The City Manager stated that he had a conversation with a couple of individuals that had a complaint that involved law enforcement and he referred them to the Police Department to pick up the required paperwork, but he is unsure whether they ever followed through or returned the form. Beyond that conversation, no other complaints have been filed against a City employee.

Council Member Taylor-Vodden stated that she would just like to make the comment that there is a difference between getting an answer to a complaint and getting an answer to a complaint that a person does not like. Her experience with complaints is that she can answer complaints very well, but she often finds that the person asking doesn't like her answer. It is not that there is no answer to the complaint, but rather the answer that is provided isn't what the person wants to hear and she doesn't believe the Council can do anything to change that. She stated that she does like the idea of a comment form, but as to a formalized complaint process, she just does not believe it is necessary. Mayor Cobb agrees, stating that he too likes the idea of a comment form, but does not support the idea of a formalized complaint process.

Additional similar discussion continued among the Council and Staff and no definitive resolution was reached by the Council regarding whether or not to implement a formal Complaint Process at this time. Ultimately it was the majority consensus of the Council to revisit this topic in six months, with Council Member Spears going on record stating that he was opposed to waiting for six months to revisit this item.

Council Member Mello thanked Public Works Director Skyler Lipski for covering up the Banner Pole base in front of the Post Office. He also stated that he recently received a complaint about the unsightliness of the Tower Theatre across from the Post Office.

11. New Business:

- a) Consider approval of the allocation of \$15,000 from the Sewer Enterprise Fund to support the Basin Plan Amendment process:

Under the Clean Water Act, States are required to adopt water quality standards for surface waters. Water quality standards consist of 1) designated uses; 2) water quality criteria necessary to protect designated uses; and 3) Federal antidegradation policy. In California, water quality standards are found in the Basin Plans, statewide water quality control plans adopted by the State Water Board and the National Toxics Rule and the California Toxics Rule. For example, some of the designated uses, or “beneficial uses” listed in the City of Willows’ discharge permit are: Agricultural supply, including irrigation and stock watering; water contact recreation, including canoeing and rafting; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms, warm and cold; spawning, reproduction, and/or early development, warm and cold; and wildlife habitat. The State Water Board applies water quality standards to protect these various uses via the National Pollutant Discharge Elimination System, or “discharge permit”.

The beneficial use at issue is Municipal and Domestic Supply, or “MUN Use”.

Via the Sources of Drinking Water Policy (88-63), the Central Valley Regional Water Quality Control Board Basin Plans designate MUN beneficial use to all water bodies unless they are specifically listed as water bodies that are not designated with MUN. The Basin Plans state that waters designated for MUN must not exceed Maximum Contaminant Levels for chemical constituents, pesticides, and radionuclides. While 88-63 does contain exceptions for the MUN designation, to utilize the exception, the Basin Plans require “...a formal Basin Plan amendment and public hearing, followed by approval of such an amendment by the State Water Board and the Office of Administrative Law.”

During permit adoptions for the National Pollutant Discharge Elimination System program there have been challenges to protecting the MUN beneficial use designation in agricultural drains due to the stated exception in 88-63. The City of Willows, for example, was deemed exempt from MUN beneficial use via the exception during a prior permitting cycle (2006-2011), but then not exempt from MUN in the current permitting cycle (2011-2016). The cost for the City of Willows to comply with protecting the MUN beneficial use has been estimated at \$4 - \$8 million. The Publicly Owned Treatment Works (POTWs) have been provided the option of pursuing a basin plan amendment as part of their permit compliance, which the City of Willows has done.

Concurrently, the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) initiative has identified the need to evaluate the protection of MUN beneficial uses in agriculturally dominated water bodies. CV-SALTS identified receiving waters of four POTWs (Cities of Willows, Colusa, Biggs and Live Oak) as potential archetypes (case studies) for evaluating appropriateness of a MUN designation. These same potential archetypes have challenged the MUN designation during National Pollutant Discharge Elimination System permit renewals.

