

**MINUTES OF THE WILLOWS CITY COUNCIL**  
**REGULAR MEETING HELD January 26, 2016**

1. Mayor Hansen called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Council Member Domenighini led the Pledge of Allegiance.

3. **ROLL CALL:**

Present: Domenighini, Mello, Williams & Mayor Hansen.  
Absent: Vice Mayor Yoder

4. **Presentations & Proclamations:** None
5. **Public Comment/Written Communications:** None

6. **Consent Agenda:**

**M/S –Domenighini/Mello** to approve the Consent Agenda as presented. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent and the following items were approved/adopted:

- a) Approval of General Checking, Payroll Checks & Payroll Direct Deposit Registers (30451-30518; Z06975-Z07010; 34529-34523).
- b) Adoption of a Resolution authorizing the City Manager to sign & execute all documents related to CalRecycle funding.

7. **Public Hearings:**

- a) (Continued from the January 12, 2016 Council Meeting).  
Conduct a Continued Public Hearing and upon conclusion, it is recommended that the Council adopts and Urgency Ordinance entitled “An Urgency Ordinance of the City Council of the City of Willows, California adding Chapter 18.117 (Marijuana Cultivation), Adding Chapter 9.20 (Medical Marijuana) and amending Chapter 8.10 (Nuisance) of the Willows Municipal Code regarding Marijuana Cultivation”.

In 2015 the California Legislature enacted a series of bills (AB 243, AB 266 and SB 643) which, among other things, regulated the licensing, cultivation, transport, delivery and dispensing of medical marijuana in California. This legislative package added to or amended provisions of the California Government Code, Health & Safety Code, and the Business & Professions Code. These bills were signed into law by Gov. Jerry Brown on October 15, 2015.

Newly added California Health & Safety Code section 11362.777(c)(1) provides in part that “[a]city, . . . , *through its current or future land use regulations or ordinances*, may issue or deny a permit to cultivate medical marijuana . . . .”

Subsection (c)(4) of that statute provides, in part, that “If a city, . . . , *does not have land use regulations or ordinances* regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under *principals of permissive zoning*, . . . , then commencing March 1, 2016,” the state preempts the city’s power to so regulate and shall be the sole licensing authority for marijuana cultivation in that city.

[It is noted that Assembly Bill 21 is currently pending in the California Legislature as an emergency matter which, if enacted, will take effect immediately. The announced purpose of AB 21 is to remove the March 1, 2016 deadline for cities to enact regulations or ordinances pertaining to medical marijuana. However, as it moves through committees, the bill has already been amended to deprive cities of the power to regulate the cultivation of medical marijuana by a qualified patient within their personal residence or other enclosed building appurtenant to their personal residence. Other amendments may follow. Therefore, it is inadvisable for the City of Willows to delay action in the hope that AB 21 will be enacted and take effect prior to the March 1 deadline.]

Accordingly, at Council’s direction, on December 8, 2015 staff provided several options regarding regulation of medical marijuana within the City of Willows. Council directed staff to present to Council at its next regularly scheduled meeting a proposed ordinance commensurate with Council’s position on policy direction.

At the City Council meeting of January 12, 2016, the Mayor tabled the agenda item on pertaining to the proposed ordinance and continued it until the next meeting, January 26, 2016. However, the ordinance cannot now be given the two (2) required readings and still take effect by March 1, 2016.

Therefore, the ordinance presented to Council is an urgency interim ordinance, to take effect immediately upon passage, pursuant to California Government Code section 65858. Council members have voiced concern for the protection of the public’s health, safety and welfare unless medical marijuana cultivation is appropriately regulated. Accordingly, passage of this ordinance as an urgency item is supported and merited. As an urgency interim ordinance, the ordinance will be effective for only 45 days; however, it may be extended for up to 10 months. The City will then have adequate time to prepare a permanent ordinance reflecting the most recent legislation expressed by the currently pending AB 21, have it heard by the Planning Commission as required of land use/zoning ordinances, and subsequently adopted by the City Council.

Submitted herewith for consideration and adoption by the City Council is an ordinance amending and adding to the Willows Municipal Code prohibiting the cultivation, sale and delivery of medical marijuana within the City of Willows.

Notice of the January 12, 2016 City Council public hearing, which item was tabled and continued by the Mayor to the January 26, 2016 meeting, was published in the Sacramento Valley Mirror on Saturday, January 2, 2016.

Staff is recommending that the Mayor conduct the continued public hearing and adopt **AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS, CALIFORNIA ADDING CHAPTER 18.117 (MARIJUANA CULTIVATION), ADDING CHAPTER 9.20 (MEDICAL MARIJUANA) AND AMENDING CHAPTER 8.10 (NUISANCE) OF THE WILLOWS MUNICIPAL CODE REGARDING MARIJUANA CULTIVATION.**

Mayor Hansen opened the public hearing at 7:18 p.m. The following individuals spoke during the public hearing:

- Michelle Corbin, Willy Beavers & Doug Ross.

Mayor Hansen closed the public hearing at 7:22 p.m.

