

City of Winsted
Special City Council Meeting
Winsted City Hall – Council Chambers
Friday, August 10, 2012
8:00 a.m.

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

Staff Present: Brad Martens, City Administrator
Amanda Zeidler, Utility Billing & Payroll Clerk

1) Mayor Stotko called the meeting to order at 8:00 a.m.

a) The Pledge of Allegiance was taken.

2) No Consent Agenda.

3) No Public Hearings

4) No Old Business.

5) New Business

a) Westside Skydivers Contract

Stotko began by asking each of the Council members if they would like to enter into a new contract with Westside Skydivers. Mochinski stated that he is open to the idea of entering into a new contract with Westside Skydivers. Ollig, Quast and Schulenberg stated that they would like to enter into a new contract with Johnson and Westside Skydivers.

Martens presented a draft contract between the City of Winsted and Joe Johnson to allow Westside Skydivers to conduct business at the Winsted Municipal Airport. Martens added that the original contract was between the City and Johnson, so the newly drafted contract is as well. Martens reviewed the changes that were made to the contract.

Martens stated that the following definitions have been added to the contract:

“Skydiving Activities” shall mean the descent of a person to the surface from an aircraft in flight when he or she uses, or intends to use a parachute during all or part of that descent.

“Flight Path” shall mean the line, course, or track along which an aircraft is flying or is intended to be flown.

“Residential Property” shall mean single family homes, apartments, townhouses, and any other place where people live.

Martens added that the words for the definition of “Skydiving Activities” were taken directly from the Federal Aviation Administration (FAA). Martens stated that Johnson will be required to provide a certificate of insurance showing a minimum of \$2,000,000 in liability coverage. The previous contract required a minimum of \$1,000,000. Martens stated that this requirement is typical for all of the City’s contracts, and additionally, Johnson already has a minimum of \$2,000,000 in liability coverage.

Martens stated that in regards to the hours of operation, the start time has been changed to 8:00 a.m., and the end time will remain thirty (30) minutes prior to sunset.

Martens stated that the City Council may discuss the rates or charges section of the contract; however, the contract has been changed to reflect that Johnson has paid a \$4,500 fee for use of the drop zone

area, west of the Arrival/Departure (A/D) building, and no additional fees are required for the remainder of the new contract.

Martens stated that the following language has been added to the contract under section eleven (11), "Miscellaneous Requirements and Conditions":

- *Johnson agrees to use a flight path not lower than 1,000 feet above the ground over residential property.*

Martens stated that there is a Federal Aviation Administration (FAA) requirement to remain 1,000 feet over residential property; however, that requirement does not apply to taking off and landing.

- *Johnson agrees to be responsible for damage to the Winsted Municipal Airport property caused by customers or employees of his skydiving business. Damage does not include normal wear and tear due to approved activities.*
- *Johnson agrees to provide an adequate quantity of portable restroom facilities to accommodate his customers and accompanied persons to his customers. Portable restroom facilities must be placed in a location approved by Winsted and must be cleaned regularly on a schedule approved by Winsted.*
- *Johnson must receive approval from Winsted for any items to be stored on Winsted Municipal Airport property.*

Martens stated that this requirement would include waste receptacles, and any other items.

- *Both parties understand that parachuting is a difficult sport and the participants are not always able to land in designated areas. Johnson pledges that his skydiving business will use its best efforts to land in the approved drop zone. Winsted agrees that failure to land in the designated drop zone does not constitute a breach of this agreement.*

Martens stated that the term of the contract has been adjusted to commence on August 10, 2012 and terminate on December 31, 2012.

Martens reviewed changes to section fourteen (14) of the contract, which was originally titled "Termination", and has been changed to "Suspension/Termination". This section states that any violation to the terms of this agreement may result in suspension, fines, or termination, with the following terms:

- *For the first violation at least a one (1) day suspension and a \$500 fine.*
- *For a second violation, at least a seven (7) day suspension, and a \$1,000 fine.*
- *For a third violation, at least a thirty (30) day suspension and a \$5,000 fine.*
- *Winsted retains the right to terminate the contract immediately upon any event of default or incident of noncompliance without prior notice to Johnson.*
- *Violations of the agreement will be reviewed by the Winsted City Council when submitted to Winsted in writing. The Winsted City Council shall have full authority in determining whether sufficient evidence exists to proceed with a suspension, fine, or termination.*

Martens stated that he handed a draft copy of the contract to Johnson on the evening of August 9, 2012.

