

City of Winsted
City Council Meeting
Council Chambers
June 1, 2010
6:00 p.m.

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

Staff Present: Deborah R. Boelter, City Clerk-Treasurer
Fran Eggert, City Attorney
Dan Pohl, Police Officer

1) **Mayor Stotko called the meeting to order at 6:00 p.m.**

a) **The Pledge of Allegiance was taken.**

2) **Consent Agenda**

Mochinski motioned to adopt the Consent Agenda as presented. Ollig seconded. Motion carried 5-0.

a) **Minutes - City Council Work Session – May 18, 2010**

Accepted the minutes of the City Council Work Session of May 18, 2010.

b) **Minutes – City Council Regular Meeting – May 18, 2010**

Accepted the minutes of the City Council Regular Meeting of May 18, 2010.

c) **2009 Audit – Submission to the Office of the Minnesota State Auditor**

Approved the submission of the City of Winsted's 2009 Audit to the Office of the Minnesota State Auditor.

d) **Westgate Park – Softball Field – Repair to Backstop Fence**

Authorized Century Fence Company to repair the backstop fence at the softball field in Westgate Park for \$1,862 to be paid from the General Fund's Park Repairs and Maintenance budget.

e) **Seal Coating – Specified Winsted City Streets**

Authorized Pearson Brothers, Incorporated to seal coat specified Winsted City streets for \$32,562.20.

f) **Election Judge Appointments**

Appointed City of Winsted staff members, Deb Boelter, Raquel Kirchoff and Amanda Zeidler, as Election Judges for the Primary Election, August 10, 2010 and the General Election, November 2, 2010.

Appointed Vernon Christenson, Rebecca Condon, Gayle Detert, Betty Diers, Carol Kappel, Michael Klein, Bernadette Libor, Karla Otterness, Karen Schoen, Kathleen Schoenfelder, George Schulenberg, Rosemary Stifter, Paul Weibel, and Mary Wiemiller

as temporary, part-time employees at an hourly rate of \$8 to serve as Election Judges for the Primary Election, August 10, 2010 and the General Election, November 2, 2010.

g) Flagship Bank of Winsted – Pledged Securities

Approved the Pledged Securities that Flagship Bank of Winsted has purchased for the City of Winsted for the month of May, 2010.

h) Claims

Approved the claims list for June 1, 2010.

3) Public Hearings

a) McLeod County Road 116 and Third Street Improvement Project

Saulsbury presented information on the McLeod County Road 116 and Third Street Improvement project that included:

1. Project process.
2. Recommended project components.
3. McLeod County Road 116 street improvements.
4. McLeod County Road 116 utility improvements.
5. McLeod County Road 116 sidewalk construction.
6. Third Street improvements.
7. Overall cost summary.
8. May 20, 2010 Open House summary.
9. Recommended revisions to the preliminary design as a result of the comments and concerns received from residents at the Open House.
10. Project financing and funding.
11. Review of the Assessment Policy.
12. Presented assessment area map.
13. Assessment summary and preliminary assessment roll.
14. Potential project schedule.

Mayor Stotko asked for public comment.

Lyle Kritzeck, 140 – 3rd Street South, addressed the City Council and stated that he was in favor of the installation of the sidewalk but he was concerned about the removal of the mature trees. Kritzeck asked if the City would be planting trees as large as the ones they would be removing. Saulsbury stated that the trees would not be as mature.

Ollig asked Saulsbury if the residents would be allowed to choose the type of tree that they would like to have installed on their property. Saulsbury stated yes.

Kritzeck stated that he is not in favor of the project as it stands because of the trees that the City will be removing.

Bill Gilk, 420 Lake Drive, addressed the City Council regarding his concerns about the money that will be spent on the proposed sidewalk. He stated that there are other areas in the City that do not have sidewalks and as a result, walkers, bicyclers, joggers, etcetera; have to walk on busy streets and highways. He asked the City Council to consider spending the money on sidewalks to connect Winsted on the Lake to the downtown area of Winsted. Saulsbury stated that the City is not paying for the installation of the sidewalk. McLeod County will be paying for the sidewalks and Saulsbury stated that he does not believe they would consider installing sidewalks in other areas of the City instead of on Third Street.

