

MINUTES OF THE WILLOWS CITY COUNCIL
REGULAR MEETING HELD July 12, 2016

1. Mayor Hansen called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Council Member Yoder led the Pledge of Allegiance. Upon conclusion, Mayor Hansen asked everybody to please remain standing in order to observe a moment of silence for WWII Veteran and Retired California Highway Patrol Sergeant William “Bill” Flannigan, who passed away on June 30, 2016.

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 –Yoder/Williams 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 the Minutes of the Willows City Council Meeting held on June 28, 2016.

7. **Public Hearings:**

- a) Conduct a required public hearing and upon conclusion, consider adoption of a resolution affirming previous acceptance of work products associated with Grant Number 13-CDBG-8939 and directing staff to proceed with grant closeout:

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.

The grant was left open (expiration date 9/30/2016) in case follow-up issues occurred. As no such issues have arisen 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.

Mayor Hansen opened the Public Hearing at 7:04 p.m. and hearing no comments from the public, subsequently closed the public hearing at 7:05 p.m.

M/S – Domenighini/Yoder to adopt a Resolution affirming previous acceptance of work products associated with Grant No. 13-CDBG-8939. The motion unanimously passed 5/0 with a roll-call vote.

- b) Conduct a public hearing and upon conclusion, 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”:

Police Chief Jason Dahl is proposing a new City Ordinance to limit the amount of butane a person can purchase and possess, as well as the amount that a business within the City of Willows is allowed to sell.

There have recently been numerous “butane honey oil” lab explosions in nearby cities, other surrounding jurisdictions and numerous counties around the State of California. Fortunately there have been no incidents of honey oil lab explosions within the City of Willows as of yet; however, dismantled and used honey oil labs have been found within the City Limits.

Butane is a highly flammable gas often used in large quantities for the manufacture of “honey oil”, which is a highly concentrated extract from cannabis plants, which present substantial risk of catastrophic explosions and fires. Surrounding Cities including 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 Counties of Tehama, Shasta and Glenn are also in the process of similar ordinance proposals. The proposed ordinance before the Council tonight would prohibit the following:

- It would be unlawful for any retailer 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.
- It would be unlawful for any person 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 m. (21.3 oz.) of butane at any one time.
- It would be 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.
- 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 \$1000 penalty per violation. A separate violation shall exist for every single canister sold or possessed in violation of this Chapter.
- The ordinance would require that retailers or wholesales of butane to track their sales (by preparing a bill of sale) of butane and retain copies of such records for at least two (2) years.
- There is a regulatory provision in the ordinance necessary for the protection of the public health, welfare and safety. It is not required to prove knowledge or criminal intent for criminal prosecution.

Chief Dahl indicated that once this ordinance were to be adopted, the Police Department would educate retailers and resellers within the City about these new provisions prior to the Police Department beginning to enforce the ordinance.

Mayor Hansen opened the public hearing at 7:08 p.m., and hearing no comments from the public, subsequently closed the public hearing at 7:08 p.m.

M/S – Williams/Mello to read by title only the Ordinance next in line. The motion unanimously passed 5/0 with a roll call vote.

M/S – Williams/Yoder that 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” pass first reading. The motion unanimously passed 5/0 with a roll call vote.

8. Ordinances:

a) Ordinance Repeal:

This ordinance is introduced to address two archaic ordinances within the Willows Municipal Code that are currently unenforceable. In staff conducting periodic reviews of the Willows Municipal Code it was found that two ordinances needed to be repealed entirely from the Municipal Code as outlined below:

- **9.05.240 “Seditious Language, etc.”: It shall be unlawful for any person to utter, publish or use any seditious language, words, remarks or epithets, or to address to any other such language, words, remarks or epithets which creates to provoke a breach of the Peace.**

Under the 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 a breach of the peace.

- **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 alms.**

This ordinance’s language is archaic and has been found unconstitutional when challenged in courts of law previously. 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 purposes 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.

M/S – Domenighini/Williams to read by title only the Ordinance next in line. The motion unanimously passed 5/0 with a roll call vote.

M/S – Domenighini/Williams that 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” pass first reading. The motion unanimously passed 5/0 with a roll call vote.

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

Council Member Williams stated that he would have liked to have had a better discussion about the Michael & Monica Schwenne Use Permit appeal [of a Planning Commission decision] that went before the City Council on March 8 and was then continued to March 22, and the Council upheld the Planning Commission’s decision to require Mr. Schwenne to construct a covered garage on his property as part of his Use Permit approval. Council Member Williams asked if that item could be placed back on the agenda for a future meeting for additional discussion. Fire Chief/Interim City Manager Wayne Peabody stated that the City has recently received a building permit and plans from Mr. Schwenne to construct the covered garage, and therefore he saw no good reason for this item to come before this board again. Finance Director Sailsbery then pointed out that because the Council is the Appellate Body for Planning Commission decision appeals and the Council had previously made a concrete decision to uphold the Planning Commission’s original ruling, this item cannot come before the Council again. If Schwenne’s wanted to pursue any additional appeals they would have to file at the Superior Court level.

Fire Chief/Interim City Manager announced that the City was recently given a \$1500 donation for the City Pool from the Willows Elks Lodge Ladies Auxiliary and thanked them for their generosity.

10. New Business: None

11. Council Member Reports:

- Council Member Domenighini announced that he attended a LAFCO meeting yesterday. He also announced that he would be unable to attend the next City Council Meeting.
- Council Member Williams stated that he attended a Social Services Transportation Advisory Committee meeting yesterday.
- Mayor Hansen gave kudos to the Willows Chamber of Commerce for the nice Fourth of July fireworks display at Jensen Park. He also announced that Pat Ireland is retiring as the Recording Secretary for the Fish & Game Commission after 24 years of dedicated service.

12. **Executive Session:** None

13. **Adjournment:** Mayor Hansen adjourned the meeting at 7:28 p.m.

Dated: July 12, 2016

NATALIE BUTLER

City Clerk

The City of Willows is an Equal Opportunity Provider