

CITY COUNCIL

Gary L Hansen, Mayor  
Jim Yoder, Vice Mayor  
Larry Domenighini, Council Member  
Lawrence Mello, Council Member  
Jeff Williams, Council Member

INTERIM CITY MANAGER  
Fire Chief, Wayne Peabody

CITY CLERK  
Natalie Butler



201 North Lassen Street  
Willows, CA 95988  
(530) 934-7041  
[www.cityofwillows.org](http://www.cityofwillows.org)

**CITY COUNCIL REGULAR MEETING AGENDA**  
**July 12, 2016**  
**7:00 p.m.**

1. **Call to Order Willows City Council Regular Meeting – 7:00 p.m.**
2. **Pledge of Allegiance (Please remain standing upon conclusion)**
  - a) **Observe a moment of silence for WW II Veteran and Retired California Highway Patrol Sergeant William “Bill” Flannigan, who passed away on June 30, 2016.**
3. **Roll Call**
4. **Presentations & Proclamations:** None scheduled.
5. **Public Comment / Written Communications:** Members of the public wishing to address the Council on any item(s) *not on the agenda* may do so at this time when recognized by the Mayor/Vice Mayor; however, no formal action will be taken unless a majority consensus of the Council directs staff to place the item on a future agenda. ***(Public Comment is generally restricted to three minutes)***.
6. **Consent Agenda:** Consent items are considered to be routine by the City Council and will be enacted in one motion. There will be no separate discussion on these items unless a Councilperson or citizen requests, in which event the item will be removed from the consent agenda. It is recommended that the Council:
  - a) Consider approval of the Minutes of the regular City Council Meeting held on June 28, 2016.
7. **Public Hearings:**
  - a) Conduct a public hearing and consider adoption of a Resolution affirming previous acceptance of work products associated with Grant Number 13-CDBG-8939 and directing staff to proceed with closeout.
  - b) Conduct a public hearing and 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 9, ADDING CHAPTER 9.25 OF THE WILLOWS MUNICIPAL CODE TO REGULATE BUTANE RESALE”.

**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 REPEALING TITLE IX, SECTION 9.05.240 & 9.05.320 OF CHAPTER 9.05 OF THE WILLOWS MUNICIPAL CODE".

**9. Items to be introduced by City Council or Administrative Staff for discussion purposes only:**

**10. New Business: None**

**11. Council Member Reports:**

**12. Executive Session: None**

**13. Adjournment:**

**CERTIFICATION: Pursuant to Government Code §54954.2 (a), the agenda for this meeting was properly posted on or before July 8, 2016.**

A complete agenda packet, including staff reports and back-up information, is available for public inspection during normal work hours at City Hall or the Willows Public Library at 201 North Lassen Street in Willows or on the City's website at [www.cityofwillows.org](http://www.cityofwillows.org).

In compliance with the Americans with Disabilities Act, the City of Willows will make available to members of the public any special assistance necessary to participate in this meeting. The public should contact the City Clerk's office at 934-7041 to make such a request. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City of Willows is an Equal Opportunity Provider

**MINUTES OF THE WILLOWS CITY COUNCIL**  
**REGULAR MEETING HELD June 28, 2016**

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

Present: Council Members Domenighini, Mello, Williams, Yoder & Mayor Hansen.

Absent: None

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

6. **Consent Agenda:**

**M/S –Williams/Domenighini** to approve the Consent Agenda as presented. All Ayes and the motion unanimously passed 5/0 and the following items were approved/adopted:

- a) Approval of General Checking, Payroll Checks & Payroll Direct Deposit Registers (33634-33672; Z07378-Z07412; 36191-36207).
- b) Approval of the Minutes of the Willows City Council Meeting held on May 24, 2016.
- c) Approval of the Minutes of the Willows City Council Meeting held on June 14, 2016.

7. **New Business:**

- a) 2016-2017 General Fund Budget Adjustments:

At the budget hearing held on June 1, staff presented a General Fund budget that contained an operating deficit for 2016/17 of \$219K and for 2017/18 of \$265K. At that time the Council directed staff to table the 2017/18 budget and bring back the 2016/17 budget for adoption as presented and follow with proposed adjustments at the meeting scheduled for October 11, 2016.

While additional time for staff to analyze a number of cost saving measures was appreciated, the effect of certain cuts are diminished if they are not implemented at or near the beginning of the fiscal year. In addition to the proposed cuts, staff had received updated information in several areas after the budget hearing on June 1 that create adjustments to the originally presented General Fund budget. These proposed cuts/adjustments are:

- **Postpone salary step increase for Management positions.**  
When Council approved the salary scale for Management and Confidential Employees in July of 2015, the resolution contained a clause that allowed Council, via approval of

expenditures in the budget, to postpone or delay salary step increases. Management staff is requesting that the Council implement this postponement, set to occur on January 1, 2017, for the positions of Fire Chief/Interim City Manager, Police Chief, Public Works Director, Finance Director, Recreation Director, Building Official and City Clerk, but that the positions of Administrative Analyst and Police Administrative Secretary (the “Confidential” positions in the Management and Confidential Group) receive their respective step increases. The resolution to adopt this postponement is before the Council for adoption this evening and it will be in effect until the end of the fiscal year (6/30/17), where Council will then have another opportunity whether or not to fund the step increase. The estimated cost savings to the General Fund if this resolution is adopted is \$19,109.

- **Implement 5% furlough for management positions.**

Similar to the step increase deferral, the furlough would be for management positions (confidential positions would not be included). Ultimately, Management would be compensated for 38 hour/35.625 hour work weeks rather than 40/37.5, depending on the employee’s existing schedule. It is the intent to keep the hours of operation of City Hall as currently in place, which is Monday through Friday from 8:00 a.m. to 5:00 p.m. The furlough, if approved, would go into effect on July 11, which will be the start of the first full pay period of the fiscal year. The resolution to implement the furloughs is before the Council for adoption this evening. It was noted by Finance Director Tim Sailsbery that the resolution that was included in the original agenda packet has been amended to remove the clause that “directs the Fire Chief/Interim City Manager to implement and manage the work schedules of the positions in order to meet the furlough status” and a revised copy of the resolution had been distributed to the Council just prior to the meeting. This clause was removed at the direction of City Attorney, Bob Hunt, as he opined that it could potentially compromise the status of “exempt” Management employees that are generally responsible for their own work schedules. The estimated cost savings to the General Fund if this resolution is adopted is \$33,551.