Jacob Schalegel, 320 - 3rd Street South, addressed the City Council and stated that he does not have any issues with the project except for the removal of the trees. Saulsbury stated that there is minimal impact to the trees located in front of the Blue Note Bar and Restaurant.

Greg Gehrman, 161 Main Avenue, addressed the City Council regarding the necessity of the sidewalk on Third Street South. Gehrman asked if the roadway could be marked with lines and be used as an alternative to the sidewalk. He stated his concerns about additional water run-off to Winsted Lake due to the additional impervious surface. Gehrman stated that he agrees with Gilk's recommendation that the City consider installing sidewalks in other areas of the City. Saulsbury again stated that the City is not paying for the installation of the sidewalk. McLeod County will be paying for the sidewalks and Saulsbury stated that he does not believe they would consider installing sidewalks in other areas of the City instead of on Third Street. Saulsbury also stated that the storm sewer will accommodate any additional water run-off before it gets to Winsted Lake.

Mochinski stated that the sidewalks are part of the City of Winsted's Trail Master Plan so it is important to install them and connect the City.

Ollig stated that when you look at the overall project, the cost is very minimal to the City of Winsted. He stated that he recognizes that the removal of the trees and the sidewalk installed on resident's properties is a concern; but, he not only represents the residents that are going to be impacted by the project but also all residents of the City of Winsted, and he recognizes that most families would feel safer walking on a sidewalk and not on the street.

Quast stated that she agrees with Ollig.

Lenora Kubasch, 210 – 6th Street North, addressed the City Council and stated that she walks early in the morning and has noticed that most walkers at that time of the day do not walk on the existing sidewalks but on the street. She stated that the sidewalk surfaces are uneven and difficult to walk on when it is darker and you cannot see clearly.

Wiemiller stated that the Minnesota Design Team identified that the City does not have a good trail system to connect the City. Wiemiller stated that he is sensitive to those who have to lose trees but he does believe sidewalks are safer for walkers.

Mochinski asked Saulsbury if there will be any other public meetings available for residents to express their concerns. Saulsbury stated that there will likely not be any more public hearings regarding the project but Saulsbury stated that there will be direct contact with property owners regarding improvements and/or adjustments to their property.

Mochinski stated that there were two (2) blocks of property owners on Third Street that attended the May 20, 2010 Open House and expressed their concern about the sidewalk going through their property and the removal of their trees. Mochinski stated that he would like to evaluate the sidewalk and tree removal in the future and adjust the plans and specifications for the project accordingly.

Mayor Stotko stated that he understands Gilk's and Gehrman's concerns about other areas of the City that need sidewalk and the City would consider swapping the sidewalk installation if McLeod County would agree; but, it is not an option for this project. Mayor Stotko stated that it is important to connect the City with sidewalks and trails, and this project is a step towards that goal.

Wiemiller motioned to adopt Resolution R-10-16 ordering improvement and preparation plans and specifications for the proposed improvement of McLeod County Road 116 and Third Street South by Bolton and Menk, Incorporated. Quast seconded. Motion carried 5-0.

Quast motioned to close the public hearing. Ollig seconded. Motion carried 5-0.

b) Liquor Ordinance O-10-03

Mayor Stotko stated that the City initiated a process in January, 2010 to review and consider possible amendments to the Liquor License Ordinance. The current Ordinance was sent out to Liquor License holders in January, 2010 to solicit their comments on possible language changes. The input collected from license holders was used in conjunction with recommendations from the City Clerk and Police Chief in creating the proposed Ordinance.

The proposed new language was sent out to Liquor License holders and the Winsted Chamber of Commerce membership for their comments. In addition, the City held two (2) public forums on March 4, 2010 to solicit feedback from all other citizens.