Quast inquired about the requirement to remain 1,000 feet above residential property, and asked if it is even possible to avoid residential properties around the Winsted Municipal Airport. Martens stated that the purpose of this item is to address the concerns of the residents that live near the airport. Ollig stated that one of the concerns that have been raised is the noise level and how low the airplane seems to be, especially when it is landing at the airport. Ollig asked Johnson if this is something that can be corrected.

Johnson responded by stating that the airplane is coming from 13,000 feet down to landing, all in less than five (5) minutes. Ollig asked if there is any way for the pilot to throttle back a little when he is approaching the residences near the airport so the airplane is not so loud. Johnson stated that the noise is from the propellers, and they have tried different settings to adjust the noise level; however, the decent is still going to be loud. Johnson stated that they try to avoid being over residences, when the airplane is landing, but it is nearly impossible.

Quast asked Johnson if there are any other airplanes at the airport that are as loud as his airplane. Johnson stated that there are a couple of radial engines, and added that the difference in the noise level is that his airplane is moving up faster and coming down faster, so the exposure time is less, as opposed to a regular aircraft. Quast stated that the City Council will need to carry this requirement through with the other pilots, if it is a requirement for Johnson. Martens stated that this is a unique situation that is different from the land lease with the other hangar owners, so the City can have different requirements.

Martens informed the City Council that he has received comments from four (4) business owners, and one (1) resident, voicing their support for Johnson's business. He also received a comment from one (1) resident who is fairly concerned about continuing the relationship with Johnson, and asked that the City Council continue the relationship for only a short term.

Ollig stated that he would like to keep Johnson's business at the airport, and it is his goal to find some kind of balance. He added that the biggest issue that has been raised by citizens since the City Council Meeting on Tuesday, August 7, 2012 is in regards to the noise. Quast stated that she has heard from numerous businesses and residents, and added that she would like Johnson to continue his business at the airport; however, the noise is a concern.

Quast asked if the word "or" should be used instead of the word "and" in section fourteen (14) of the proposed contract regarding suspension and termination. She stated that this would give the City Council the option to fine Johnson, approve a suspension, or both. Quast stated that she would like to have the option to do either option, or both.

Mochinski stated that he would like to entertain that if there is another violation, it would be considered a second violation, since there has already been one (1) violation. Martens stated that this is a whole new contract, so it would be starting over. Mochinski added that he would like to double the proposed fine and suspension amounts for the first (1st) and second (2nd) violations under section fourteen (14) of the proposed contract, to avoid this kind of situation in the future.

Schulenberg asked how the City Council is going to police this contract, aside from relying on someone to come forward with an honest answer. He agreed with the other council members, and stated that he does not want to get rid of Johnson's business. Schulenberg advised Johnson that he needs to make sure that there is plenty of time to conduct business within the hours that are stated in the contract. Quast stated that she is hoping that they will not have to police the operation, and added that she hopes that the honor system will be respected.

Mochinski asked Johnson if his employees understand that they should not be jumping after the hours that are set in the contract. Johnson stated that he did not believe that it was a violation, since the FAA allows the skydiving operation to jump until sunset. Mochinski asked Johnson if he felt that he did not need to follow the contract with Winsted since the FAA has a different time allowance. Johnson responded that he does feel the need to follow the contract; however, he thought that one (1) or two (2) instances, when the operation was backed up, would be acceptable. He stated that he did not think that the contract was going to be terminated when the violation was reported. Ollig asked what Johnson thinks now. Johnson stated that he feels a lot different now.

Mochinski stated that the reason he approached the subject with regards to Johnson's employees is that approximately one (1) hour after the City Council Meeting on August 9th, there were jumps that took place, which were outside of the times stated in the contract. Mochinski asked if Johnson's employees are aware of the fact that penalties can be imposed for working outside of the terms of the contract. Johnson stated that the skydiving public is probably the hardest group of people to manage, of all of the people he has managed before. Quast advised Johnson that he may have to develop a set of rules or guidelines for his employees and customers to follow. Mochinski stated that there are other businesses in Winsted that require the owner to answer for the acts of the employees, and informed Johnson that he needs to communicate with his employees so they are aware of what they should and should not be doing.