- **Updated Workers Compensation Insurance Premiums.**

Staff received updated net premium numbers regarding workers compensation following the June 1 meeting. Net savings from the original estimate is \$8540 to the General Fund and \$1113 to the Sewer Enterprise Fund. No Council action, separate from adopting the 2016/17 Budget is necessary.

- **Updated Cafeteria (Health and other benefit costs).**

PERS has published the 2017 rates for the Blue Shield Access Plus HMO, the basis for the cafeteria plan benefit for employees. Each year a 5% increase is used as an estimate for budgeting purposes. We now have exact numbers, and the increase is 8.47%.

In addition, those who are subject to the postponed step increase and 5% furlough are also subject to receiving 80% of the cafeteria plan benefit rather than the full benefit. It is requested that the cafeteria benefit for 2017 for this group be set so that the out-of-pocket contribution is held at 2016 levels rather than resetting at 80% of 2017 amounts.

The net result of these items is additional cost of \$8469 in the General Fund and \$1110 to the Sewer Enterprise Fund. Council will take action on the Cafeteria Plan documents in the fall (as occurs each year). However, at this point, this will be included in the 16/17 budget to be adopted.

The net result of all of the items listed is a General Fund budget savings of \$52,731. The projected deficit moves from \$219,748 to \$167,017. Staff requests that Council take action on the proposed resolutions prior to moving to the public hearing for the 2016/17 budget adoption coming up later on tonight's agenda.

**M/S – Domenighini/Williams** to adopt a Resolution temporarily deferring step increases for selected positions. The motion unanimously passed 5/0 with a roll-call vote.

**M/S – Domenighini/Mello** to adopt a Resolution temporarily authorizing a 5% furlough for selected positions. The motion unanimously passed 5/0 with a roll call vote.

b) Solid Waste Management Parcel Fee

Each residential, commercial and industrial parcel within the City is charged a fee for disposal of solid waste at the Glenn County Disposal site. Sections 5470-5473 of the California Health and Safety Code provide for the Board of Supervisors of any county to establish a schedule of fees to be imposed for the operation and maintenance of county waste disposal sites. Section 5471 also provides that prior to imposing this fee, the Board of Supervisors shall obtain the consent of the legislative bodies of the cities.

For fiscal year 2016/2017 the parcel fee is proposed to be \$42.74 per unit. This reflects no increase from the previous year. Staff is requesting that the Council adopt the Resolution consenting to this service charge.

**M/S – Yoder/Williams** to adopt a Resolution consenting to the imposition of Fiscal Year 2016-2017 Solid Waste Management Parcel Fee. The motion unanimously passed 5/0 with a roll call vote.

c) Election Policy – Discuss and potentially amend Administrative Policy 9-1

The County Elections Office has recently provided the City with a Municipal Elections Calendar in anticipation of the November 8, 2016, General Election. Prior to noticing the public and accepting nomination documents for available Council seats, it seems an appropriate time for the Council to review, discuss, reaffirm and possibly modify the City's current Election Policy.

City of Willows Administrative Procedures and Policy #9-1 currently limits the candidate statement to 200 words and indicates that the Candidate is responsible for the cost of publishing the statement.

California Elections Code 13337 (a) (1) states as follows:

“Each candidate for non-partisan elective office in any local agency, including any city, county, city and county, or district, may prepare a candidate’s statement on an appropriate form provided by the elections official. The statement may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate’s education and qualifications expressed by the candidate himself or herself. *However, the governing body of the local agency may authorize an increase in the limitations on words for the statement from 200 to 400 words.* The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations.”

On July 11, 2006, this item was on the agenda for discussion and it was requested at that time that the Council be given the opportunity to review this policy prior to each election. The last revision to the policy was June 26, 2012.

Council discussion ensued regarding the number of words currently allowed by Admin Policy 9-1, and some Council Members wondered why the City has historically kept the maximum amount of words at 200 instead of 400. Willows resident Kerri Warren addressed the Council and stated that she believes the reason it may have been kept at a 200-word maximum was for spacing purposes in the Official Voter Information Guide. As discussions continued, the Council Members concluded that since Candidate Statements are optional and if the Candidate does opt to have a Statement placed in the Voter Information Guide, the Candidate bears the cost; therefore they believed they should increase the maximum number of words to 400.

**M/S – Domenighini/Yoder** to amend Administrative Policy 9-1, Section II Item 1 to read “Candidates’ statements shall be limited to a maximum of 400 words”. The motion unanimously passed 5/0.

d) Appointments of 3 members to the Library Board of Trustees:

Currently there are three seats on the Willows Library Board of Trustees which terms will expire on June 30, 2016. At the May 28, 2016 City Council Meeting, staff was directed to advertise and solicit applications to fill these seats and Council Members Mello and Williams agreed to serve on a subcommittee to review applications, conduct interviews and make their recommendations for three individuals to fill these positions. Four applications were received – two from current Trustees Lisa Kennedy and Robert Griffith and two new applicants, Joni Lehr and Sunshine Kelly. The subcommittee conducted applicant interviews on June 20, 2016 and will make their recommendations to the full Council who they believe should fill these three seats. The terms of office for these seats run from July 1, 2016 to June 30, 2019.

Council Member Williams stated that he thoroughly enjoyed this process and it was a pleasure to serve on this subcommittee along with Council Member Mello. He stated that during the process he was happy to have heard very positive comments from all of the applicants about the Willows, Elk Creek and Bayliss Libraries and also about Library Director Jody Meza and “Friends of the Willows Library” President Brian Ramos. While this was a difficult decision since all four applicants were qualified to serve and would have served well, unfortunately there are only three seats available and his and Council Member Mello’s recommendations are to reappoint Robert Griffith and Lisa Kennedy and to also appoint Sunshine Kelly. The decision

was not an easy one but it ultimately came down to which of the candidates had the greatest amount of experience with library operations. Council Member Williams thanked Joni Lehr for going through the application and interview process and he encouraged her to continue to be actively involved with the library. Council Member Domenighini also addressed Mrs. Lehr and he encouraged her to attend Library Board meetings and to take advantage of any future vacancies on the board. Council Member Mello concurred with all of Council Member Williams' comments and again reiterated that it was not a decision that was easily made but it came down to a matter of who had the most experience.

