



## ACTION MINUTES OF THE WILLOWS CITY COUNCIL REGULAR MEETING HELD MAY 11, 2021

Meeting audio is available at the City of Willows website. This is not a live feature. Audio recordings are posted the succeeding business day following the scheduled City Council Meeting.

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1. Mayor Domenighini called the meeting to order at 7:00 p.m.
2. The meeting opened with the Pledge of Allegiance led by Council Member Flesher.

### **3. Roll Call:**

Council Members Present: Council Members Williams, Flesher, Vice Mayor Hansen, Mayor Domenighini

Council Members Absent: Council Member Warren

Staff Present: Interim City Manager Wayne Peabody, City Attorney David Ritchie, and City Clerk Tara Rustenhoven

### **4. Ceremonial Matters (Proclamations, Recognitions, Awards):**

- a. Reading of a Memorial Day Proclamation

**5. Public Comment/ Written Communications:** Received written communication from Forrest Sprague regarding the sewer fund. This letter will be attached to the minutes.

Roberta Asbury wanted an update regarding the sewer fund audit.

Doug Ross gave his opinion on what he believes the community wants from the audit.

### **6. Consent Agenda:**

- a. Approval of general checking, payroll & direct deposit check registers Z44862-Z44883, 38873-38878, 051115-051150.
- b. Approval of minutes of the Special City Council Meeting held on April 5, 2021.
- c. Approval of minutes of the Regular City Council Meeting held on April 27, 2021.

### **Action:**

Motion: Vice Mayor Hansen/Second: Council Member Flesher

*Moved to approve the Consent Agenda as presented above and the following item(s).*

The motion passed unanimously 4/0 carried by the following voice vote:

AYES: Williams, Flesher, Vice Mayor Hansen, Mayor Domenighini

NOES:

ABSENT: Warren

ABSTAIN:

### **7. Regular Business:**

- a. Review the City of Willows WMC, regarding the Maintenance Responsibilities for Sidewalks.

Written Communication received from the following:

- Lisa Davis regarding Revisions to the City of Willows MC on Maintenance Responsibilities for Sidewalks.
- Richard M. Thomas regarding Sidewalks-Proposed Ordinance for Owner Maintenance.
- Forrest Sprague regarding Sidewalk Repair Ordinance
- S Thidsy regarding Sidewalk Repair

Letters will be attached to the Minutes.

Public Comment are as follows:

- Resident on N Plumas St, Scott Pedro is concerned about the sidewalks previously damaged by City Trees.
- Resident on S Marshall Ave., Tom Brandon is concerned about 5 trees that could possibly be removed and is concerned about having to replace the sidewalk in front of his house.
- Resident of Willows Nate Sawyer wanted to get more information and clarification on the liabilities for the landowner.
- Tammy Allen, business owner of 11 W. Wood St, concerned about being liable if pedestrians fall in front of her business.
- Business owner Jason Grant is asking council to come up with another solution to fix the sidewalks.
- Business owner Rae Ann Titus is concerned for the liability of homeowners insurance increasing and rent going up for renters. She also wanted to know who is reliable for curb and gutter, how would property owners be notified? Would it be like the weed abatement.
- Resident of Willows Shirly Benningfield, asked if Public Works could in the time being mark the sidewalks with yellow paint like they did in the past.
- Resident on Glennwood Ln, Zack Lopeteguy is concerned about his sidewalks and wonders if it is a city or Calwater issue.

By consensus the council will table the ordinance and revisit this item and bring back at a future meeting in August.

## **8. Council/Staff Reports/Comments:**

### a. Staff Reports/Comments:

- Recreation is starting back up and programs will be starting soon.
- Please drive by and see 141 n Crawford. It has been cleaned up after a house fire.
- Vice Mayor Hansen wanted to congratulate Matthew Peterson who started with the Willows Fire Department.

### b. City Council Reports Comments: Council gave comments/reports on activities and various meetings they attended.

Council Member Williams asked to place on the next agenda to discuss asking the State Controlers office to move forward on the audit for the sewer enterprise funds.

**11. Closed Session:**

a. PUBLIC COMMENT: Pursuant to Government Code Section §54954.3, the public will have an opportunity to directly address the legislative body on the item below prior to the Council convening into closed session.

Public Comments are generally restricted to three minutes.

b. CONFERENCE WITH LEGAL COUNCIL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to §54956.9 (b)

Number of Cases: Two (2)

c. PUBLIC EMPLOYEE APPOINTMENT (CA Gov. Code §54957) Title: City Manager

d. CONFERENCE WITH LABOR NEGOTIATORS (§54957.6)

Agency designated representatives:

David Ritchie: City Attorney

Interim City Manager: Wayne Peabody

Employee Organization: United Public Employees of California,  
Local 792 (LIUNA / AFL-CIO)

**Council recessed into closed session at 8:51 p.m.**

**Council reconvened into open session at 9:45 p.m.**

**Announcement of any action taken in closed session:**

Mayor Domenighini reported no reportable action and direction was given to staff.

**10. Adjournment:**

The Meeting was adjourned at 9:46 p.m.