Stotko stated that he has no problem with Johnson's business, other than the low-flying airplanes. He added that his biggest concern with the contract is that Johnson seems to push the envelope on everything he does. Stotko asked Johnson what faith he can have to know that Johnson will follow-through. Stotko added that it is a great business for Winsted, and he enjoys watching people jump.

Johnson stated that this is the first time that he has had a written complaint, and he has never had a safety violation with the FAA in three (3) seasons of operation. He added that he was speaking with

Martens in depth when the complaint was received, and he thought it would take a different direction. Johnson stated that he does take this seriously, and that the skydiving business is his livelihood, and he is trying to raise a family in Winsted and make this his home. Stotko stated that he feels strongly that an ordinance or contract needs to be followed, and if it is not followed, then why does it exist?

Quast questioned the 8:00 a.m. start time, and asked if it is fair to say that others can start making noise earlier in the morning, according to City ordinance. Ollig stated that this is a specific contract for a specific business, versus allowing the general public to do something. Martens stated that if Johnson is willing to sign the contract, he is willfully agreeing to the terms of the contract.

Ollig stated that it should be noted that when the violations came forward, Johnson readily admitted that he did make the violations, Johnson did not try to hide them, and he would assume that going forward Johnson would not try to hide it. Quast added that she respects Johnson's honesty when admitting to the violations.

Mochinski stated that Johnson has said numerous times that he has never had a violation with the FAA terms, and hopes that Johnson never does, but there is always that first time. Mochinski stated that some of the pilots have stated that they cannot fuel their airplane because of where Johnson's airplane is parked to be fueled, while his airplane is running. He added that this could create a hazard if another pilot wants to fuel his or her airplane. Mochinski asked if there could be some verbiage added to the contract designating the areas that Johnson can fuel his airplane. He also mentioned that Johnson's fuel tank has been parked by the runway, and that is a problem for Winsted that should be addressed, in regards to liability and unsafe practices. Martens stated that this item should be covered in the contract regarding the need to get permission to store anything at the Winsted Municipal Airport. Martens stated that if this contract is approved, there would have to be a temporary agreement as to where things could be located at the airport. Quast inquired about the duration of the contract. Ollig and Mochinski stated that the draft contract is scheduled to conclude at the end of 2012.

Stotko asked if Johnson is satisfied with the draft contract, and what he agrees or disagrees with. Johnson commented on the following items in response to the proposed contract:

- Hours of Operation: Johnson would like to set the hours of operation from 7:00 a.m. to sunset.

Mochinski stated that he has received comments from quite a few local residents regarding the hours of operation. He stated that each of them thought the start time should be earlier, and the hours should not be extended at the end of the day. Mochinski stated that he would like to see the hours of operation remain the same as they were stated in the previous contract. Stotko and Quast stated that they agreed with Mochinski.

- Johnson stated that he agrees with the requirement to remain 1,000 feet above residential areas, except during landing. He stated that they do their best to avoid residential areas now, but it is a loud airplane. Johnson added that he does his best to work with the property owners and to adjust flight plans accordingly.
- Johnson stated that he agrees to be responsible for any damage to the Airport by his customers or employees. He added that he can charge them accordingly if he is aware of any damage, and is charged for the damage.
- Johnson stated that he disagrees with the requirement to provide restroom facilities. He would like to continue with the use of the A/D building until he is able to build a new facility and have his own restrooms.
- Johnson stated that he would like to continue the contract until December, 2013.

Mochinski stated that he disagrees with extending the new contract until December, 2013 and stated that he would like to see the contract end in December, 2012. Stotko and Quast agreed with Mochinski's statement.

Stotko asked Martens if he has received any feedback regarding the use of the A/D building restrooms. Martens stated that the use of the restrooms has been a pretty constant issue at the airport. He added that the FAA has stated that the A/D building cannot be used for any private business transactions, which is defined as receiving something for money, and since Johnson's customers are receiving a service for

something they are paying for, use of the restrooms is classified as a business transaction. Martens stated that due to the definition of a “business transaction”, the City will have to require Johnson to have portable restrooms available. Mochinski stated that he would like to see a requirement for portable restrooms, as it reads in the contract.

