

City of Winsted  
City Council Work Session  
Lewis Room  
Tuesday, December 19, 2017  
5:00 p.m.

Present: Mayor Steve Stotko  
Council Member Patty Fitzgerald  
Council Member Mike Henrich  
Council Member Tom Ollig  
Council Member George Schulenberg

Staff Present: Mr. Dan Tienter, City Administrator  
Ms. Raquel Kirchoff, City Clerk-Treasurer  
Mr. Justin Heldt, Police Chief

## I. Call to Order

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

## II. Recommended 2018 Fee Schedule

Mr. Daniel Tienter, City Administrator, stated that annually, the City Council adopts the City of Winsted (City) Fee Schedule in the form of an Ordinance. The Ordinance establishes a variety of charges for services regularly provided by the City as well as various fines for violations of the City's Municipal Code.

Mr. Tienter stated that some fees and fines are set at the discretion of the City Council, while others are promulgated through the Municipal Code and Minnesota State Statute. City staff regularly examine these sources to ensure the Fee Schedule remains consistent with all applicable guidance and regulations.

Mr. Tienter stated that based on direction from the City Council and comparisons with other municipalities, City staff applied a general 2.00% increase to a majority of the fees and rounded any adjustment to the nearest whole number. Mr. Tienter summarized other changes as follow:

- Planning and Zoning- a general increase of 5.88% to reflect a change in planning consultant rates (i.e., \$85.00 per hour to \$90.00 per hour);
- Equipment:
  - Cones, Non-City Sponsored Events - clarified to "per cone, per day;"
  - Picnic Table Rental, Per Day - clarified as a "transfer fee, per table" among City facilities plus hourly maintenance fee;
- Water and Sewer:
  - Sewer Rate, Per 1,000 Gallons, from \$11.39 to \$12.53;
  - Sewer Rate, Minimum, Per Month, from \$9.01 to \$9.92;
- Police:
  - Vehicle Impound Fee, from \$0.00 to \$100.00;
  - Vehicle Storage Fee – Impound, Per Day, from \$0.00 to \$2.00;
- General:
  - Early Payment Request Processing Fee, from \$0.00 to 1% or \$5.00, whichever is greater;
  - City Storage, Damage Deposit, from \$0.00 to \$78.00;
  - M100, Per Day, clarified to "Ballot Counting Machine;"
  - Automark, Per Day, clarified to "Ballot Marking Machine;"
  - Fireworks Permit Fee, from \$25.00 to \$50.00.

The City Council Members discussed and supported the recommended changes to the Fee Schedule. Mr. Tienter stated that the 2018 Fee Schedule would be considered at the City Council Meeting on January 2, 2018.

### **III. Public Nuisance Ordinance, Section No. 1603.004.D Amendment**

Mr. Tienter stated that the City investigated an area business, pursuant to a complaint, for a possible violation of Section No. 1603.004.D (Noise Ordinance) of the Municipal Code (Code), which regulates the "operation of construction equipment or machinery emitting noise onto adjacent property prior to 6:30 a.m. or after 9:00 p.m."

During this investigation, the close proximity of the business in question to other similar operations, coupled with the relatively vague text of the Section No. 1603.004.D, presented particular challenges in addressing any of the alleged Noise Ordinance violations. For example, under the abovementioned standard, it would be unlawful to perform even ordinary tasks, such as opening a garage door or starting a vehicle in a residential area during the prohibited time range.

Mr. Tienter stated that City staff, in determining a reasonable interpretation of this particular section, reviewed the enforcement practices regarding regulated noise of several area municipalities. Based on this review, most communities defer to noise pollution limits as established by Minnesota Rules, Chapter 7030 (Rule) and guidance as provided by the Minnesota Pollution Control Agency (MPCA), the agency empowered to enforce the same.

Mr. Tienter stated that the Rule and corresponding guidance regulate noise pollution through established Noise Classification Areas with objective limits in terms of noise pollution duration and decibel (dBA) level. It also modifies the impermissible hours of the Noise Ordinance to 10:00 p.m. to 7:00 a.m.

Mr. Tienter stated that the City purchased a decibel meter to read noise and conducted on-site investigations for several days during particular hours when complaints were received. After completing the investigation under the interpretation of the Rule, City staff determined that the area business in question did not violate the Noise Ordinance. Following the investigation, City staff discussed this finding with the parties involved in the process, which commented on the desirability of a more objective standard to regulate noise pollution.

Mr. Tienter stated that based on the enforcement challenges of the current Noise Ordinance, the similar practices of area municipalities, consistency with MPCA guidance, and the comments from the aforementioned parties for a more objective standard, City staff recommend the City Council amend Section No. 1603.004.D to include reference to Minnesota Rules, Chapter 7030 for the purposes of regulating noise pollution at their January 2, 2018 Regular Meeting.

Council Member Henrich asked how this would affect Winsted industries that begin operation before 7:00 a.m.

Mr. Tienter stated that industries may have to modify their operations. Mr. Tienter continued by stating that in discussions that City staff had with the businesses in question, those businesses expressed willingness to change operations as needed. They modified Occupational Safety and Health Act (OSHA) compliant alarms, agreed to close doors, agreed to input shipments at different times, agreed to delay the pickup of refuse, et cetera.