The Ordinance amendments were considered at the April 6, 2010 public hearing and no comments were received from the audience. Before the Ordinance amendments were adopted, Police Chief Henrich recommended that a provision be added to the proposed Ordinance that would make it a violation for the Liquor License holder or an employee of the Liquor License holder to be under the influence of alcohol while on duty. The provision adopted read as follows:

H. *LICENSEE'S EMPLOYEES. No employee of the licensee that serves alcohol to patrons of the licensee, shall have a blood alcohol level of .08 or greater. Said measure of blood alcohol content may be determined by a Portable Breath Test (i.e. PBT).*

If a peace officer has probable cause to believe that an employee is under the influence of alcohol or impaired by the use of alcohol, an officer may request said employee to submit to a PBT. If the employee blows a breath sample of .08 or greater, or refuses to take a PBT, the same constitutes a violation of the liquor licensee's license and subject to all penalties and remedies contained in Section 1 of Chapter 12 of the Municipal Code of the City of Winsted.

Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

Mayor Stotko stated that at the April 6, 2010 City Council meeting, Ordinance O-10-03 was adopted by the City Council amending the Liquor Ordinance and included the provision as recommended by Police Chief Henrich.

At the May 4, 2010 City Council meeting, Brian Langenfeld, owner of Keg's Bar and Jacob Schlagel, owner of the Blue Note Bar and Ballroom, addressed the City Council regarding the aforementioned provision in the newly amended Liquor Ordinance that makes it a violation for the Liquor License holder or an employee of the Liquor License holder to be under the influence of alcohol while on duty.

Langenfeld and Schlagel asked the City Council to please consider amending the Liquor Ordinance regarding this provision. They stated that the Liquor License holders were not given proper notification of the proposed provision to the newly amended Liquor Ordinance.

The City Council scheduled this public hearing to consider Langenfeld and Schlagel's request.

Brian Langenfeld, Keg's Bar, 121 – 1st Street North, addressed the City Council and asked them to remove this provision from the Liquor Ordinance. He stated that he discussed the provision with other bar owners and they are in agreement that if there is an issue with their employees serving patrons while intoxicated, they will work with Police Chief Henrich and the Police Department to rectify the issue.

Mayor Stotko asked Langenfeld if he contacted Henrich to discuss the provision. Langenfeld stated that he discussed it with Henrich.

Wiemiller asked Eggert if the provision in the Ordinance would hold up in court. Eggert stated that the provision was written so it is constitutional. Eggert stated that he is concerned about enforcement of the provision. Eggert stated that he contacted the Minnesota Department of Public Safety/Alcohol Enforcement and they said that cities can be more restrictive in their Ordinances than the State of Minnesota.

Scott Bayerl, The Corner Bar and Grill, 111 – 1st Street North, addressed the City Council stating that he believes that it is the responsibility of the bar owners to regulate their employees and their behavior. Bayerl was concerned about what would constitute probable cause for the Police Department to enter the bar and do a PBT.

Jacob Schlagel, Blue Note Bar and Restaurant, 320 – 3rd Street South, addressed the City Council and stated that the liquor establishments in the City of Winsted are regulated enough by the Ordinance and he believes that this is over-regulation. He also stated that if the Police Department finds probable cause to enter and do a PBT, it is going to negatively affect their customers and business.

Ollig stated that the City Council was under the assumption that the bar owners received the provision when they received the Ordinance amendments, so they made the decision to add it to the Liquor Ordinance.

Mochinski stated that he is not aware of any issues with the provisions.

Ollig motioned to adopt Ordinance O-10-04 amending Section 1 of Chapter 12 of the Municipal Code of the City of Winsted by the amendment of paragraph 1201.013.h. concerning licensees' employees' alcohol level. Quast seconded. Motion carried 5-0.

Ollig motioned to close the public hearing. Wiemiller seconded. Motion carried 5-0.