Dated: May 19, 2021

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Tara Rustenhoven, City Clerk

**From:** Lisa Davis <lisadavisrealty@outlook.com>  
**Sent:** Tuesday, May 11, 2021 8:24 AM  
**To:** Tara Rustenhoven; Wayne Peabody; Gary Hansen; Larry Domenighini; Kerri Warren; Joe Flesher; jeff williams  
**Subject:** Revisions to the City of Willows Municipal code regarding maintenance Responsibilities for Sidewalks

Good Evening Mayor Domenighini, Ms. Rustenhoven and Council Members-

I would like to request that my letter be entered into the Minutes of tonights Council Meeting. Unfortunately, I am unable to attend this evening.

I would like to express my EXTREME displeasure with what is being proposed with regard to the City Sidewalk situation. I do agree that many of the City Sidewalks are in disrepair, and are certainly a potential Liability. However, to put the cost of repair and liability on the landowner is unfair to say the least. The disrepair of most of the city sidewalks have been damaged by City Owned trees! To make the landowners responsible for damage caused by City Owned trees is NOT fair. I manage many Rental Properties within the City Limits and have had issues with City Owned trees and sidewalk damage in the past. It has previously been shown to be a very one sided situation. I have in the past, tried to get City owned trees removed because of concerns over sidewalk damage. I was then told that the cost to remove these trees would be the responsibility of the Property Owner. At that time, my owner could not afford to remove the tree. ( incidentally the City also has a list of "acceptable replacement trees")

Why were species of trees known to have surface roots, planted in the first place! ) When the same tree started causing intrusion into the City Sewer main, the City removed the tree, did NOT replace it, and did not repair the damage to the sidewalk. The City wants their cake and eat it too, it appears. City sidewalks are OWNED BY THE CITY. My Property Owners have already been hit extremely hard during the COVID nightmare and many are already considering selling their rentals because of the loss of control in their investments. Just from the rental property viewpoint, adding yet another cost to my owners could very well tip the scales to force them to sell. Willows already has a rental housing shortage, and this ordinance will surely cause even MORE of a shortage. Although I believe something needs to be done.... Forcing landowners to foot the bill is NOT the answer. Please reconsider this option.

Respectfully Submitted-

Lisa Davis

Davis Realty & Associates

Lisa C. Davis

RE #01747600

211 W. Wood St.

Willows, California  
95988  
(530) 370-4417

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MAY 11, 2021

CITY OF WILLOWS

MAYOR DOMENIGHINI and COUNCIL MEMBERS

RE: SIDEWALKS - PROPOSED ORDINANCE FOR OWNER MAINTENANCE.

COUNCIL MEMBERS:

Simply Put - NO.

REASONS:

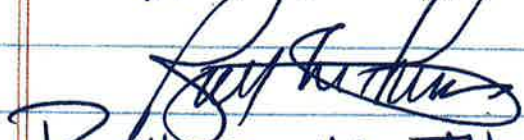
1. IS IT LEGAL TO REQUIRE AN INDIVIDUAL OR BUSINESS TO MAINTAIN, REPAIR OR REPLACE IMPROVEMENTS ON LAND THEY DO NOT OWN?
2. IS IT LEGAL TO ATTEMPT TO PUT LIABILITY ONTO AN INDIVIDUAL OR BUSINESS FOR INJURIES ON PROPERTY THEY DO NOT OWN?
3. FAIRNESS, WOULD NOT THE CITY FIRST REPAIR, REPLACE ALL SUB-STANDARD SIDEWALKS SO AS TO NOT OVER BURDEN A FEW LAND OWNERS WHOSE SIDEWALKS ARE IN NEED?

Continued

4. OVER BURDEN ON THE CITIZENS AND BUSINESS COMMUNITY IS A DETERENT TO GROWTH.

IN SUMMARY, THE CITY IS AND HAS BEEN IN FINANCIAL DIFFICULTY FOR MANY YEARS. I SEE THIS AS A FAILURE OF THE LEADERSHIP TO PURSUE REVENUE GENERATING BUSINESS AND COMMERCIAL ECONOMIC DEVELOPMENT. RETAIL SALES TAX LEAKAGE TO NEIGHBORING COMMUNITIES IS HUGE. I WOULD ENCOURAGE YOUR EFFORTS TO BOLSTER SALES TAX REVENUE GENERATING BUSINESSES, AND LESS ON STIFLING GROWTH WITH EXCESS REGULATION AND FEES/TAXATION, SUCH AS THIS PROPOSED ORDINANCE.

Respectfully



RICHARD M. THOMAS  
COMMERCIAL AND RESIDENTIAL LANDOWNER  
WITHIN THE CITY OF WILLOWS.  
530.514.0754  
RMTHOMAS351@gmail.com

# FORREST J. SPRAGUE

Attachments to the minutes

801 Applewood Way Willows, CA 95988  
Ph: 530-514-8700 Email: forsprague@aol.com

May 11, 2021

City of Willows  
201 N. Lassen St  
Willows, CA 95988  
ATTN: Tara Rustenhoven



## REF: Sidewalk Repair Ordinance

Dear Tara:

Please provide the City Council members with this letter before tonight's meeting and please ensure that it becomes attached to the Minutes of the meeting as part of the Public Record.

