

MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD
August 14, 2012

1. The meeting was called to order at 7:02 p.m. by Mayor Holvik.
2. **PLEDGE OF ALLEGIANCE:** Undersheriff Rich Warren led the Pledge of Allegiance.
3. **ROLL CALL:**

Present: Council Members Yoder, Cobb, Taylor-Vodden, Hansen, & Mayor Holvik
Absent: None
4. **Agenda Review:** It was **moved** by Council Member Yoder and **seconded** by Council Member Hansen to accept the August 14, 2012, City Council Meeting agenda as presented. The motion unanimously passed.
5. **Presentations & Proclamations:** Mayor Holvik read a Proclamation designating August 26 as "Women's Equality Day" in commemoration of that day in 1920 on which the women of America were first given the right to vote, and that same day in 1970 when a nationwide demonstration for women's rights took place.
6. **Public Comment:**

Jeff Williams addressed the Council on a few items. First, he asked if the Council approved allowing a City employee to commute to Chico in a City vehicle. He then stated that if the Council decides not to renew the Police Chief's contract, it would be a dis-service to the community. He expressed his disagreement with the Council authorizing an expense of \$18,500 to conduct a tax measure survey earlier this year, and also expressed his displeasure at the Council offering a "Golden Hand Shake" to city employees that were close to retirement as a means of a cost saving measure for the 2012/13 Fiscal Year's budget and thought it was a fiasco. Lastly, he expressed that he feels City Staff are rude to citizens if they have a difference of opinion, and he also stated that in a set of past City Council Meeting Minutes it stated that he was a "County Resident" and he believed that was a discredit to him. Although true that he lives in the County, he stated that he owns property in the City and has a vested interest in the City and has paid taxes in the City longer than most of the City Staff or the Council.

Buddy Brackensick expressed his displeasure in the Council in their passing a \$200,000 deficit budget. He also stated that he believes that Council decisions are being decided in advance of public City Council Meetings and Council has been reading prepared statements during the meetings. He also wondered why a Police Officer position that was funded during the passage of the 2012/13 budget was suddenly frozen without anybody knowing about it and there being no public discussion about it. He expressed that he is happy to see that the restrictive rules [of meeting decorum] that the Council adopted in the recent past are gone from the agenda because he believes they were unconstitutional. He also believes the Council consists of some good people but they are receiving some bad misdirection from the City Manager.

Gail Green asked why any time Chief Spears brings anything before the Council, the City Manager automatically votes it down. She believes the City Manager's salary could go to a Police Officer because he is one person there, there are five individuals on the Council, every Department has a Department Head. The Department Heads could come before the Council to settle things and just get rid of the City Manager and solve all the problems. If the City Manager believes the Police Chief's job is so unimportant, why not get rid of the Chief and have the City Manager go in, take over the Police Department, run it by himself and see what the job entails? She believes that evidently the City Manager doesn't believe the Department of the Police is important enough to have cops here in the City of Willows.

Keith Parrish spoke and he stated that it appears that outcomes of City Council Meetings are decided before the meetings start. He would like to see the agenda format changed to move the Public Comment portion at the very beginning. He would also like to have the audio of the meeting placed on the city's website, along with a copy of the check registers placed on the site in order that the public can see where the money is going in this town. He stated that this is what the City of Orland does, as do many other cities. He respectfully demands that the City get something that at least looks like transparency in this town. Mayor Holvik stated that he agreed with putting the audio and additional information on the website, however, the city doesn't currently have that capability and hasn't yet gotten to that point, but it is certainly something worth looking into.

Richard Thomas, President of the Glenn Medical Center Foundation, wanted to extend an invitation to everybody to attend the Splendor in the Valley fundraiser for Glenn Medical Center on September 8. He said the cost is \$250.00 per couple and the money goes towards a great cause to purchase necessary equipment and supplies for the hospital.