**M/S – Domenighini/Yoder** to appoint Sunshine Kelly and reappoint current members Robert Griffith and Lisa Kennedy to the three seats on the Library Board. The motion unanimously passed 5/0.

Robert Griffith addressed the Council and thanked them for allowing him to continue to serve on the board for another three years.

## **8. Public Hearings:**

### a) 2016/2017 Budget Adoption:

The City Council conducted a budget review and analysis session workshop on June 1 and as part of the workshop sessions, the Council received input from staff in an open, public session. As a result, Council provided direction to staff to return to the Council with a budget resolution.

As presented for adoption, the budget includes expenditure levels of \$6,621,045. The proposed budget carries a General Fund operating deficit of \$167,017 for 2016/17 which will be covered by General Fund Reserves currently estimated to be at \$997,352.

Additionally, in accordance with debt covenants associated with the USDA loan for the wastewater treatment plant renovation, 1/10<sup>th</sup> of an annual loan payment must be placed into reserved status each year from the Sewer Enterprise Fund. This will continue annually until the equivalent of a full annual loan payment is held in reserve. The amount to be designated for 2016/17 is \$36,000 each. This will be the tenth and final year of said debt reserve designation.

Attachments to the staff report include summary recaps of revenue and expenditure projections for General and Special Revenue Funds, Sewer Enterprise Fund (including designation of debt reserve) and Water Enterprise Funds.

This Budget is presented for adoption without consideration of actions yet to be taken by the State of California or the County of Glenn regarding their respective 2016/17 budgets. Should actions taken by these agencies have an impact on the financial status of the city, Staff will return to the Council for further budgetary action.

It was noted by Finance Director Tim Sailsbery that the resolution presented in the original agenda packet failed to include the hiring freeze, therefore an amended resolution with that

addition was handed out to the Council just prior to the meeting and that will be the resolution that the Council will be acting on.

Mayor Hansen opened the public hearing at 7:28 p.m., and hearing no comments, subsequently closed the public hearing at 7:28 p.m.

**M/S – Mello/Yoder** to adopt a Resolution adopting the 2016/17 Annual Budget and designating Sewer Enterprise Fund Debt Reserve. The motion unanimously passed 5/0.

**9. Ordinances:** None

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

Finance Director Sailsbery announced that there was a recent email sent out regarding “cooling stations” in Glenn County. He informed the Council that one of the designated cooling stations is the Willows Library. He also announced that there will be a fireworks display at Jensen Park on the night of the 4<sup>th</sup> of July and encouraged everybody’s attendance.

**11. Council Member Reports:**

- Council Member Williams reported that he attended a Transit & Transportation meeting and that Gloria Ponciano is now officially retired from Para-Transit Services.
- Mayor Hansen stated that he wanted to go on record publicly thanking Gloria Ponciano for her many dedicated years of service with both Glenn County and with Para-Transit Services. He also reported that he assisted with the Community Clean-Up Day on June 18 and that it was an extremely successful event. There was nearly twice the amount of trash, furniture, scrap metal and other discarded household items as there was at last year’s event. He thanked the entire Public Works Department for their help and he also thanked Public Works Director Steve Soeth, Fire Chief/Interim City Manager Wayne Peabody, Fire Captain Skip Sykes and Building Official Clay Dawley for all of their hard work and assistance with the event.

**12. Executive Session:** None

**13. Adjournment:** Mayor Hansen adjourned the meeting at 7:37 p.m.

Dated: June 28, 2016

NATALIE BUTLER

\_\_\_\_\_  
City Clerk

The City of Willows is an Equal Opportunity Provider



**AGENDA ITEM**

**TO:** Wayne Peabody, Interim City Manager   
**FROM:** Tim Salsbery, Finance Director  
**SUBJECT:** Completion and Closeout of Grant No. 13-CDBG-8939

---

**RECOMMENDATION**

Conduct a public hearing and adopt the Resolution of the City Council of the City of Willows Affirming Previous Acceptance of Work Products Associated with Grant No. 13-CDBG-8939 and Directing Staff to Proceed with Closeout

---

**SITUATION (or BACKGROUND):**

On March 3, 2014 the City and the California Department of Housing and Community Development ("HCD") entered into a grant agreement for HCD to provide up to \$70,000 for the City to complete a Housing Conditions Survey and a Housing Element Update. Both projects were completed, accepted by Council, and forwarded to HCD as follows:

- Conditions Survey-Accepted by Council 8/12/14
- Housing Element-Accepted by Council 1/13/15

The grant was left open (expiration date 9/30/16) in case follow up issues occurred. As such issues have not occurred, and we are now approaching the expiration of the grant period, Staff is seeking Council approval to close the grant and submit final documents in order to receive final reimbursements on the grant.

As noted, the work products have already been accepted by Council. This serves as a step to formally close out the grant.

**FINANCIAL CONSIDERATION**

None-This step provides final reimbursement of previously expended funds.

**NOTIFICATION**

- Notice of Public Hearing posted in newspaper of general circulation

**ALTERNATE ACTIONS**

1. Approve by Resolution
2. Reject staff recommendation and/or direct item to be returned at later date.

**RECOMMENDATION**

Conduct a public hearing and adopt the Resolution of the City Council of the City of Willows Affirming Previous Acceptance of Work Products Associated with Grant No. 13-CDBG-8939 and Directing Staff to Proceed with Closeout

---

Respectfully submitted,



Tim Sailsbery  
Finance Director

---

**Attachments:**

- Resolution
- Minutes of August 12, 2014 City Council Meeting (Housing Condition Survey Acceptance)
- Minutes of January 13, 2015 City Council Meeting (Housing Element Acceptance)

**RESOLUTION NO. XX-2016**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLOWS**  
**AFFIRMING PREVIOUS ACCEPTANCE OF WORK PRODUCTS**  
**ASSOCIATED WITH GRANT NO. 13-CDBG-8939 AND DIRECTING STAFF TO**  
**PROCEED WITH CLOSEOUT**

WHEREAS, the City of Willows and the California Department of Housing and Community Development entered into a grant agreement for the City to perform a Housing Conditions Survey and a Housing Element Update, and

