

City of Winsted
City Council Work Session
Lewis Room
Tuesday, May 21, 2013
5:00 p.m.

Present: Mayor Steve Stotko
Council Member Tom Ollig
Council Member Bonnie Quast
Council Member George Schulenberg
Council Member Max Fasching

Staff Present: Brad Martens, City Administrator
Deborah R. Boelter, City Clerk-Treasurer
Rob Beckfeld, Metro West Inspection Services, Incorporated

I. Call to Order

Mayor Stotko called the meeting to order at 5:00 p.m.

II. Building Code Compliance Commitment – Tetra Pak Cheese and Powder Systems, Incorporated

Mr. Martens stated that in the year 2008, Tetra Pak Cheese and Powder Systems, Incorporated (Tetra Pak) constructed an addition to its property at 801 Kingsley Street South. The building was designed using an unlimited area provision in the year 2006 International Building Code. This provision states: “the area of an occupancy group B, F, M or S shall not be limited when the building is equipped throughout with an automatic sprinkler system, and is surrounded and adjoined by public ways or yards not less than sixty (60) feet in width.”

Mr. Martens presented an aerial photo of the Tetra Pak Cheese and Powder Systems, Incorporated property and buildings:



Mr. Martens stated that both the east and south sides of the building did not meet the above requirements (east did not meet the sixty (60) feet clearance, south did not meet the sixty (60) feet clearance and the smaller building furthest south was not sprinkled); however, the following conditions were approved to allow for the addition to be constructed:

1. On the east side a “no build” easement was purchased from the property owner immediately to the east to accommodate a sixty (60) feet clearance necessary to avoid the construction of a two (2) hour fire wall.
2. On the south, Tetra Pak agreed to meet the requirements above by either removing the smaller south building or constructing a two (2) hour fire wall within five (5) years. The five (5) year deadline will be July 17, 2013.

Mr. Martens stated that over the last several months, City staff has spoken to Tetra Pak in order to facilitate a discussion on how to move forward. Limited options exist for Tetra Pak at this time and they include:

1. Construct a two (2) hour fire wall and sprinkle the building to the south.
 - a. This option requires a substantial investment in the property that Tetra Pak is not in favor of due to the cost.
2. Demolish the small building to the south to avoid the requirements.
 - a. This option results in removing an existing structure that is used by Tetra Pak.
3. Request an extension to the existing five (5) year deadline.
 - a. This option may increase the City's liability if a fire incident were to occur on the property.

Mr. Martens stated that the City has received a letter requesting that the City Council approve an extension of the five (5) year deadline due to the costs associated with the other options.

Mr. Dan Green, General Manager of Tetra Pak, addressed the City Council asking for an extension of the five (5) year building code compliance commitment.

John Schultz, Maintenance and Facilities Coordinator of Tetra Pak was also in attendance at the Work Session.

Council Member Ollig stated that he believes that there is no risk involved in extending the code compliance commitment due to the fact that Tetra Pak does not border any other buildings to the south.

Mr. Rob Beckfeld, Metro West Inspection Services, Incorporated stated that due to the circumstances, he did grant a five (5) year extension in the year 2008. However, Mr. Beckfeld stated that the City Council would have to approve an additional extension. He continued by stating that the Building Code does not allow him to approve this type of variance.

Mr. Beckfeld stated that because the Tetra Pak property borders open fields and not buildings, nothing would probably happen in the event of a fire. However, he stated that if something would happen, the City would be liable if they grant another extension.

Council Member Fasching asked Mr. Beckfeld if Tetra Pak would have to install a wet or dry sprinkler system. Mr. Beckfeld stated that Tetra Pak would have to install a dry system because the building is not heated.

Council Member Quast asked Mr. Green what Tetra Pak would do if they removed the small building to the south. Mr. Green stated that it would not be feasible to remove the building because it is used for storage. He continued by stating that the majority of product stored in the building is stainless steel; so, it is not a fire hazard.

Mayor Stotko stated that he would prefer not to grant an extension for an additional five (5) years. He stated that he would like the extension to be three (3) years and/or evaluated at the time that Tetra Pak is able to purchase the adjacent property and expand their business.

Mr. Beckfeld stated that he does not foresee any liability and/or negative consequences if the City Council would approve an extension; however, as the City's Building Inspector he does not feel comfortable making any recommendations regarding the proposed extension.

The City Council directed Mr. Martens to prepare information for approval at a future City Council meeting that includes a three (3) year extension and/or an earlier review should Tetra Pak purchase the adjacent property to expand their business.