4) Old Business

Eggert stated that Schlagel contacted him regarding their suspension and asked if it would be for the off-sale liquor license as well as the on-sale liquor license. Eggert stated that the violation happened in the on-sale so the suspension would only be in the on-sale for both Big Al's Bar and Grill and the Blue Note Bar and Ballroom.

a) Liquor License Violation – Big Al's Bar

Tammy Graunke, Big Al's Bar and Grill, 591 Main Avenue West, addressed the City Council on behalf of Al Graunke. She said that Graunke, Al was sorry for the liquor license violation and he apologizes to the City Council.

She stated that they are not disputing the suspension but asked if the three (3) days suspension could be moved to the first (1st) weekend of July, 2010 and if they could pay the \$1,000 civil penalty after July 1, 2010.

Mayor Stotko stated that he does not mind moving the fine due date but the City Council should consider that the other bar owners were required to pay by June 1, 2010.

Ollig stated that he would be willing to move Big Al's Bar and Grill's three (3) days suspension to Monday, June 21st, 2010; Tuesday, June 22nd, 2010 and Wednesday, June 23rd, 2010 and have them pay the \$1,000 civil penalty on July 1, 2010.

Wiemiller stated that he is tired of the bad publicity that generates from Big Al's Bar and Grill in the City of Winsted. He stated that if they want to operate a business in Winsted they must follow the City's ordinances.

Ollig thanked Graunke, Tammy for attending the meeting.

Ollig motioned to move Big Al's Bar and Grill's three (3) days suspension to Monday, June 21st, 2010; Tuesday, June 22nd, 2010 and Wednesday, June 23rd, 2010 and have them pay the \$1,000 civil penalty on July 1, 2010; and have the Blue Note Bar and Grill pay their \$500 civil penalty on July 1, 2010. Mochinski seconded. Motion carried 5-0.

5) **New Business**

a) **"WHAT UP" Committee**

"WHAT UP" Committee member, Jeff Campbell, addressed the City Council and discussed the following items:

1. Reviewed the activities and events that have been offered by "WHAT UP" for the families in the City of Winsted.
2. Reviewed the Committee membership.
3. The success of the *Movies in the Park*.
4. Explained the process and fees for the rental and showing of the movies.

Campbell stated that the movies cost approximately \$250 to \$300 to rent. He stated that they continue to fund the movies through sponsorships and asked the City Council if the money they budgeted for "WHAT UP" in the 2010 budget could be used for equipment costs.

Wiemiller asked Campbell how much the technical equipment costs would be. Campbell stated that he does not know what the total cost would be.

Mayor Stotko asked if Campbell contacted the Winsted Lions Club for funding. Campbell stated that he is working with the Lions Club to obtain funding.

Ollig asked Boelter to research if the City's Cable Fund can be used to fund technical equipment costs. Boelter will research the qualified uses of the Cable Fund and report to the City Council at a future meeting.

Mayor Stotko stated that "WHAT UP" is a good program but the City has to be careful about funding certain organizations and events due to 2010 Local Government Aid (LGA) cuts and proposed LGA cuts in the future.

Ollig motioned to contribute \$300 from the City's 2010 Budget to "WHAT UP."
Quast seconded. Motion carried 5-0.

6) **Department Report**

a) **City Engineer**

Jake Saulsbury, Bolton and Menk, Incorporated, reported on the following:

➤ **Airport Improvements:**

1. 2009 Construction Project for Taxi lane Reconstruction and Drainage Improvements:
 - Close-out paperwork has been sent to the Minnesota Department of Transportation/Office of Aeronautics (MN DOT/OA). Once approved the City will receive their final grant payment.
2. Airport Master Plan & Airport Layout Plan (ALP):
 - Draft Master Plan and ALP have been completed based on Option 2 alignment-runway shifted to the north.
 - MN DOT/OA is currently working on their final comments.
3. Environmental Assessment (EA):

- Project identified for entitlement funding in 2010 with five percent (5%) local match from the City of Winsted. This grant application is anticipated to be completed in July, 2010 or August, 2010 and also includes the reimbursement for the 2007 design.
- The Airport Layout Plan will need to be reviewed and commented on prior to proceeding with the EA. MN DOT/OA is currently working on their final comments.
- EA will evaluate any environmental impacts for the runway shift, land acquisition, and possible trail realignment.