7. **Consent Agenda:**

Council Member Taylor Vodden asked that item 7 (d) be removed from the consent agenda and voted on separately, as she was absent for the July 24, 2012 City Council meeting. Mayor Holvik asked that item 7(c) be removed from the consent agenda and voted on separately, as he was absent from the June 26, 2012 City Council Meeting. It was **moved** by Council Member Hansen and **seconded** by Council Member Taylor-Vodden to accept the consent agenda, minus items 7 (c) and 7 (d). All ayes and the motion passed. It was **moved** by Council Member Yoder and **seconded** by Council Member Hansen to approve item 7 (c) on the consent agenda. Motion passed with 4 ayes and Mayor Holvik abstaining. It was **moved** by Council Member Hansen and **seconded** by Council Member Yoder to approve item 7 (d) on the consent agenda. The motion passed with 4 ayes and Council Member Taylor-Vodden abstaining. The following items were approved/adopted:

- a) Approval of General Check Register (24887-24958).
- b) Approval of Payroll & Direct Deposit Check Registers (32004-32058 & Z03640-Z03709).
- c) Approval of the June 26, 2012 Regular City Council Meeting Minutes.
- d) Approval of the July 24, 2012 Regular City Council Meeting Minutes.
- e) Accept the City of Willows Treasurer's Report Schedule of cash and investments as of June 30, 2012.

f) Adopt a Resolution waiving the residency requirement in conjunction with appointment to the Planning Commission authorizing the continuation of service for Commissioner Huston T. Carlyle.

8. **Public Hearings:** None

9. **Ordinances:** None

10. **Items introduced by City Council or Administrative Staff for discussion purposes only:** None

11. **New Business:**

Council considered the following staffing issues concerning three different positions within the Willows Police Department and gave staff direction after reviewing each item independently. Listed below are the independent discussion items, background information and the direction given to staff by the Council. It should be noted that all three of the below topics were discussed at length by the Council and the Staff, and the Council heard input from several citizens that were present. For purpose of preparing action minutes on these topics, dialogue between and among the Council, the Staff and the audience will not be captured verbatim.

1. **Topic of Discussion Item #1:** Staff was seeking direction concerning the current status of the “frozen” vacant Police Officer Position funded during the 2012/2013 Fiscal Budget development process.

Background: This past June 19, the City Council adopted Resolution #16 - 2012 establishing the 2012/2013 FY Budget, confirming budgetary authorities and council fiscal priorities for the current fiscal period. On the morning of June 20th Chief Spears updated the City Manager on the status of the vacant police officer position and requested authority to move forward with the recruitment/hiring process. The city manager indicated he would seek direction from the budget sub-committee and provide direction to the Chief no later than Monday, June 25.

Following discussion with the sub-committee members, the City Manager informed Chief Spears on Monday morning that the position was “frozen” and he should suspend any further recruitment activity.

Immediately thereafter, Sergeant Walter, President of the Willows Public Safety Association (WPSA), contacted the city manager requesting additional information and the possibility of meeting to discuss this recent decision. Ultimately a meeting was scheduled in late July with the budget sub-committee and WPSA representatives to discuss this position. It was agreed during this meeting that the consensus of the entire city council would be sought regarding the current “frozen” position and the potential acceptance of the Cops II CHRP Grant during the regular meeting on August 14th. A note of special interest is the fact this Grant cannot be used to “supplant” the funding for this position.

The forecast budget deficit at adoption on June 19th was approximately (\$203,000). With the "frozen" status maintained, this deficit is reduced "temporarily" to approximately (\$112,000). A potential loss of the Supplemental Law Enforcement Services Funding (SLESF) is tied directly to Proposition 30 hanging in the balance until the November 6th election results are announced. Failure of PROP 30 will result in loss of state funding for Supplemental Law Enforcement monies and likely push the projected "temporarily reduced" deficit to over (\$212,000) on January 1, 2013.

Therefore staff is requesting direction from the City Council concerning the maintenance of the fiscal priorities established during the adoption of the current FY budget.

Conclusion/Council direction after discussion: The Consensus of the Council was to direct staff to keep this position frozen at least until after the November 6 Election and depending on the outcome of Proposition 30, Council may revisit this item for further discussion after that time.

- 2. Topic of Discussion Item #2:** Staff was seeking direction from the Council concerning authorization to accept the COPS II Grant to hire a new officer from among qualifying veteran candidates to replace a former laid-off police officer.

Background: Council previously authorized the Chief of Police to seek the COPS II Grant. The department submitted the grant to the U.S. Department of Justice. On June 25, 2012 the Willows Police Department was notified that they were successful for selection for awarding of the COPS II Grant. The Department was ranked 4th in California to receive this award.

