

MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD
October 11, 2011

1. The meeting was called to order at 7:02 p.m. by Mayor Hansen.
2. **PLEDGE OF ALLEGIANCE:** Fire Chief Peabody led the Pledge of Allegiance.
3. **ROLL CALL:**
Present: Council Members Yoder, Cobb, Hobbs & Mayor Hansen
Absent: Council Member Holvik
4. **Agenda Review:**
 - a) It was **moved** by Council Member Yoder and **seconded** by Council Member Cobb to accept the City Council October 11, 2011, Agenda as presented. The motion unanimously passed.
5. **Presentations & Proclamations:** None
6. **Public Comment/Written Communications:** None
7. **Consent Agenda:**

It was **moved** by Council Member Yoder and **seconded** by Council Member Cobb to approve the Consent Agenda as presented. The motion unanimously passed and the following items were approved/adopted:

- a) Approval of General Check Register (23710-23789)
 - b) Approval of Payroll & Direct Deposit Check Registers (Z02879-Z02913 & 31457-31480).
 - c) Adoption of a Resolution respecting the retirement of Trudy M. DeVoss.
 - d) Acceptance of completion of all projects funded by the State of California Park Bond Act Funds and authorizing the City Manager to sign the Notice of Completion.
8. **Public Hearings:** None
 9. **Ordinances:** None
 10. **Items introduced by City Council or Administrative Staff for discussion purposes only:** None
 11. **New Business:**
 - a) PERS "Two Year Additional Service Credit":

Effective July 29, 2011, the City entered into a contract amendment with CalPERS whereby the City may offer, during periods of significant financial hardship, two years additional service credit to employees who are eligible to retire. Said offering may apply to specific positions or to an organizational unit (eligible City employees as a whole in this case as directed by Council). The offering of the retirement incentive is to occur, at Council discretion, when mandatory layoffs, transfers, and/or demotions to at least one percent of the organizational unit become eminent. Such is the case with the passage of the 2011/12 budget. Further, the Council will need to confirm its intent not to fill at least one of the positions vacated by these retirements.

Granting the designated period, or "opening the window", is a two-step process. Staff provided financial information pertaining to the two year service credit option at the meeting held on September 27. At this time, Staff is seeking adoption of the Resolution to establish the open period for allowing the additional service credit for eligible employees within the organizational unit who choose to retire. At the June 14 Council Meeting, as well as the September 27 Council Meeting, it was noted that the additional cost for all eligible employees, amortized over 20 years, of providing the retirement incentive is approximately \$477,937. It is anticipated that a minimum of 3, with a possibility of up to 6 employees may actually elect to retire utilizing the incentive. The 20 year amortized cost of these employees is \$71,000 to \$153,826 depending upon the actual number of retirees. PERS will begin charging the City two years from the opening date of the retirement window. Based upon the 3 committed retirements at this time, with replacement of positions not planned, the anticipated cost savings is \$103,000 in 2011/12 and approximately \$182,000 per year for 2012/13 and beyond. At this time Staff is requesting that the Council adopt a Resolution to designate the period of time to provide for retirement with the two years additional service credit to be from October 12, 2011 to March 9, 2012. It was **moved** by Council Member Cobb and **seconded** by Council Member Yoder to adopt a Resolution granting a designated period for retirement with two years additional service credit under Public Employee Retirement Law Section 20903. The motion unanimously passed.

- b) Consider approval of a 3-year renewal of the Professional Services Agreement for Operation of the Waste Water Treatment Plant between the City of Willows and Southwest Water Company, Inc.:

In November of 2003, a recommendation was made to the City Council, to enter into a Professional Services Agreement for total operations at the Waste Water Treatment Plant (WWTP). Eco Resources, now known and doing business as Southwest Water Company, has been the contract operator of the city's waste water treatment plant since January 1, 2004.

The original agreement was approved for a period of five years, however was subsequently amended in August 2005, and again in November 2006; including a renewal for an additional five year period, expiring November 1, 2011. There was one subsequent amendment in January 2008; concluding a "re-assignment" of the contract from Eco Resources to Southwest Water Company, the current contract operator. Although a number of amendments and adjustments have occurred over the past seven years, the staffing compliment at the treatment facility has remained consistent and their performance has been nothing less than extraordinary; evidenced by the award of the Northern CA Waste Water Treatment Plan of the year award for the past two consecutive years.