4. Skydiving operations

- Proposed site was reviewed. Adjustments were made and the proposed business is compliant with MN DOT/OA and Federal Aviation Administration (FAA) regulations.

➤ **Pavement Management Plan:**

The purpose of a Pavement Management Plan (PMP) is to maintain serviceable street and utility infrastructure capable of meeting the needs of the citizens of Winsted in a reliable and cost effective manner. To follow is what has been completed since the last council update:

- Assessment policy was presented and approved.
- Options for projects and completion years were put together.
- This project is on hold until a new City Administrator is on board.

➤ **Wastewater System Facility Plan:**

The primary goal in developing the Wastewater System Facility Plan is to develop a working plan for meeting the current and future wastewater conveyance and treatment needs for the City of Winsted. To follow is what has been completed recently:

- Final submittal to the Minnesota Pollution Control Agency (MPCA) and the City Council presentation and Public Hearing occurred in March, 2010.
- Awaiting final permit requirements and compliance deadlines from the MPCA.
- Preliminary work has been authorized and is underway for the lift station improvements.

➤ **McLeod County Road 116 and Third Street South Improvements:**

- Additional meetings and discussions have been held with McLeod County.
- The Joint Powers Agreement was approved by both the City Council and McLeod County.
- Feasibility Study was completed and presented to the City Council.
- Two open houses were held for the area property owners on May 20, 2010.
- Public Hearing to be held on June 1, 2010.

➤ **Miscellaneous Items:**

- Industrial Park - Existing sanitary sewer line was relocated to the west in the spring to accommodate the development of the adjacent site.
- Base mapping updates were completed for all work and adjustments from the last two (2) years.
- Fire Station – Improvement options and cost estimates were completed. Pavement samples have been taken and the results will be available shortly.
- Main Avenue Sidewalk – Recommendations and cost estimates were completed.

Ollig asked where the City is at for the Fairlawn Circle issue. Saulsbury stated that it will be looked at as a 2011 project.

7) Open Forum

a) City Administrator Search Process

Kubasch asked about the process for the City Administrator search.

Ollig stated that the City received thirty-four (34) applications and they have been narrowed down to ten (10) participants who will be interviewed the week of June 14, 2010.

Mayor Stotko gave a brief overview of the interviewing process.

b) Winsted Municipal Airport – Westside Skydiving Operation During Winstock Country Music Festival

Ollig asked Eggert who is liable if Joe Johnson conducts his skydiving operations during Winstock Music Festival and they accidentally land in the campground(s) and someone gets hurt.

Eggert stated that it is likely that everyone would get sued – Winstock Country Music Festival, Westside Skydivers, the City and anyone else involved.

Quast stated that she believes Joe Johnson's agreement with the City should be evaluated and discontinued if he is not landing in the designated drop zone. Eggert stated that he will have to review the agreement between the City of Winsted and Joe Johnson to determine what repercussions, if any, the City can take.

Ollig asked if the City should send Johnson a letter regarding this matter. Eggert stated that the City is limited on what they can restrict due to the FAA's requirement to allow certain aeronautical activities at a municipal airport.

8) Announcements

a) Winsted Lake Watershed Association – Lakefront Promenade Rain Gardens

Mayor Stotko thanked the Winsted Lake Watershed Association and the many volunteers who worked to install the rain gardens in the Lakefront Promenade. He stated that they worked through humid weather and rain.

Mayor Stotko stated that there was a misunderstanding that the City's Public Works Department was not watering the newly planted rain gardens and he wanted to clarify that Petie Littfin was working cooperatively with the Public Works Department to water the rain gardens.

9) Adjournment

Quast motioned to adjourn. Wiemiller seconded. Motion carried 5-0.

Respectfully submitted,

Deborah R. Boelter
City Clerk-Treasurer