

City of Winsted
City Council Work Session
Lewis Room
Tuesday, June 19, 2012
5:00 p.m.

Present: Mayor Steve Stotko
Council Member Tom Ollig
Council Member Bonnie Quast
Council Member Dave Mochinski
Council Member George Schulenberg

Staff Present: Brad Martens, City Administrator
Deborah R. Boelter, City Clerk-Treasurer

I. Call to Order

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

II. Utility Billing Insert Policy

Mr. Martens stated that at the April 17, 2012 City Council Work Session, Mr. Chris Schultz from Herald Journal Publishing, addressed the City Council regarding his concerns about the events and/or activities that are not government related that the City is publishing and including in their monthly utility bills. Mr. Schultz stated that he has concerns about the City violating the First Amendment of the United States Constitution by allowing some organizations to include information in the monthly utility bills and prohibiting others.

Mr. Martens continued by stating that Mr. Schultz also expressed concern in regards to advertising revenue that is lost to Herald Journal Publishing when events and/or activities are allowed to advertise for free in the City's monthly utility bills.

Mr. Martens stated that the City Council discussed Mr. Schultz's concerns and directed staff to research the issue and present the findings at a future City Council Work Session. Mr. Martens did receive an opinion from the League of Minnesota Cities (LMC) that states that if the City establishes a policy with specific criteria that the City is following when making a decision on what community events and/or activities to include in the monthly utility bills, the City can continue to publish the compliant items.

Mr. Martens presented a draft copy of a proposed *Utility Billing Insert Policy* for the City Council to review and discuss.

Mr. Martens stated that he did receive an electronic mail message from the Herald Journal Publishing stating that they do not agree with the staff's position on a possible *Utility Billing Insert Policy* and they asked that this agenda item be tabled to a future meeting to consider significant potential problems that could arise from this type of a policy.

Mr. Schultz was in attendance at the meeting and stated that the City cannot make decisions based on content. Mr. Schultz stated that Herald Journal Publishing does not agree with the LMC's opinion on this issue. He continued by stating that Herald Journal Publishing is not only concerned about the competition with the City; but, they have been through this type of issue before with the other public bodies that the newspaper serves and it is not worth it.

Mr. Schultz asked if the proposed *Utility Billing Insert Policy* is going to refer also to the content on the City's website, any signage, their bulletin board and other public communication sources.

Mr. Schultz stated that the LMC's website has information that conflicts with the proposed *Utility Billing Insert Policy*; so, Herald Journal Publishing would like to have one (1) month to review the information for clarification.

Council Member Quast asked if this has been an issue with other cities. Mr. Schultz cited a First Amendment lawsuit in the State of Georgia.

Council Member Mochinski asked if there were any First Amendment cases similar to what the City of Winsted may face if they adopt the *Utility Billing Insert Policy*. Mr. Schultz stated that there is a case in Brainerd. Mr. Schultz stated that Herald Journal Publishing deals with it all the time.

Council Member Mochinski asked who the LMC person is that stated that the City would need to establish a policy. Mr. Martens stated that it was a research analyst with the LMC and at the time there was no reference to a specific Minnesota State Statute.

Mr. Martens stated that he conducted additional research after he received the recent electronic mail message from Herald Journal Publishing and presented areas in the Minnesota State Statutes that address this issue.

Council Member Mochinski asked if the issues presented by Herald Journal Publishing are only in regards to information inserted in the City's monthly utility bills. Council Member Ollig stated that the First Amendment issues may arise in regards to the City's website, bulletin board, any signage and/or the monthly utility bills.

Council Member Ollig asked about the meaning of the language in the proposed *Utility Billing Insert Policy* that states, "or agencies, in partnership with the City have a primary mission which is in the best interest of the City." Mr. Martens stated that this sentence covers agencies in the community that do not have any financial connection to the City of Winsted but their goals and/or objectives fall under the City's mission statement.

Council Member Ollig asked Mr. Schultz if the aforementioned sentence was removed from the proposed *Utility Billing Insert Policy*, would the Herald Journal Publishing achieve what they want from the City in regards to the information in the monthly utility bills.

Mr. Schultz stated yes; but, Herald Journal Publishing would like to see the City only publish items that are related to City government and government related activities.

Council Member Mochinski asked what organizations would be affected if the proposed *Utility Billing Insert Policy* was amended by removing the aforementioned sentence. Mr. Martens stated that the only organizations that would be allowed to advertise events and/or activities in the City's monthly utility bills would be the Winsted Summer Festival and Winsted Holding Activities That Unite People (WHAT UP).

Mr. Martens stated that after doing some research staff determined that the community information has been included in the City's monthly utility bills for the past eight (8) years and there have not been any issues. Mr. Schultz stated that he disagreed.

Council Member Ollig stated that Herald Journal Publishing is a local business in the City of Winsted that employs several people in the Winsted Community. Mr. Schultz stated forty (40) to forty-five (45) people are employed in the Winsted office. Council Member Ollig stated that advertising dollars for Herald Journal Publishing have been jeopardized with the internet and other electronic outlets. Council Member Ollig continued by stating that the Winsted City Council has always tried to promote and support local businesses and he is not willing to put the City in a position to be at odds with a local business and/or involved in possible litigation. Council Member Ollig recommended that the City only advertise items in the monthly utility bills that are related to City government.

Council Member Quast stated she agrees with Council Member Ollig.

Council Member Ollig stated that as the City moves forward and participates in certain projects and/or activities, it is important to have Herald Journal Publishing include this information in the local newspaper so the City does not want to be at odds with them.