WHEREAS, this grant, 13-GCBD-8939 provided much needed and much appreciated funding for said projects, and

WHEREAS, the City was able to complete said projects and received Council acceptance of work products on August 12, 2014 and January 13, 2015

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Willows hereby affirms the previous acceptance of the Housing Conditions Survey and the Housing Element Update

BE IT FURTHER RESOLVED that the City Council of the City of Willows hereby directs Staff to complete the steps necessary to close-out Grant No. 13-CDBG-8939

PASSED AND ADOPTED by the City Council of the City of Willows this 12th day of July, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

---

Gary Hansen, Mayor

ATTEST:

NATALIE BUTLER, CITY CLERK

**MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD**  
**August 12, 2014**

1. Mayor Cobb called the meeting to order at 7:08 p.m.
2. **PLEDGE OF ALLEGIANCE:** Jeff Williams led the Pledge of Allegiance.
3. **ROLL CALL:**  
**Present:** Domenighini, Taylor-Vodden, Mello, Hansen & Mayor Cobb.  
**Absent:** None.
4. **Agenda Review:** It was **moved** by Council Member Taylor-Vodden and **seconded** by Council Member Hansen to accept the August 12, 2014 agenda as presented. The motion unanimously passed.
5. **Presentations & Proclamations:**
  - a) Mayor Cobb presented a Proclamation declaring the month of September as "Support our local hospital month". Mr. Hoover Mock accepted the Proclamation on behalf of Glenn Medical Center and he also announced that the 11<sup>th</sup> annual Hospital fundraiser "Splendor in the Valley" would be taking place on Saturday, September 13, 2014 at 5:30 p.m. and he encouraged everybody to attend this fundraiser.
6. **Public Comment/Written Communications:** None
7. **Consent Agenda:**

It was **moved** by Council Member Domenighini and **seconded** by Council Member Mello 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 (26555-27729; Z05431-Z05464; 33261-33294).
  - b) Approval of the Minutes of the Regular City Council Meeting held on June 10, 2014.
  - c) Approval of the Minutes of the Regular City Council Meeting held on June 24, 2014.
  - d) Approval of the Minutes of the Regular City Council Meeting held on July 22, 2014.
8. **Public Hearings:**
    - a) Review of draft Housing Conditions Survey Report:

In 2013 the City applied for and received Planning and Technical Assistance grant funding from the 2013 Community Development Block Grant Program (CDBG) to fund the preparation of a city-wide Housing Condition Survey (HCS). The City solicited for contract services to prepare the Survey and selected PMC to prepare the document. The HCS will be used to assess current housing conditions throughout the City to establish the need for housing rehabilitation for the purpose of benefiting low and moderate income homeowners of single-family and multi-family

residences/units. The results provided detailed documentation and analysis of exterior housing conditions and the geographic locations of those housing units in need of rehabilitation and will also comply with a current Housing Element goal to ensure quality, safe, and livable housing stock in the City.

The data from the survey will assist elderly and low-and-moderate-income homeowners with housing preservation and with eliminating any health and safety issues the housing units may have. The survey of the units was documented on tablet computers producing an overall point rating of the condition of the units. A parcel by parcel survey was carried out in May 2014 with the preparation and processing of the draft and final documents. The results were mapped and tabulated using GIS software to record the housing conditions on a parcel-by-parcel basis in order to facilitate the tabulation of citywide data by occupancy status, census tract, and block group level.

As the survey results showed, 58.2% of the single family housing stock (963 units), 78.3% of duplexes (47 units), and 68.4% of multi-family housing (13 total) with the City of Willows is in need of some form of rehabilitation, with 10.5% of MF in dilapidated condition. The survey shows that housing units located east of I-5 and south of State Route 162 (aka Wood Street) have the highest number in need of substantial repair out of all the census block groups surveyed. According to the survey report, overall 59% of the housing stock in the City of Willows is in need of some form of rehabilitation.

Staff then requested that the Mayor conduct the required Public Hearing and upon conclusion, consider adoption of a Resolution approving the submittal of a Housing Conditions Survey to HCD. Mayor Cobb opened the Public Hearing at 7:19 p.m., and hearing no comments, subsequently closed the Public Hearing at 7:19 p.m. It was then **moved** by Council Member Hansen and **seconded** by Council Member Taylor-Vodden to adopt a Resolution recommending approval of the Draft Housing Condition Survey and forward to HCD. The motion unanimously passed.

b) TK Development, LLC Appeal of Planning Commission Action:

TK development, LLC submitted an Appeal to the City Council on July 25, 2014 requesting that the Council overturn the decision of the Planning Commission on July 16, 2014 regarding a change in the perimeter fencing material for the Willows Senior Housing Project. The request was to change the original approval of the project located in the vicinity of 1330 West Sycamore Street. The request specifically asked to change the perimeter fencing material from a CMU wall to a Decorative Cedar Architectural Style Fence. The reason for the change was because the developer, Pacific West Communities, received \$500,000 less than anticipated of Affordable Housing Program Funds, administered through the Federal Home Loan Bank. The changing of the CMU wall to a decorative Cedar style fence will save the project at least \$212,025, as with the cedar fence there is no need to construct a concrete footing, installing of steel bars the entire length and height of the wall, 1100 lineal feet long and 38 Pilasters at a cost of \$41,000.

Pursuant to a subsequent request from TK Development, they asked that tonight's legally noticed Public Hearing Appeal be continued to a future date as determined by the Council this evening.

MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD  
January 13, 2015

1. Mayor Domenighini called the meeting to order at 7:00 p.m.
2. PLEDGE OF ALLEGIANCE: Terry Taylor-Vodden led the Pledge of Allegiance.
3. ROLL CALL:  
Present: Williams, Yoder, Mello, Hansen & Mayor Domenighini.  
Absent: None
4. Agenda Review:
  - a) M/S - Yoder/Hansen to approve the January 13, 2015, City Council Agenda as presented. The motion unanimously passed.
5. Presentations & Proclamations:

Mayor Domenighini presented former Council Member and 2-time Vice Mayor Terry Taylor-Vodden & former Council Member and 2-time Mayor Jeff Cobb with plaques of appreciation for their past years of service on the City Council on behalf of the current City Council Members, City Staff and the Citizens of Willows.
6. Public Comment/Written Communications: None
7. Consent Agenda:

M/S – Hansen/Mello to approve the Consent Agenda as presented. The motion unanimously passed and the following items were approved:

  - a) Approval of General, Payroll & Direct Deposit Check Registers (28260-28367; Z05882-Z05964; 33560-33588)
  - b) Adoption of a Resolution authorizing the City Manager to sign the Landscape Agreement with Caltrans and accept the Public access Easement associated with the new sidewalk with the Morgan Car Wash project & authorizing the City Clerk to cause recordation of the Easement with the County Recorder's Office.
  - c) Approval of the Minutes of the November 25, 2014, Regular City Council Meeting.
8. Public Hearings:
  - a) Conduct a Public Hearing regarding the 2014/2015 Appropriation Limit for the City of Willows and by motion, consider adoption of a Resolution establishing said limit.