III. Request for Assistance – Sewer Back-Ups

Mr. Martens stated that in April, 2013, blockages in two (2) separate City sanitary sewer lines resulted in sewer backups in two (2) residential properties. In both cases, the result of the backups required the property owners to hire a contractor to clean the area. The property owners

also incurred additional expenses due to the loss of personal property, and work to repair and/or replace damaged infrastructure such as: sheetrock, paneling, carpet, and etcetera.

Mr. Martens stated that the City staff began work necessary to facilitate a claim through the City's insurance provider, League of Minnesota Cities Insurance Trust (LMCIT), and each incident was reviewed by that provider. In both cases, the claims were denied by the LMCIT based upon the City having a reasonable preventative maintenance program of jetting sewer lines and there being no negligence on behalf of the City.

Mr. Martens stated that at the request of the City Council, the claims were reviewed a second (2nd) time by two (2) other LMCIT representatives with extensive experience in sewer backup claims and they also came to the same conclusion that the claims were to be denied.

Mr. Martens stated that although the claim was denied and LMCIT has determined that the City is not required to make any payment, the property owners affected by the sewer backups are requesting that the City assist in paying for cleanup costs due to the backups.

Mr. Martens stated that according to the City Attorney, *"Any payment by the City of these claims would no doubt set a precedent. If this was a circumstance (such as a tornado or major flood) the City could distinguish same in the future. However, if these are instances that occur from time to time the City would have to continue to pay others if these two claims are paid."* Setting a precedent of payment would place a substantial future financial liability on the City.

Mr. Martens requested that the City Council discuss the request from the property owners and direct staff on how they would like the City to move forward.

Mr. Martens also requested that the City Council discuss any changes that they may wish to consider in regards to the City's existing insurance coverage. The City may want to purchase *No Fault Sewer Backup Insurance Coverage* to assist in future situations; however, some homeowners already have adequate insurance coverage so it may be an unnecessary expense. It also would essentially result in the City subsidizing insurance coverage for property owners.

Ms. Rose Heimerl, 320 Second Street South, was in attendance at the Work Session and asked the City Council to reimburse her for the remediation costs that she incurred due to the sewer backup. Ms. Heimerl also recommended that the City consider purchasing *No Fault Sewer Backup Insurance Coverage* to assist homeowners who may experience a sewer backup.

Mr. Allen Odenbrett, 689 Northgate Drive, was in attendance at the Work Session and also asked the City Council to reimburse him for the remediation costs that he incurred due to the sewer backup.

The City Council discussed the reimbursement requests from Ms. Heimerl and Mr. Odenbrett. They informed Ms. Heimerl and Mr. Odenbrett that they would like them to provide the City with an itemized list of the expenses incurred as a result of the sewer backup. The City Council continued by stating that they would consider their reimbursement request, discuss it further at a future City Council Work Session and contact them regarding the direction the City would like to proceed.

The City Council directed staff to prepare information for the City's utility billing insert regarding what can and cannot be deposited into the City's sewer system. Mr. Martens stated that the utility billing insert for the month of May, 2013 did contain an article on what can and cannot be deposited into the City's sewer system. They also directed staff to prepare information recommending that residents review their homeowners' insurance policy and determine if they have the appropriate coverage for a sewer backup.

IV. Other

a) Allowable Accessory Structure – Amendment to Size Limit

Mr. Martens stated that he has been approached by a resident asking the City to increase the allowable accessory structure size limit, for detached garages, from 750

square feet to a higher number. He continued by stating that the City has had this same request from approximately four (4) other different individuals.

Mr. Martens stated that staff is in favor of looking into the change and requests direction from the City Council to present this item to the Planning Commission for review.

The City Council directed Mr. Martens to present the proposed amendment to increase the allowable accessory structure size limit to the Planning Commission.

b) Recreational Vehicle and Boat Parking

Mr. Martens stated that Ms. Donahue is contacting other cities regarding their ordinance requirements and restrictions in regards to recreational vehicle and boat parking.

V. Adjourn

Council Member Ollig motioned to adjourn the meeting. Council Member Schulenberg seconded the motion. Motion carried 5-0.

The meeting was adjourned at 5:55 p.m.

Steve Stotko

Steve Stotko
Mayor
City of Winsted

ATTEST:

Deborah R. Boelter

Deborah R. Boelter, MCMC
City Clerk-Treasurer
City of Winsted