Dear Mayor Domenighini and Council Members:

As you know, the last two attempts to raise sewer fees were unsuccessful. You also know that the past Finance Director has admitted to some misuse of the Sewer Fund and subsequently he resigned. Now the City should no longer siphon the Sewer Fund for General Fund services. Currently staff at the State Controller's Office is at least considering a review of the City's accounting practices regarding the Sewer Fund revenue.

Last year, the city-sponsored Measure H, intended to increase the local sales tax to fill the City's coffers, failed to pass. Currently the Fair Political Practices Commission is investigating whether city staff misused city-owned property to unlawfully urge a "YES on H" vote for the measure. It also appears that both City Manager Peabody and City Attorney Ritchie may have allowed violations of state law, FPPC regulations, and the City's Protocol Manual that clearly prohibit the unlawful use of city property, equipment and vehicles to promote Measure H.

Also as you all know, over the last decade or so, city staff has deferred the unfunded liability owed to the City's PERS retirement account. Now the City will sell more than \$10 million in Municipal Bonds to cover that debt. Of course, the interest payment connected to those Bonds will be paid by the Willows taxpayers.

Presently, it is believed that outside accountants and attorneys are calculating the total amount needed to get the Sewer Fund out of the red ink caused by years of mismanagement by city staff. The records show that for nearly 20 years, city staff misused the Sewer Fund revenue to unlawfully pay for city services that should have been paid from the General Fund. The proposed remedy to this problem is to sell millions of dollars worth of Certificates of Participation to get the Sewer Fund back into the black.

Between the years of 2008 and 2010, the City increased its Impact Fees on building permits. These fees are paid by the property owners when they buy or build a new house, remodel an existing home or build a new commercial facility. Those fees are to be spent on street, sewer, city park and fire department improvements, to name a few. Current records show that nearly \$1.3 million have been collected for those items. *But who knows where the money has gone?*



State law requires that a public report itemizing the amounts and use of those accounts be presented to the City Council every year at the end of the City's fiscal year and during budget hearings. Twice, I have asked the City Attorney for copies of those required annual reports. So far he has NOT offered an explanation for not releasing the reports. Instead, he says that the City's inability to find the reports does not mean that they don't exist. Really?

**To my point:** It is becoming increasingly evident to many that the City of Willows is most likely near financial insolvency, if not even on the brink of bankruptcy.

And just when people thought matters could not become worse, to make up for decades of fiscal mismanagement by city staff, some of which was done under his watch, Interim City Manager Wayne Peabody has recently unveiled his devious scheme to shift his and the City's fiduciary responsibilities onto the backs of unsuspecting property owners...*your constituents*.

To justify his proposal, Mr. Peabody cites from a 110 year-old Street and Highway Code section that was created when most of the sidewalks in Willows, if they even existed, were made of wood. I am sure the legislative intent back then was to give cities some recourse in the event of willful or neglectful damages to city walkways that may have caused a public safety hazard but were made by property owners. Just as it was then, today if an activity by a property owner causes damage to City sidewalks, the owner should be held responsible.

But just as Mr. Peabody's Agenda Item narrative says, some sidewalks "...date back to the early 1900s." He also admits "... [city] tree roots and age have caused...sidewalks...to fall into a state of disrepair." And he refers to some sidewalks as being "defective."

So the sidewalks that Mr. Peabody wants to replace at the property owner's expense were in all likelihood NOT damaged by the current property owners. Instead, the damages and defects he refers to were likely caused by city tree roots, expansive soils, poor construction standards of the day, or careless workmen constructing the original buildings on the property.

Regardless of the perceived cause of the present condition of the city-owned sidewalk in front of a piece of property, unless the current owner is known to be responsible for the damage, they should not be victimized and penalized for simply owning the property today.

Depending upon the amount of work the City might demand, the cost to the property owner could reach the tens-of-thousands per parcel. Moreover, if a property owner is found liable for another person's injury due to defective city-owned sidewalks, the cost of owner's general liability insurance could increase substantially. Some insurance companies could even drop their coverage to the property owner altogether to avoid further liability.

Last, if you review the index of the municipal code sections at the top left corner of the first page of the Attachment 2, you'll see the reference to "Cost assessment proceedings." However, in the body of the DRAFT there is no code section with that title. The Council and the public should know the language within that section before the ordinance is considered.

Therefore, I strongly urge the entire City Council to reject Interim City Manager Peabody's draconian and unwarranted Ordinance and Municipal Code proposal.

Regards,



FORREST J. SPRAGUE

**Tara Rustenhoven**

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**From:** S Thidsy <thidsyfamily@hotmail.com>  
**Sent:** Tuesday, May 11, 2021 3:23 PM  
**To:** trustwnhoven@cityofwillows.org  
**Subject:** Sidewalk repair

I am unable to attend tonight meeting due to being sick. I am against the suggested ordinance in regards to the sidewalk. A lot of the sidewalk has been damaged for a long time. Property owners can't always afford these extra bills.