The City is required annually to establish its appropriations limit by Council Resolution. The appropriation limitation imposed by Propositions 4 and 111 creates a restriction on the amount of revenue that can be appropriated in any fiscal year. The limit is based on the actual appropriations during the 1978-79 fiscal year and is increased each year using the growth of population and inflation. Not all revenues are restricted by the limit, only those that are designated as “proceeds of taxes” are included.

The City’s appropriation limit for fiscal year 2014-2015 is \$8,341,832. With qualified proceeds of taxes \$3,054,008 for the year, the City is \$5,287,824 under the limit. The City Auditor has reviewed the worksheets.

Mayor Domenighini opened the Public Hearing at 7:10 p.m. and hearing no comments, he closed the Hearing at 7:10 p.m.

M/S – Yoder/Hansen to adopt a Resolution of the City of Willows establishing the 2014/2015 Appropriation Limit. The motion unanimously passed.

- b) Conduct a Public Hearing, discuss and provide comment, close the Public Hearing and consider adoption of a Resolution certifying a Negative Declaration for an updated Housing Element, Repealing the existing 2010 Housing Element and adopting the 2014-2019 Housing Element for the City of Willows:

The Housing Element is a mandatory element of the General Plan and is subject to a substantial number of State Laws, and is the only element subject to a five year re-adoption requirement. In addition each Housing Element must be reviewed and certified by the State Department of Housing and Community Development (HCD) as being in accordance with the extensive body of state law.

The State of California Housing Element Law, enacted in 1969, mandates that local governments adequately plan to meet the existing and “projected housing needs of all economic segments of the community” (Government Code 65580). The law acknowledges that, in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems which provide opportunities for, and do not unduly constrain, housing development. New legislation through Senate and Assembly Bills are created each time an update takes place. This update has several bills associated with the update including SB 1802, AB 1387, AB 2184, AB 2511, AB 2634, AB 782, SB 1206, SB 1210, SB 2, SB 375, SB 745 and the one that was of utmost importance this round was SB2 which requires zoning available for emergency shelters and supportive and transitional housing. There were bills related to housing that were made a requirement of this update, as the state has responded to the continuing lack of affordable housing with legislation that requires greater commitment from local governments and ties funding sources to housing element certification. The legislation also provides for stronger penalties for failing to comply with state housing law. Local governments, therefore, have multiple incentives for adopting a housing element that is certified by HCD.

Throughout California, jurisdictions are struggling to plan for housing and comply with state housing element law. It should be pointed out that state law explicitly indicates that jurisdictions

are not expected to spend any of their own funds in carrying out the objectives of this element. It is not the City's responsibility to guarantee or ensure the housing units that are needed to accommodate population growth are constructed. Instead, the City's obligations under the state law are to: (1) provide adequate, appropriately zoned sites to meet the existing and projected housing needs of all economic segments of the community, (2) eliminate any constraints to the private development of a supply of housing to meet the needs of all economic segments of the community, and (3) facilitate the actions required of the development industry in providing an adequate supply of housing.

A housing element must identify available sites that can accommodate the Regional Housing Needs Allocation (RHNA). The projected housing need fair share allocation for the City of Willows (RHNA) are 63 housing units for the 2014-2021 planning period. This total includes 15 units for very low income households, 11 units for low income households, 11 units for moderate income households and 26 units for above moderate income households.

The first step in identifying adequate sites is preparing an inventory of land suitable for residential development. California Government Code Section 65583.2(a) specifically provides that land suitable for residential development includes vacant and underutilized land. This land must be zoned and designated to allow for residential development during the planning period. The current Housing Element addresses the 2009-2014 planning period. It was adopted in June 8, 2010 and certified by HCD on September 9, 2010. The proposed Housing Element before the Council this evening, when adopted, will address the 2014-2019 planning period.

On February 25, 2014 the City Council authorized the City Manager to sign a services agreement with Pacific Municipal Consultants (PMC) for consultant services to prepare the 2014-2019 Housing Element update. PMC was selected for their wide range of Housing Element knowledge and experience.

On May 21, 2014 a public community stake holder meeting to address the housing needs was held at city hall. The public comments from this meeting were a concern with the lack of a variety of housing for senior citizens.

On July 16, 2014 a preliminary draft of the Housing Element Update was prepared by PMC and was presented to the Planning Commission at a public meeting held. Comments received from the hearing were incorporated into a revised draft which was then sent to HCD for their initial review on July 18, 2014.

On September 16, 2014 the City received a response from HCD regarding their review which indicated that the draft element did address many statutory requirements; however additional information would have to be re-submitted for their review in order to comply with State housing element law (Article 10.6 of the Government Code).

On October 9, 2014 the revised preliminary draft was submitted to HCD. During that time, public comments were welcomed and the draft was made available to the public and on the City's website for review.

On November 18, 2014 the City and consultant discussed with HCD additional items that were still required per legislation. A revised draft was submitted to HCD on November 18, 2014 through the consultant, addressing issues that HCD felt needed enhancement or clarification.

On December 4, 2014 the City of Willows received a compliance letter from HCD stating the housing element was in compliance with state housing law and the City can move forward with the element adoption process.

The following is a summary of the actions the City will need to complete during the 2014-2019 planning period to meet the housing need:

- Revise the zoning ordinance to provide consistency with the General Plan residential densities by removing the 14 dwelling unit per acre maximum in the density established in the R-3 and R-P zoning districts by October 2015.
- Adopt a zoning Ordinance by June 2015 to allow transitional and supportive housing to be treated as residential uses pursuant to SB 2, Statutes of 2011 and the requirements of GC Section 65583)a)(5). The City must monitor and report on the results of this and other programs through the annual progress report, required by GC Section 65400.