**M/S – Domenighini/Williams** to adopt and Urgency Ordinance of the City Council of the City of Willows, California adding Chapter 18.117 (Marijuana Cultivation), Adding Chapter 18.117 (Marijuana Cultivation), Adding Chapter 9.20 (Medical Marijuana) and amending Chapter 8.10 (Nuisance) of the Willows Municipal Code regarding Marijuana Cultivation. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent.

## **8. Ordinances:**

- a) Consider reading by title only and passage of first reading of an Ordinance entitled “An Ordinance of the City Council of the City of Willows amending Title II Section 2.10.100 of Chapter 2.10, City Manager, of the Willows Municipal Code”

This ordinance is introduced to correct an over-looked erroneous section(s) of the Willows Municipal Code in conjunction with the City Treasurer Position. At some point during the evolution of the Willows Municipal Organization, the City Treasurer may have been an “elected” city official; a practice not uncommon in many small general law cities across the state. Just as common in many cities was the practice to “sunset” those elected positions and create an appointed position within the organizational structure. This likely occurred in Willows around the time the City Manager form of government was adopted by the City Council. Typically in smaller cities the early city managers wore numerous hats and shouldered the responsibility for multiple organizational roles. As organizations grew in complexity and size; many specific position classifications were developed to fulfill more specialized requirements of municipal government and community services.

This is possibly the evolution status of the City Treasurer Classification within the city’s workforce structure. Although the City Treasurer may have existed once upon a time; at some point the position has become non-existent and moot. Financial matters within the City now fall under the purview of the Director of Finance, a position subordinate to the City Manager and a contributing member of the City’s Executive Management Staff. Unfortunately, the WMC was not completely corrected to coincide with this evolution.

Council has previously requested periodic review of City ordinances and requested staff to introduce any necessary corrections. It was noted that Section 2.10.100 contained language that was consistent with an elected city treasurer position classification. This correction will properly place the classification as a subordinate employee of the City Manager. Although, the position is not funded and not filled from a personnel perspective, administratively, the City Manager will authorize this position classification to be included as an FLSA Exempt Employee Class, prohibited from earning over-time pay and recognizing the position as equivalent to director status among the executive management team. Staff is recommending approval of this correction.

Staffs is recommending Council read by title only and pass first reading of an Ordinance amending Section 2.10.100 of the Willows Municipal Code; establishing the City Treasurer classification as subordinate to the City Manager.

**M/S – Mello/Williams** to read by title only the Ordinance next in line. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent.

**M/S – Mello/Williams** to pass first reading of an Ordinance entitled “An Ordinance of the City Council of the City of Willows amending Title II Section 2.10.100 of Chapter 2.10, City Manager, of the Willows Municipal Code”. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent.

- b) Consider reading by title only and passage of first reading of an Ordinance entitled “An Ordinance of the City Council of the City of Willows Amending Title IX Section 9.15.010 of Chapter 9.15, Curfew Hours, and repealing Title IX Section 9.15.040 of Chapter 9.15 of the Willows Municipal Code”.

This ordinance is introduced to simplify over-looked complicated section(s) of the Willows Municipal Code in conjunction with curfew hours for minors. Police Department personnel brought to staff’s attention the request to review and modify language and hours within the City’s curfew ordinance. Staff indicated that the current definition of curfew hours is convoluted, complicated and confusing in terms of its “real world” application.

A review of the curfew hours revealed police personnel were accurate in their description. The current definition provides for several different scenarios of time frames and ages. Thus, the application of the ordinance becomes an exercise in mathematics as opposed to providing for the health, safety, and welfare of our citizens and young people.

Staff reviewed numerous other agency curfew ordinances including Glenn County, Orland, and Corning. This review revealed that all other curfew ordinances were simplistically defined, providing for one set of curfew timeframes for minors within the respective jurisdictions. The proposed modification to the City of Willows curfew hours is modeled after Glenn County’s definition and reflects elementary criteria which is easily understood

by parents and minors and easily interpreted and applied when the appropriate situations arise.

Further, the proposed ordinance repeals Section 9.15.040 in its entirety. The current section is archaic and redundant in its language and intent. It spells out the basics of law enforcement in establishing reasonable suspicion and probable cause to take further legal enforcement action. These concepts are basic elements and basic experience in law enforcement not requiring recital in the municipal code. Moreover, the language arguably limits discretionary decisions inherent in law enforcement activities and functions.

Council has previously requested periodic review of City ordinances and to introduce any necessary corrections. Section 9.15.010 contains language that is confusing, convoluted, and in need of simplification. Section 9.15.040 is archaic and redundant of basic law enforcement principles and mandates. The requested ordinance modification and repletion will simplify application of the ordinance and remove unnecessary and repetitive language.

Staffs is recommending Council read by title only and pass first reading of an Ordinance amending Section 9.15.010 and repealing Section 9.15.040 of the Willows Municipal Code; amending the definition of curfew hours and repealing Section 9.15.040 in its entirety.

**M/S – Domenighini//Mello** to read by title only the Ordinance next in line. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes and Vice Mayor Yoder absent.