The Grant is a three (3) year grant for a police officer. The award is \$195,450.00 for the three (3) year period. The match required of the city during this grant period is \$50,000.00. It should be noted that the Department further applied for and received a hardship consideration lowering the City's matching fund requirement. It was noted that valuable time has passed since the application was submitted. In as such, costs associated with the position have increased. This resulted with additional costs beyond the original \$50,000. These additional costs were determined by the Finance Director and are as follows:

Overall Estimated Personnel Costs (Total \$404,641., which includes Salary, PERS, Health Insurance, Payroll Tax, Life Insurance, Uniform cost & Workers Comp):

Year 1: \$91,193; Year 2: \$98,196; Year 3: \$103,073; Year 4: \$112,179

Grant Funding Pays: (Total \$195,450)

Year 1: \$61,890 Year 2: \$65,440; Year 3: \$68,120; Year 4: \$0.00

Estimated General Fund Cost: (Total \$209,191)

Year 1: \$29,303 Year 2: \$32,756; Year 3: \$34,953 Year 4: \$112, 179

These city cost factors could change to reflect any future wage and benefit modifications (possible reductions) and/or adjustments between the City of Willows and the Willows Public Safety Association. Additional factors would be other driven costs beyond the city's control.

Additional concerns were raised during the review of the grant and for the City of Willows to accept the grant. The Police Department emailed a letter to the Department Of Justice (DOJ). This letter requested DOJ's position on several issues and to ensure there were no technical legal issues whereas the City could be libel for punitive action in accepting the grant. The questions asked and DOJ's responses are presented below:

- (Willows PD – question) If the officer that we would “re-hire” under the new grant was funded for a portion of the 2009 grant, would there be a supplanting problem?
- (DOJ – answer) Supplanting will be a problem if your agency hires any officer that is currently being funded under the city budget. For more information on supplanting and other grant conditions please refer to the 2012 Grant Owner's Manual that has been supplied to your agency as part of your award package.

Additional comment: Officer DeVoss was funded by the CHRP's Grant until being laid off. Her position did not return to being funded from the General Fund.

- (Willows PD – question) If the City of Willows has a “frozen and funded” open Police Officer position, will we be able to accept a grant knowing that the general funded position will not be filled during the budget period?
- (DOJ – answer) Per the COPS Legal Division, any grantee may accept a 2012 CHRP grant, provided it can comply with the non-supplanting requirement. To comply with the non-supplanting requirement, any reductions in locally-funded sworn officer positions, including “frozen but funded” vacancies, must occur for reasons unrelated to CHRP funding—such as city-wide budget cuts or city-wide hiring freeze, for example—but grantee must maintain contemporaneous supporting documentation demonstrating the date(s) and reason(s) for the reduction-in-force to prove that they were unrelated to the receipt of CHRP grant funding in the event of an audit, monitoring site visit, or other form of grant compliance review.

Additional comment: Officer Brown's separation from Willows Service was initially post the CHRP II application. The intent of the CHRP II grant was to fill the vacancy created by Officer DeVoss' being laid off.

At no time was the intent to fill the General Fund vacancy by the grant. The department desired to begin the recruitment process immediately after the vacancy occurred, however was directed to hold until further notice. Authorization was given in March to begin the recruitment process for the General Fund position.

- (Willows PD- question) If the last officer that was laid off under the previous grant has medically retired, would the 2012 “Re-hire” grant work or do we need to amend the grant to a “New Hire”?

- (DOJ – answer) Per the 2012 CHRP Grant Owner’s manual, the allowable hiring categories under this grant are as follows:
 - a. *Hiring new officers, which includes filling existing officer vacancies that are no longer funded in your agency’s budget. All officers hired under this category must be military veterans. Under this program, a military veteran is defined as an individual who has served on active duty at any time in the armed forces for a period of more than 180 consecutive days, any part of which occurred on or after September 11, 2001, and who has been discharged or released from active duty in the armed forces under honorable conditions;*
 - b. *Rehiring officers laid off by any jurisdiction as a result of state, local, or Bureau of Indian Affairs (BIA) budget cuts; and/or*
 - c. *Rehiring officers who were, at the time of grant application, scheduled to be laid off (by your jurisdiction) on a specific future date as a result of state, local, or BIA budget cuts.*
- (DOJ – answer) You are currently approved to rehire an officer. Throughout the lifetime of the grant if you cannot find an officer to rehire, your agency can choose to modify the grant and hire a new veteran officer.