The project was reviewed pursuant to and under the California Environmental Quality Act (CEQA). The City noticed and circulated an Initial Study/Negative Declaration for a 30-day public review period, beginning on August 7, 2014 and ending on September 5, 2014. No comments were received from the public.

At this time Staff is recommending the Council open the Public Hearing, discuss and provide comment, close the Public Hearing and if appropriate, adopt the Mitigated Negative Declaration and adopt the 2014-2019 Housing Element of the General Plan.

Mayor Domenighini opened the Public Hearing at 7:18 p.m. and hearing no comments, subsequently closed the Public Hearing at 7:18 p.m.

M/S Hansen/Yoder to adopt a Resolution of the City Council of the City of Willows, State of California, certifying a Negative Declaration for an updated Housing Element, repealing the existing 2010 Housing Element, and Adopting the 2014-2019 Housing Element. The motion unanimously passed.

9. Ordinances: None.

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

- The City Manager reminded the Council about the Fire Department Installation Dinner at the Fire Department this Saturday, January 17 at 7:00 p.m.



**AGENDA ITEM**

**TO:** Wayne Peabody, Interim City Manager   
**FROM:** Jason Dahl, Chief of Police  
**SUBJECT:** Butane Resale Regulation Ordinance

---

**RECOMMENDATION**

It is recommended that the City Council conduct a Public Hearing and upon conclusion, read by title only and pass first reading of an ordinance entitled **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS AMENDING TITLE 9 ADDING CHAPTER 9.25 OF THE WILLOWS MUNICIPAL CODE TO REGULATE BUTANE RESALE”**.

---

**SITUATION (or BACKGROUND):**

The Chief of Police is proposing a City Ordinance to limit the amount of butane a person can purchase and possess as well as the amount of butane a business can sell within the City of Willows.

As the City Council is aware, there have been numerous “butane honey oil” lab explosions in nearby cities and/or counties in the State of California. There have been no butane honey oil lab explosions in the City of Willows as of yet. However, dismantled and used honey oil labs have been found within the city limits of Willows.

Butane is a highly flammable gas often used in large quantities for the manufacture of “honey oil”, a highly concentrated extract from cannabis plants, which present substantial risk of catastrophic fires. The Cities of Anderson, Red Bluff, Redding, Shasta Lake, Orland, and Chico have all recently introduced ordinances regulating the sale and possession of butane to address the foregoing public safety concerns. The County of Tehama, County of Shasta, and County of Glenn are also in the process of similar ordinance proposals. Most of the ordinances mimic each other with a slight variance in the amount you can possess (20oz +/- an oz.).

The proposed ordinance would prohibit the following:

1. It would be unlawful for any Reseller to sell, offer to sell, or distribute to a Customer in the City of Willows any number of Butane Canisters that exceed a combined total storage quantity of 600 ml (21.3 oz.) of butane at any one time.
2. It would be unlawful for any Person (not a Reseller or Wholesaler) to have in their possession, custody or control in the City of Willows any number of Butane

Canisters that exceed a combined total storage quantity of 600 ml (21.3 oz.) of Butane at any one time.

3. It is unlawful for any Customer to purchase or acquire in the City of Willows any number of Butane Canisters that exceed a combined total storage quantity of 600 ml (21.3 oz.) of Butane per calendar month, whether sold individually or by the Package.
4. Unless otherwise provided in this Chapter or by state law, a violation of any of the provisions of this Chapter shall be punishable as a Misdemeanor and subject to a \$1,000 penalty, per violation. A separate violation shall exist for every single Canister sold or possessed in violation of this Chapter.
5. This proposed ordinance would require that Resellers or Wholesalers of Butane track their sales (by preparing a bill of sale) of Butane and retain copies of them. The copies must be retained for at least two (2) years.
6. This Chapter is a regulatory provision necessary for the protection of the public health, welfare and safety. It is not required to prove knowledge or criminal intent for criminal prosecution.

**FINANCIAL CONSIDERATIONS:**

Minor possible reduction in sales tax revenue due to limitation of butane sales. Possible cost savings in public safety (Fire & Police) for non-response to explosion and fires.

**ALTERNATE ACTIONS**

Request additional information from staff; Provide additional direction to staff or reject proposal

**RECOMMENDATION**

It is recommended that the City Council conduct a Public Hearing and upon conclusion, read by title only and pass first reading of an ordinance entitled "**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS AMENDING TITLE 9 ADDING CHAPTER 9.25 OF THE WILLOWS MUNICIPAL CODE TO REGULATE BUTANE RESALE**".

---

Respectfully submitted,

Jason Dahl  
Chief of Police

---

Attachments: Butane Resale Regulation Ordinance

**ORDINANCE NO. XXX-2016**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF WILLOWS AMENDING TITLE 9 ADDING CHAPTER 9.25 OF  
THE WILLOWS MUNICIPAL CODE TO REGULATE BUTANE RESALE**

**WHEREAS**, the northern region of our State has experienced a recent increase in explosions caused by the manufacture of honey oil (also known as hash oil) in clandestine labs using five times refined (5X) butane. These incidents have caused considerable property damage, personal injury and even death to those participating in the manufacturing process and to innocent bystanders.

**WHEREAS**, (5X) refined butane is used to dissolve the tetrahydrocannabinol (THC) resin, which concentrates into a liquid/oil form as a result of the butane's stripping process. The stripping of the THC through the use of refined butane causes flammable butane vapors to accumulate low to the ground and remain exposed to ignition sources. Studies suggest that 99.5 percent of the extracted THC Butane mixture will volatilize into the immediate area and find an ignition source if (5X) refined butane and higher is used.

**WHEREAS**, a honey oil lab using (5X) refined butane and higher presents a serious hazard for first responders as the gas has no odor and can only be detected by a combustible gas instrument. Such conditions present grave risk of loss where devices such as a TASER are capable of igniting the gas resulting in an explosion.

**WHEREAS**, the resale of (5X) refined butane occurs at levels sufficient to aid the manufacture of honey oil. Such sales and possession of butane should be regulated to prevent the use of butane in the manufacture of honey oil where such activity presents grave dangers to the people of the City of Willows and the first responders therein.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WILLOWS**  
does ordain as follows:

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this Ordinance.