However, several other changing dynamics associated with the Waste Water Treatment Facility, has forced both city staff and Southwest Water to seek specific modifications to the current contract agreement for operations. Therefore staff is recommending a modification of three sections of the original lease agreement. First the term of the lease is proposed to run for a period of three years, with an option for renewal. This change will allow the city to evaluate two very significant and recent changes associated with the treatment plant operation. One change is the switch from PG&E as the primary power provider, to Solar Power Partners via the newly installed solar array; currently providing the majority of power consumed by the WWTP. The second significant change, is legislative in nature and involves the Permitting Process associated with the State Water Resources Control Board. The current operating permit for the WWTP is under review by the Board. Indications at this time suggest the WWTP may have to undergo some significant modifications in the not too distant future, to ensure compliance with newly upgraded Waste Water Treatment regulations. Thus the term of three years should provide an adequate window to assess any necessary changes in operational status or future need to further modify the terms of the current contract.

In addition to those changes noted above, the original agreement required the "Operator", Southwest Water to pay all utility expenses; including the cost of electricity to operate the plant. This cost was currently at approximately, \$130K per year. Since the installation of the Solar array and our (City of Willows) agreement with Solar Power Partners, it was necessary to modify the contract to eliminate the requirement for Southwest Water to provide this utility payment. In addition to these changes, some significant revisions were made to the language concerning the annual CPI assessment in conjunction with compensation adjustments due the "operator" each year.

As a result of these necessary changes and the amendments made in conjunction with this agreement over the past eight years, staff thought it best to rewrite or re-state the entire agreement in this renewal format. Legal reviews were completed by both the City Attorney and Southwest Water and the final draft is now presented for council approval. Staff is recommending approval of the proposed changes in this renewal agreement.

John Dobson, the Facility Manager at the WWTP, addressed the Council briefly to state that he has been involved with the treatment plant since its start-up and he has always had a very positive experience dealing with City Staff. He expressed that he hoped the Council would agree to renew the contract with Southwest Water Company.

It was **moved** by Council Member Yoder and **seconded** by Council Member Cobb to approve a three year renewal of the Professional Services Agreement for Operation of the Waste Water Treatment Plant between the City of Willows and Southwest Water Company, Inc. The motion unanimously passed.

c) City Council Vacancy:

On August 9, 2011, the City received notice of Councilmember Sandie Hobbs' early resignation from her term on the City Council. Her resignation became effective September 30, 2011.

California State law establishes a 60-day time frame for the City Council to take action to fill a vacancy on the City Council. Staff is asking that the Council discuss the options contained in the California Government Code governing the filling of a midterm vacancy on the City Council and also discuss alternative procedures they may want to consider.

Government Code Section 36512 addresses the filling of vacancies in municipal offices. The code mandates that, within 60 days from the commencement of the vacancy, the City Council shall either fill the vacancy by appointment or call a special election to fill the vacancy. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent, which in this case would be November 2014.

If the City Council chooses to hold a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. There are two potential disadvantages to the election option. They involve the increased cost of conducting an election, and the delay in restoring the City Council to its full membership.

If the City Council wishes to fill the vacancy by appointment, it must appoint a City resident and registered voter by November 29, 2011, by a majority vote of the City Council. This could be done at a regularly scheduled meeting or special meeting between now and November 29, 2011.

State law does not prescribe any procedure for the selection of an appointee. Therefore, the City Council may choose any selection method it desires.

Council discussion ensued and it was the consensus of the Council to make an appointment to fill the vacancy, rather than to incur the costs associated with conducting a special election. Council directed staff to notice the vacancy and accept applications until 5:00 p.m. on November 1 and to agendize interviews to be completed in open session during the November 8 Council Meeting. It is anticipated that Council will make the appointment after conducting the interviews at that meeting and the appointee will take the Oath of Office.

12. **Council Member Reports:** None

13. **Executive Session:** None

14. **Adjournment:** Mayor Hansen adjourned the meeting at 7:33 p.m.

Dated: October 11, 2011

NATALIE BUTLER

City Clerk

The City of Willows is an Equal Opportunity Provider