In May 2011, a draft Central Valley Water Board staff report evaluated the appropriateness of the MUN beneficial use in a water body (agricultural drain) receiving effluent. The report found that more data needs to be collected before determining if a basin plan amendment is needed. The data needs noted included: characterization of the receiving waters, water quality data for the effluent and all receiving waters, flow data for all of the receiving waters, and antidegradation analysis, and an economic and environmental analysis.

This MUN beneficial use project is the first phase of the agriculturally dominated water bodies evaluation effort. Sponsored by the Central Valley Water Board in conjunction with the CV-SALTS initiative, the project attempts to combine and leverage the work desired by the four POTWs (Cities of Willows, Colusa, Live Oak and Biggs) and the archetypes identified by CV-SALTS. The second phase of the evaluation will be focused on determining the appropriate beneficial uses for all agricultural dominated water bodies.

In an effort to expedite the basin plan amendment process, State Water Board staff has requested financial assistance from CV-SALTS to complete the environmental and economic studies by an outside contractor. If the State Water Board staff were to take on this task alone, it would add another two years to the basin plan amendment process, exceeding the compliance deadline for at least the City of Willows (December 1, 2016). CV-SALTS in turn, has approached staff at each of the four POTWs listed above with a request to contribute \$15,000 each to help pay for the economic and environmental studies. It should be noted this is only about 30% of the overall cost of a case study for just one of the four sites (estimated by State Water Board staff to cost around \$50,000 for each case study).

Staff finds this request to be reasonable and aligned with the overall goal of completing a basin plan amendment by the end of our current National Pollutant Discharge Elimination System permitting cycle (12/1/16). However, staff recommends that Council allocate this \$15,000 under two conditions; 1) Once State Water Board staff declares to pursue a basin plan amendment (likely October 2013), and 2) the \$15,000 shall be paid in two equal installments over two fiscal years (\$7500.00 in FY 13/14 and \$7500 in FY 14/15).

Council discussion ensued and a majority of the Council was in favor of spending \$15,000 as opposed to spending an estimated \$4 - \$8 million dollars. Council Member Domenighini was opposed to spending any taxpayer dollars due to the fact that the State Water Board made an error when they originally adopted the basin plan and he believes they should pony up and fix it and it should not be the responsibility of the taxpaying citizens to pay for their error. He stated that philosophically he disagrees with spending this money. The Public Works Director stated that the State Board plans to correct their error but it would likely not be completed before the City's current permit expires in 2016. It was **moved** by Council Member Spears and **seconded** by Council Member Taylor-Vodden to approve the allocation of \$15,000 from the Sewer Enterprise Fund to support the Basin Plan Amendment process in two equal installments over two fiscal years with \$7500 being spent in the 2013/14 Fiscal Year and \$7500 being spent in the 2014/15 Fiscal Year. The motion passed 4/1 with Council Member Domenighini voting Nay.

12. Council Member Reports:

Council Member Spears reported that he will be attending a Transportation Meeting this Thursday. He also announced that the Police Department is still selling shirts to support the K-9 fund.

Council Member Mello announced that the Veterans will be holding a Flea Market on September 7 at 8:00 a.m. at the Veterans' Memorial Hall. He also announced that the Veterans' groups, consisting of the American Legion, Am-Vets and the VFW, just voted him in as President of the Glenn County Veterans' Council.

Council Member Taylor-Vodden announced that she will be attending the Economic Development Commission Meeting at 2:00 p.m. on Thursday at Memorial Hall.

Council Member Domenighini announced that he would be unable to attend the next Transportation Meeting. Mayor Cobb stated that he will try to attend in his absence. He also reported that the Summer Reading Program at the Library wrapped up and they had over 1000 attendees at the various events, and the Library also received a \$2000 donation from the Thrift Shop.

Mayor Cobb reported that he attended National Night Out and he thought it was a success. He also plans to attend the annual car and bike show this upcoming weekend.

13. **Executive Session:** None

14. **Adjournment:** Mayor Cobb adjourned the meeting at 8:35 p.m.

Dated: August 13, 2013

NATALIE BUTLER

City Clerk

The City of Willows is an Equal Opportunity Provider