**SECTION 2.** Chapter 9.25 of the Willows Municipal Code entitled "Butane Resale Regulation", is added to the Willows Municipal Code as follows:

**Chapter 9.25- REGULATION OF BUTANE RESALES**

**Sections:**

- 9.25.010 – Legal Authority and Title.
- 9.25.020 – Findings and Purpose.
- 9.25.030 – Definitions.
- 9.25.040 – Unlawful Sale, Purchase and Handling of Butane
- 9.25.050 – Tracking of Butane Sales
- 9.25.060 – Penalties, Strict Liability, and Nuisance
- 9.25.070 – Cumulative Remedy

#### 9.25.010 – Legal Authority and Title

Under the authority granted in Article XI, Section 7 of the California Constitution and Government Code Sections 36900 and 36901, the City of Willows, by and through its Council, does enact this Chapter of the Municipal Code, which shall be known as the Butane Resale Regulation.

#### 9.25.020 – Findings and Purpose

- A. the northern region of our State has experienced a recent increase in explosions caused by the manufacture of honey oil (also known as hash oil) in clandestine labs using five times refined (5X) butane. These incidents have caused considerable property damage, personal injury and even death to those participating in the manufacturing process and to innocent bystanders.
- B. (5X) refined butane is used to dissolve the tetrahydrocannabinol (THC) resin, which concentrates into a liquid/oil form as a result of the butane's stripping process. The stripping of the THC through the use of refined butane causes flammable butane vapors to accumulate low to the ground and remain exposed to ignition sources. Studies suggest that 99.5 percent of the extracted THC Butane mixture will volatilize into the immediate area and find an ignition source if (5X) refined butane and higher is used.
- C. a honey oil lab using (5X) refined butane and higher presents a serious hazard for first responders as the gas has no odor and can only be detected by a combustible gas instrument. Such conditions present grave risk of loss where devices such as a TASER are capable of igniting the gas resulting in an explosion.
- D. the resale of (5X) refined butane occurs at levels sufficient to aid the manufacture of honey oil. Such sales and possession of butane should be regulated to prevent the use of butane in the manufacture of honey oil where such activity presents grave dangers to the people of the City of Willows and the first responders therein.

#### 9.25.030 – Definitions

For the purpose of this chapter the following definitions apply:

"Butane" means five times refined (5X) or higher of any of the following: iso-butane, n-butane, and butane.

"Canister" means a single container in which butane is stored or collected or from which butane is dispensed.

"Code" means the Willows Municipal Code.

"Customer" means any person who is sold or acquires during a transaction, products from any reseller.

"Day" means calendar day.

"Package" means butane offered for sale at quantities of two or more Canisters.

"Person" means a corporation, co-partnership, or association as well as a natural person.

"Reseller" means any business, company, corporation, person, employee or associate that sells, offers to sell, or distributes products to any customer within the City of Willows. It does not include any wholesaler engaged in a wholesale transaction.

"Sell" means to furnish, give away, exchange, transfer, deliver, surrender, distribute or supply, whether for monetary gain or other consideration.

"THC" means Tetrahydrocannabinol, a compound that is the physiologically active component in cannabis preparations (Marijuana, Hashish, etc) derived from the Indian hemp plant or produced synthetically.

"Transaction" means a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, exchange of currency, extension of credit, purchase or sale of any monetary instrument, or an electronic, magnetic or manual transfer between accounts or any other acquisition or disposition of property by whatever means effected.

"Wholesaler" means a person whose business is the selling of goods in gross to retail stores for purposes of sale.

#### 9.25.040- Unlawful Sale, Purchase and Handling of Butane.

- A. It is unlawful for any Reseller to sell, offer to sell, or distribute to a Customer in the City of Willows any number of Butane Canisters that exceed a combined total storage quantity of 600 ml (20.3 oz) of butane at any one time.
- B. It is unlawful for any Person that is not a Reseller or Wholesaler to have in their possession, custody or control in the City of Willows any number of Butane Canisters that exceed a combined total storage quantity of 600 ml (21.3 oz) of Butane at any one time.
- C. It is unlawful for any Customer to purchase or acquire in the City of Willows any number of Butane Canisters that exceed a combined total storage quantity of 600 ml (21.3 oz) of Butane per calendar month, whether sold individually or by the Package.

#### 9.25.050 – Tracking of Butane Sales

- A. For every sale of Butane, every Reseller shall prepare a bill of sale that identifies the date of the sale, quantity of Butane purchased, and the Customer's identification. The Customer's identification as used herein shall mean a Person's first and last name as verified from a valid driver's license or other official and valid state-issued identification that contains a photograph of the Customer and a residential or mailing address. Resellers shall retain a

copy of the bill of sale in readable form for a period of two (2) years.

- B. It shall be unlawful for any Reseller to sell Butane to any Customer without complying with section 9.25.050.
- C. Upon written request, a Reseller shall provide copies of the records described in this section to the City of Willows.

9.25.060 – Penalties, Strict Liability, and Nuisance

- A. Unless otherwise provided in this Chapter or by state law, a violation of any of the provisions of this Chapter shall be punishable as a Misdemeanor and subject to a \$1,000 penalty, per violation (Government Code Section 36901). A separate violation shall exist for every single Canister sold or possessed in violation of this Chapter.
- B. This Chapter is a regulatory provision necessary for the protection of the public health, welfare and safety. In any criminal prosecution for a violation of this Chapter, it is not necessary to prove knowledge or criminal intent.
- C. A violation of any provision of this Chapter constitutes a public nuisance.

9.25.070 – Cumulative Remedy

Nothing herein is intended to limit the City from pursuing any other remedy available by law or in equity against any person or entity maintaining, committing, or causing a public nuisance or any other violation of the Code or State or Federal Law.

**SECTION 3. Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared, invalid or unconstitutional.

**SECTION 4. CEQA**

The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061 (b)(3) (because the activity has no potential for causing a significant effect on the environment). Each exemption stands as a separate and independent basis for determining that this ordinance is not subject to CEQA.

**SECTION 5. Publication**

Within 15 days from the passage thereof, this ordinance shall be published at least once in a newspaper of general circulation, published and circulated in the City of Willows. This Ordinance shall take effect thirty (30) days after the date of its adoption.