**M/S – Domenighini/Mello** to pass first reading of an Ordinance entitled “An Ordinance of the City Council of the City of Willows amending Title IX Section 9 Section 9.15.010 of Chapter 9.15, curfew hours, and repealing Title IX Section 9.15.040 of Chapter 9.15 of the Willows Municipal Code”. On a roll-call vote, the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent.

c) Medical Marijuana Urgency Ordinance – **Action taken under item 7 (a).**

**9. Items to be added by City Council or Administrative Staff for discussion purposes only:** None

**10. New Business:**

a) Consider acceptance of the audited financial statements of the City of Willows to for the Fiscal Year ending June 30<sup>th</sup>, 2016:

Roy R. Seiler, CPA, has completed the annual audit of the financial statement for the City of Willows. Mr. Seiler briefly addressed the Council and gave a brief summary of City

performance and activity and discussed his analysis of the financial statements. He stated that during his review he found no issues with City's financials. Staff is recommending that the Council accept the audited financial statements of the City of Willows as of and for the fiscal year ending June 30, 2015.

**M/S – Domenighini/Williams** to accept the City of Willows audited financial statements as of and for the fiscal year ending June 30, 2015. Motion passed 4/0, with with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes, and Vice Mayor Yoder absent.

- b) Consider adoption of a Resolution to authorize the City Manager to sign a Development Agreement with Basin Street Properties for the "North Valley Commercial Center" project.

On July 27, 2015, the City was awarded an EDA Grant to assist with infrastructure improvements associated with the development of certain property owned by Basin Street, LLC located approximately at Highway 99 and County Road 57, known as the "North Valley Commercial Center Project." Council approved the grant award on September 8, 2015 and directed staff to prepare a development agreement with Basin Street, LLC.

Staff has drafted an agreement with Basin Street, LLC incorporating appropriate performances including contribution of Basin Street, LLC of approximately \$535,715 in matching monies associated with the conditions of the EDA Grant Award. 3CORE on behalf of the City of Willows, in partnership with Basin Street Properties have acquired funding opportunities in support of the necessary infrastructure improvements; including Highway 99 traffic accommodations, bridge work necessary to access the business park, main street/entry-way highway, frontage improvements, as well as water, sewer and associated improvements to commence development of the North Valley Commercial Center Project.

Grants and cooperative agreements made under these programs are designed to leverage existing regional assets and support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities.

As mentioned above, Basin Street, LLC has agreed to reimburse the City in the amount of approximately \$535,715 over the span of five years, payable in annual installments. The interest rate payable to the City is 5% which equals the interest rate charged to the City associated with the 3CORE loan. Thus, the City is net zero dollars in terms of repayment of the matching funds. These criteria are included in the proposed development agreement.

As a final condition of approval of the project and in concert with the development agreement, the assets created by the construction of streets, utilities and other public improvements, are always dedicated or transferred back to the ownership/control of the City of Willows. These improvements are essential elements in the economic enhancements of the project site and basically facilitate the economic drivers that generate higher rates of revenue to the City of Willows. It is therefore common practice for municipal agencies to share in the development burden of this type of business park investment environment.

As such, staff is recommending the Council authorize the city manager to enter into the development agreement with Basin Street, LLC in conjunction with the North Valley Commercial Center project and the EDA Grant Award previously approved and accepted by Council.

Funding commitments from the City of Willows and Basin Street, LLC in equal amounts of \$535,715 as conditions associated with the acceptance of the EDA Grant match in the amount of not less than \$1,071,429.00.

Staff recommends that the City Council approve a Resolution, authorizing the City Manager to enter into the proposed development agreement with Basin Street, LLC and all other actions necessary to fully perform in accordance with the agreement requirements.

**M/S – Mello/Domenighini** to adopt a Resolution authorizing the City Manager to sign a Development Agreement with Basin Street, LLC for the “North Valley Commercial Center” Project. On a roll-call vote the motion unanimously passed 4/0 with Council Members Domenighini, Mello, Williams and Mayor Hansen voting all ayes and Vice Mayor Yoder absent.

**11. Council Member Reports:** None

**12. Executive Session:** Council convened into Executive Session at 8:37 p.m. pursuant to California Government Code Sections 54950 et seq. More specific information regarding the closed session item(s) is indicated below:

**PUBLIC COMMENT:** Pursuant to Government Code Section 54954.3, the public had an opportunity to directly address the legislative body on the item(s) below prior to the Council convening into Closed Session. Public Comments are generally restricted to three minutes. No public comments were heard at this time.

- a) PUBLIC EMPLOYMENT, pursuant to Gov. Code § 54957  
**Title: City Attorney.**

- b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Gov.  
Code § 54957  
**Title: City Manager**

**13. Reconvene to Open Session & Report out, if any, on Closed Session:**

The Council reconvened into open session at 10:11 p.m. Mayor Hansen reported that there was no reportable action taken on item 13 (a), and direction was given to staff to table item 13 (b) to the February 9, 2016 regular City Council Meeting.

**14. Adjournment:** Mayor Hansen adjourned the meeting at 10:13 p.m.

Dated: January 26, 2016

NATALIE BUTLER

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City Clerk

The City of Willows is an Equal Opportunity Provider