Analysis of the DOJ’s answers concluded that no technical or legal issues exist that would bar acceptance of the grant. Further that, the City would not face issues of violating the requirements of the grant.

Additional Comment: The fact that Officer DeVoss cannot be rehired, DOJ has indicated the Department can modify the replacement officer as a “new hire”. We need only modify our application. We currently have military veterans on our active list that could be hired under such modification.

As for the financial considerations, the City of Willows would gain \$195,450.00 funding for a police officer position. As previously stated the initial match for the three (3) year period is \$50,000.00. At the same time there may be other additional costs pertaining to other wage and benefits. The City Finance Director has determined that the actual city obligation for the life of the grant could be \$97,012 over the three year period. The City is obligated to fund the position for a fourth year if the grant is accepted and would have to incur the entire cost of \$112,179 during that year. It should be noted that in the 2013/2014 budget period, the city will be engaged in negotiations with the Willows Public Safety Association. Depending on the outcome of that negotiations there may be changes to the salary and benefits responsibility of the city.

Conclusion/Council direction after discussion: When the Council adopted the 2012/13 deficit budget they all agreed to accept the \$200,000 deficit at that time but also agreed to monitor ways to reduce the deficit. The approval of this grant would add additional expense to the City over the course of four years. It was noted that there are currently employees that are still on furlough that the City can’t afford to pay and it might not be in the City’s best interest at this time to take

on additional employee expenses with no cost recovery mechanism in place. Without some form of cost-recovery mechanism in place, the Council was hesitant to approve the grant at this time. It was the consensus of the Council that they would like more clarification from the DOJ on the issue of "supplanting". They also gave direction and approval to staff to seek alternative funding to pay the city's portion of the match funds in order to accept the grant. They directed staff to re-open negotiations with the Willows Public Safety Association (WPSA) to look for possible ways to offset the city's match funds for the grant. It was the consensus of the Council to table this item until after staff meets with the WPSA and reports back to the Council. It should be noted that Council Member Cobb stated that he can't agree to accept the grant without an alternative funding source to cover the city's costs.

3. **Topic of Discussion Item #3:** Staff was seeking consensus of the Council concerning alternative short-term staffing accommodation for anticipated temporary vacancy within the Police Department this fall.

Background: During a recent sub-committee discussion with WPSA Representatives, the topic of short term vacancy coverage utilizing voluntary over-time opportunities potentially available among neighboring agency personnel was explored. The City of Orland has expressed an interest in assisting the Willows Police Department with shift coverage on a possible voluntary basis. The City of Orland has submitted a cost proposal for consideration. In reviewing the cost comparison for over-time purposes; the two agencies are very compatible; with some minor exceptions acknowledged. Staff views this alternative as a very reasonable accommodation and best management practice to address the short-term staffing needs.

Before fully engaging in any agreement discussions with our neighboring agencies and our local labor association, it was suggested the Law Enforcement Sub-committee review and comment on the proposal to utilize neighboring agency staff to back-fill shift vacancies within the Willows Police Department. Unfortunately a recently scheduled sub-committee was canceled before consideration could take place. Therefore by agreement with staff and WPSA Representatives this item is being put before the City Council. Staff is seeking direction/consensus from the council to continue exploration with neighboring agencies and discussion with the WPSA to achieve a reasonable accommodation to address the anticipated short term staffing vacancy and shift coverage needs.

FINANCIAL CONSIDERATIONS -

None are anticipated initially. Over-time expense is already budgeted within the 2012/13 fiscal work plan. If augmentation of this portion of the overall police budget becomes necessary, it would be addressed during the mid-term adjustment period.

Conclusion/Council direction after discussion: It was the consensus of the Council to direct staff to continue working with outside policing agencies to pursue obtaining staffing of part-time police services on an "as-needed" and temporary basis.

12. **Council Member Reports:**

Council Member Hansen reported that he plans to attend the Waste Management meeting tomorrow with Council Member Cobb. He also plans to attend the Transportation & Transit Committee Meeting on Thursday.

13. **Executive Session:** None

14. **Adjournment:** Mayor Holvik adjourned the meeting at 9:40 p.m.

Dated: August 14, 2012

NATALIE BUTLER

City Clerk

The City of Willows is an Equal Opportunity Provider