I HEREBY CERTIFY that this Ordinance was duly and regularly introduced and read at a regular meeting held on the 12<sup>th</sup> day of July, 2016, and was passed and adopted by the City Council of the City of Willows at a regular meeting thereof duly held on the \_\_\_\_\_, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED

\_\_\_\_\_  
Gary Hansen, Mayor

ATTEST:

\_\_\_\_\_  
Natalie Butler, City Clerk



**AGENDA ITEM**

TO: Wayne Peabody, Interim City Manager 

FROM: Jason Dahl, Chief of Police

SUBJECT: Ordinance Repeal

**RECOMMENDATION:**

It is recommended that the City Council read by title only and pass first reading of an ordinance entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS REPEALING TITLE IX SECTION 9.05.240 & 9.05.320 OF CHAPTER 9.05 OF THE WILLOWS MUNICIPAL CODE"

**SITUATION (or BACKGROUND):**

This ordinance is introduced to address 2 archaic ordinances within the Willows Municipal Code that are currently unenforceable. Staff reviews the Willows Municipal Code periodically to address corrections and/or alterations that need to be made. When reviewed, staff found that the following 2 ordinances need to be repealed from the Municipal Code:

**9.05.240 Seditious, etc., language: It shall be unlawful for any person to utter, publish or use any seditious language, words, remarks or epithets, or to address to another any such language, words, remarks, or epithets which create or provoke, or tend to create or provoke a breach of the peace.**

This vagueness of this Municipal Code violates free speech protections provided under the U.S. Constitution. Also, the California Penal Code provides protections under Penal Code 415(3) to protect citizens from person/s using offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

**9.05.320 Vagrancy: It shall be unlawful for all idle persons, having no visible means of support, to habitually loiter about wander abroad and visit and stay about public places, or lodge in outhouses, sheds, barns, or in the open air, and who are not able to give a good account of themselves, or to wander abroad and beg, or to go about from door to door or in the streets or other public places to beg or receive ~~ans~~**

This ordinance's language is archaic and has been found unconstitutional when challenged in courts of law previously. The California Penal Code 647(c) addresses instances when people accost other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms. Also, California Penal Code 647 (e) addresses lodging in buildings without permission.

In both instances, the California Penal Code provides legal recourse that meets the needs of the City of Willows without use of the Municipal Codes that should be repealed.

**FINANCIAL CONSIDERATIONS:**

None

**ALTERNATE ACTIONS:**

The City Council can choose to request additional information from staff, provide additional direction to staff, or reject the proposed changes.

**RECOMMENDATION:**

It is recommended that the City Council read by title only and pass first reading of an Ordinance entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS REPEALING TITLE IX SECTION 9.05.240 & 9.05.320 OF CHAPTER 9.05 OF THE WILLOWS MUNICIPAL CODE"

---

Respectfully submitted,

Jason Dahl  
Chief of Police

---

Attachments:

Exhibit A – Willows Municipal Codes 9.05.240 & 9.05.320

Exhibit B - California Penal Codes 415(3), 647 (c) and 647 (e)

---

## ORDINANCE REPEAL

### Exhibit A

#### **9.05.240 Seditious, etc., language.**

It shall be unlawful for any person to utter, publish or use any seditious language, words, remarks or epithets, or to address to another any such language, words, remarks or epithets which create or provoke, or tend to create or provoke, a breach of the peace. [Code 1959 § 12.19; prior code § 11-51].

#### **9.05.320 Vagrancy.**

It shall be unlawful for all idle persons, having no visible means of support, to habitually loiter about or wander abroad and visit and stay about public places, or lodge in outhouses, sheds, barns, or in the open air, and who are not able to give a good account of themselves, or to wander abroad and beg, or to go about from door to door or in the streets or other public places to beg or to receive alms. [Code 1959 § 12.29; prior code § 11-67].

State law reference-§ 647, Pen. Code.

## ORDINANCE REPEAL

### EXHIBIT B

#### **415.**

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine:

- (1) Any person who unlawfully fights in a public place or challenges another person in a public place to fight.
- (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.
- (3) Any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

#### **647.**

Except as provided in subdivision (1), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

- (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.
- (b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.
- (c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.
- (d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.
- (e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

**ORDINANCE NO. XXX - 2016**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOWS  
REPEALING TITLE IX SECTION 9.05.240 & 9.05.320 OF CHAPTER 9.05 OF  
THE WILLOWS MUNICIPAL CODE**

**WHEREAS**, the City Council of the City of Willows hereby intends to and does repeal Sections 9.05.240 & 9.05.320 of the Willows Municipal Code, and

**WHEREAS**, the City Council finds Sections 9.05.240 & 9.05.320 to be in violation of U.S. Constitutional Free Speech protections & rights; and

**WHEREAS**, the California Penal Code provides ample remedies for enforcement of harassing and threatening behavior and remedies for enforcement of accosting behavior in a public place or places open to the public for purposes of begging or soliciting alms; and

**WHEREAS**, repealing Sections 9.05.240 & 9.05.320 will correct Constitutional infringements afforded the people of Willows; and

**WHEREAS**, repealing Sections 9.05.240 & 9.05.320 eliminates archaic outdated language and allows for enforcement discretion inherent in law enforcement services;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WILLOWS DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9.05, **Sections 9.05.240 & 9.05.320** of the Willows Municipal Code are hereby repealed in their entirety.

**SECTION 2:** It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in accordance with all legal requirements, and the Codified Ordinances of the City Council.

**SECTION 3:** The City of Willows City Council may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with this Section, as they may deem necessary or expedient in respect to establishing the time, place and frequency of its regular meetings.

**SECTION 4. Severability.** Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this

ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**SECTION 5. *Effective Date.*** This ordinance shall take effect and be in force thirty (30) days after its adoption as provided by Government Code Section 36937.

**SECTION 6. *Certification.*** The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in accordance with State Law.

**I HEREBY CERTIFY** that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Willows on the 12<sup>th</sup> day of July, 2016 and passed and adopted at a regular meeting thereof, held on the \_\_\_\_ day of \_\_\_\_, 2016, by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

APPROVED:

ATTESTED:

---

Gary Hansen, Mayor

---

Natalie Butler, City Clerk