Mochinski asked for the thoughts of the other council members in regards to his opinion to double the proposed fine and suspension amounts for the first (1st) and second (2nd) violations under section fourteen (14) of the proposed contract. Quast stated that the word “or” needs to be used in addition to the word “and” throughout the section.

Glenn Weibel, Airport Commission Member, addressed the City Council. Weibel provided information regarding Johnson’s airplane and the traffic patterns at the airport. Weibel stated that he supports the Council’s desire to support the skydiving operation at the airport. Weibel asked the City Council to give the authority to the Airport Commission to investigate any complaints regarding the airport, and if there is a legitimate concern, any findings would be brought before the City Council. Weibel added that this would reduce the City Administrator’s work load, and it would make the Airport Commission credible to the airport tenants. He would like the airport to be friendly for visitors and transient pilots.

Quast asked Weibel and Johnson if they feel that they can both be members of the Airport Commission and make decisions that are unbiased and for the good of the Winsted Municipal Airport. Weibel stated that he believes that they can both be members, and added that differences of opinion are not a problem. Johnson stated that he agrees that he and Weibel can sit on the same board and hash out details. He added that he does not believe that Weibel can be unbiased when Weibel has been telling his customers that he runs an unsafe business. Quast stated that those kinds of statements need to be discussed amongst each other, and they need to be settled.

Stotko asked Kevin Kubasch, acting chairperson for the Airport Commission, if he thinks that Weibel and Johnson can work things out and sit on the same board together. Kubasch stated that among the hangar owners who he hears from on a regular basis, the tension at the Airport is so thick, you can cut it with a knife, based on issues and drama. Kubasch believes that there is room for a skydiving operation at the Airport. He stated that the Airport Commission is a lame duck as it sits right now, and suggested that the City Council take action to disband the existing Airport Commission, and if the City Council so feels, at a later date, they can accept applications for the Airport Commission and reappoint members to the commission. Stotko stated that he had notes to ask Martens to decertify the Airport Commission on a future City Council Work Session agenda, so he and Kubasch agree. Stotko added that placing this item on a Work Session agenda would be the proper thing to do to have a legitimate discussion about the Airport Commission. Kubasch stated that his view has always been to represent the hangar owners, and whether the City Council is looking at the potential liability, animosity, or lack of doing a good job, he does not want the City of Winsted to be put in that position. Kubasch added that it would be a good idea to make a fresh start with the Airport Commission for the health and future of the airport in general. Schulenberg thanked Kubasch for his comments, and added that it reflected how he feels.

Kubasch stated that it does not make sense to take up volunteer time, City Council time, and especially staff time, because all of the issues filter to the bottom line of the airport budget. He also stated that he would like to make sure that the fee that Westside Skydivers is charged each year covers the costs that are incurred, and if the City is going to put up with any grief, then the City should be fairly compensated.

Quast stated that she respects the comments that Kubasch expressed, and asked Johnson and Weibel if they agree with the comments made by Kubasch. Johnson stated that he agrees with the comments that were made by Kubasch.

Ollig made a motion to approve the proposed contract as it reads, with a change under section fourteen (14) Suspension/Termination: item “a” should read that for the first (1st) violation, at least a two (2) day suspension, and/or a \$1,000 fine; and item “b” should read that for the second (2nd) violation, at least a fourteen (14) day suspension and/or a \$2,000 fine. Mochinski seconded the motion. Motion carried 5-0.

Brad Millerbernd, The Road House Coffee Shop, 215-6th Street North, addressed the City Council and stated that as a business owner, he appreciates that the City Council approved a new contract with Joe Johnson. Millerbernd commented about the economic impact that Westside Skydivers has on the City of Winsted, and he asked that the City Council not prohibit the growth of Johnson’s business. He added

that it is easier to cultivate the businesses that are in Winsted, than to entice new businesses. Ollig stated that the City Council appreciates Millerbernd's comments.

6) No Other Business.

7) Adjournment

Ollig made a motion to adjourn the meeting. Quast seconded the motion. Motion carried 5-0.

The meeting adjourned at 8:57 a.m.



Steve Stotko,
Mayor
City of Winsted

ATTEST:



Amanda J. Zeidler,
Utility Billing & Payroll Clerk
City of Winsted