Council Member Henrich asked how the ordinance affects events like the Winstock Country Music Festival or the Winsted Summer Festival where music occurs past the hour of 10:00 p.m.

Mr. Tienter stated that those events have separate approvals from the City Council where the music would not violate Winsted ordinance.

Council Member Ollig asked if the amended language had been adopted before the investigation of the noise complaints, would it have changed anything.

Mr. Tienter stated likely not. The revised language requires the noise to be evaluated from the zone in which it is heard. At the time of the investigation, City staff did not go to residences and stand in residential areas with the decibel meter. The investigation was conducted on site; but even on site, the noise did not exceed the requirements for night time levels. There were some brief moments where the noise would spike. City staff addressed those times with the businesses, for example comments received that the business was dumping some dumpsters at 4:00 a.m., and the business was willing to change that practice.

Council Member Fitzgerald asked if the situation has improved.

Mr. Tienter stated that the City has received multiple complaints and it depends on the particular complainant. Some of the complainants say that it has improved; others not. An objective standard would help the City to decide more clearly if it has improved or not.

Ms. Laura Murphy, 210 8<sup>th</sup> Street South, Winsted, Minnesota, stated her family is not able to have their windows open in the spring and must run the furnace fan in their home because of the sound of crashing metal or fork lift alarms. Ms. Murphy stated that the noise has gotten better since the complaints but that could be because of winter months where shut doors at the business muffle sound.

Ms. Murphy stated that they are not able to determine which business the noise is coming from, whether it is Millerbernd Systems or AZZ Galvanizing.

Council Member Fitzgerald stated that the noise that would occur from emptying trash is not happening for an extended period of time, but is very loud. Will it be in violation of the amended language?

Mr. Tienter stated it would depend on what it was and what the business was doing. If the process was occurring for more than six minutes it would violate the ordinance.

The City Council Members stated that they did not want the ordinance worded to allow businesses to dump trash causing noise at 4:00 a.m.

Mr. Chad Hawkenson, 715 Mallard Avenue, Winsted, Minnesota, stated that he believes a business dumps their scrap metal into a metal recycling bin at 4:30 a.m. producing a very abrupt alarm clock for his residence.

Mr. Tienter stated that when the businesses were approached with specific issues like this, they were agreeable to change their operations. The businesses were asked to close overhead doors, keep windows shut, not play music at odd hours of the night and they agreed to that.

Mr. Tienter encouraged residents to contact the Winsted Police Department when they hear dumpsters, radios or noise. As Ms. Murphy stated, it is challenging for the Police Department also to determine where the noise is coming from and whether or not it violates the ordinance. The City is hopeful that by procuring the appropriate equipment and changing the Ordinance to have objective standards, the City is in a better position to respond both proactively when noise is observed and reactively when complaints from the public are received.

Mayor Stotko stated that the Winsted Police Department did a good job with the investigation and had an officer on site for several nights from 9:00 p.m. to 6:00 a.m., noting noise. He continued by stating that the amendment to the Ordinance will provide standards, but likely will not solve all complaints. The important thing to work on is keeping the lines of communication open with the residents and the industries.

Council Member Fitzgerald asked if there could be some type of regulation through the ordinance for consistent or habitual noise, for the example given of a business emptying a dumpster at an impermissible hour every night, day after day.

Mr. Tienter stated that he would contact the City Attorney regarding this question.

Mr. Tienter stated that the City Council would consider an amendment to the Noise Ordinance at their regular meeting on January 2, 2018.

#### IV. Other

##### a.) City Council Goal Setting Retreat – January 23, 2018

Mr. Tienter stated that the City Council will hold a Goal Setting Retreat on January 23, 2018, in the Vollmer Room, from approximately 9 a.m. – 3 p.m. The City Council Members stated that they could attend.

##### b.) Experienced Elected Officials Training – January 26-27, 2018

Mr. Tienter stated that the League of Minnesota Cities will provide an Experienced Elected Officials training session on January 26-27, 2018 in Brooklyn Park, Minnesota. Interested City Council Members should contact City staff if they would like to attend.

##### c.) Recommended 2018 Budget Adoption – Revised Memo

Mr. Tienter stated that the initial memo sent in the City Council packet for the 2018 Budget had an error of approximately \$200,000. Mr. Tienter stated that he uses an Excel spreadsheet that aggregates amounts into a budget summary. That document had a link error within it to another spreadsheet.

Mr. Tienter stated that all information that was presented in the budget hearings was accurate. When the memo was created to add all of the budgets, there was a typo because of the link error.

#### V. Adjourn

**Council Member Schulenberg motioned to adjourn the Work Session. Council Member Fitzgerald seconded the motion. Motion carried 5-0.**

The Work Session was adjourned at 5:48 p.m.

*Steve Stotko*

Steve Stotko  
Mayor  
City of Winsted

ATTEST:

*Raquel Kirchoff*

Raquel Kirchoff, CMC  
City Clerk-Treasurer  
City of Winsted