Council Member Mochinski stated that he agrees with Council Member Ollig; but, the City Council cannot vote on it in a Work Session so he would like the information presented in the future at a Regular City Council meeting. Council Member Mochinski stated that he would like

to have both Herald Journal Publishing, and organization members who will be affected by the proposed *Utility Billing Insert Policy*, to be in attendance at the meeting to present their cases to the City Council so an informed decision can be made regarding this matter.

Mr. Martens stated that this may also affect the City's cable television station.

Council Member Ollig stated that the City does not own the cable television station. He continued by stating that by law all cable television franchises do have to provide public access. Mr. Schultz stated that there are several specific rules that are related to the cable's public access television station in regards to its use by the private sector.

Council Member Quast stated that she believes in listening to the people but why would the City go against the First Amendment of the United States Constitution by trying to accommodate their wishes to advertise their events and/or activities in the monthly utility bills.

Council Member Ollig stated that what Mr. Martens is saying is that the counsel he has received from the LMC states that the City would not be in violation of the First Amendment if the City would implement the *Utility Billing Insert Policy*.

Mr. Martens stated that he does not want to make any statements saying that he knows what is in the First Amendment of the United States Constitution. Mr. Martens continued by stating that he agrees with Council Member Mochinski's point-of-view that the City Council should listen to both sides regarding this issue because they have only heard the views of Herald Journal Publishing. Mr. Martens continued by stating that he also believes that the City Council should make a decision based on the competition and use of staff time.

Mr. Martens stated that there is a possibility that someone could bring a lawsuit against the City in regards to a violation of the First Amendment of the United States Constitution; but, Winsted is a small community and does the City need to be so strict on every detail that it can no longer support the local non-profit organizations.

Council Member Schulenberg stated that he agrees with Council Member Mochinski and that there should be an open forum at a Regular City Council meeting to discuss this issue; however, he continued by stating that he is concerned that those in attendance at the meeting may not understand the depth of this issue.

Council Member Mochinski asked if any of the community organizations have been contacted regarding this issue. Mr. Martens stated that the only organizations notified were those that were going to advertise an event and/or activity in the last monthly utility bills and it was decided at the City Council Work Session that the City should not include them in the utility bills; which were Saint Mary's Care Center for their Memory Walk and the Winsted Lake Watershed Association.

Mayor Stotko stated that if the City wants to be transparent this item should be discussed at a Regular City Council meeting so it is televised and organizations can attend the meeting to give their input on the matter.

Mr. Schultz stated that Herald Journal Publishing has had editorials on the issue in the local newspaper and they encourage public comment.

Mayor Stotko asked Mr. Martens if the item will be presented at a future Regular City Council meeting. The City Council discussed and directed Mr. Martens to place the item on the agenda for the August 21st, 2012 Regular City Council meeting.

III. Equipment Request – Winsted Holding Activities That Unite People (WHAT UP)

Council Member Ollig presented a request from WHAT UP asking the City of Winsted to purchase a movie screen and video equipment for their "Movie in the Park" events. Council Member Ollig stated that the total cost of the aforementioned equipment would be approximately \$6,000.

Council Member Ollig stated that the "Movie in the Park" events are well attended and because

the event is free to the general public, there are many families that generally could not afford this type of activity that can participate.

Mayor Stotko stated that he would like to wait and include the purchase of the movie screen and video equipment in the 2013 Budget.

Council Member Mochinski asked if the movie screen could be purchased through the 2012 Budget and the video equipment be included in the 2013 Budget. Council Member Ollig stated that he would discuss this option with Mr. Jeff Campbell, WHAT UP Committee Member.

The City Council discussed the WHAT UP proposal and directed Mr. Martens to include it in the 2013 Budget process.

IV. Industrial Park Land Use

Mr. Martens presented a request from an existing Industrial Park tenant to purchase the vacant three (3) acre parcel in the Industrial Park.

Mayor Stotko stated that he would be concerned about the City selling the three (3) acre parcel to the existing Industrial Park tenant if they do not have any plans to expand their building in the future. If another business would be interested in purchasing some Industrial Park property to develop a business, the City would not have anything available. He continued by stating that he would be concerned that the existing Industrial Park tenant may want to purchase the property so they can sell it for a profit in the future.

Mr. Martens stated that it would cost a great deal of money to prepare the vacant parcel for resale.

Mayor Stotko asked Mr. Martens if he has had an opportunity to determine the value of the vacant parcel. Mr. Martens stated that according to the McLeod County website, the property is valued at \$180,000; however, that amount is not feasible.

Mr. Martens stated that the City Council could recommend to the existing Industrial Park tenant that they make a purchase offer to the City. The City Council discussed and directed Mr. Martens to have the existing Industrial Park tenant provide the City with an offer to purchase the vacant parcel.

V. Other

a) League of Minnesota Cities Annual Conference – June 20, 2012 to June 22, 2012

Mr. Martens stated that he will be out of the office from Wednesday, June 20, 2012 through Friday, June 22, 2012 to attend the LMC Annual Conference in Duluth, Minnesota.

b) Winsted Public Library – Head Librarian – Woman of the Year

Mr. Martens stated that he received an electronic mail message from Ms. Julie Guggemos, Winsted Public Library Board, informing him that the Winsted Public Library's Head Librarian, Mary Henke, has been named Hutchinson, Minnesota's 2012 "Woman of the Year."

c) 410 Kingsley Street South – Drain Tile Damage

Council Member Mochinski asked for an update on the drain tile that was allegedly damaged on the property at 410 Kingsley Street South when the Kingsley Lift Station improvements were being completed.

Mr. Martens gave the City Council an update.

VI. Adjourn

Council Member Ollig motioned to adjourn the meeting. Council Member Mochinski 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