

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

Absent: Council Member Tom Ollig

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

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

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

2) **Consent Agenda**

**Council Member Mochinski motioned to remove item e) Resignation of Glenn Weibel from the Winsted Municipal Airport Commission from the Consent Agenda. Council Member Schulenberg seconded the motion. Motion carried 4-0.**

**Council Member Quast motioned to adopt the Consent Agenda as presented. Council Member Mochinski seconded the motion. Motion carried 4-0.**

a) **Minutes – City Council – Work Session – August 7, 2012**

Accepted the minutes of the City Council Work Session of August 7, 2012.

b) **Minutes – City Council – Regular Meeting – August 7, 2012**

Accepted the minutes of the City Council Regular Meeting of August 7, 2012.

c) **Minutes – City Council – Special Meeting – August 10, 2012**

Accepted the minutes of the City Council Special Meeting of August 10, 2012.

d) **Salary Step Increase – Justin Heldt**

Authorized a salary step increase for Justin Heldt, Police Officer, effective August 9, 2012.

e) **Resignation – Glenn Weibel - REMOVED**

Accepted Glenn Weibel's resignation from the Winsted Municipal Airport Commission.

f) **Solid Waste Hauler License Application – Randy's Sanitation, Incorporated**

Approved a Solid Waste Hauler License for Randy's Sanitation, Incorporated expiring December 31, 2012.

g) **Solid Waste Hauler License Application – Mumford Sanitation**

Approved a Solid Waste Hauler License for Mumford Sanitation expiring December 31, 2012.

h) **Solid Waste Hauler License Application – Waste Management**

Approved a Solid Waste Hauler License for Waste Management expiring December 31, 2012.

i) **July, 2012 Financial Report**

Approved the July, 2012 Financial Report.

j) **July, 2012 Building Permit Report**

Approved the July, 2012 Building Permit Report.

k) **Claims**

Approved the Claims List for August 21, 2012.

3) **No Public Hearings.**

4) **No Old Business.**

5) **New Business**

a) **Resolution R-12-23 – Providing for the Issuance and Sale of \$780,000 General Obligation Improvement Bonds, Series 2012B**

Mr. Martens stated that at the July 17, 2012 City Council meeting the Council approved a “trigger resolution” approving the issuance of General Obligation Improvement Bonds, Series 2012B and authorized the issuance of the bonds by approval of the Mayor and City Administrator. Mayor Stotko and the City Administrator approved the sale of the bonds on August 15, 2012. The Average Coupon Rate for bonds sold was 2.1034%. The sale resulted in decreased annual debt levy payments than estimated earlier due to favorable interest rates.

Mr. Martens stated that the next step in the process is to formally adopt a resolution approving the issuance and sale of the bonds by the City Council.

Mr. Martens stated that the issuance of General Obligation Improvement Bonds for this project will result in an annual payment for a term of fifteen (15) years beginning in the year 2013. Mr. Martens presented a table showing the previously estimated annual payment and the actual estimated annual payments:

<u>Year</u>	<u>Estimated Amount</u>	<u>Actual Amount</u>	<u>Difference</u>
2013	\$47,500	\$46,000	-\$1,500
2014	\$48,000	\$46,500	-\$1,500
2015	\$48,500	\$47,000	-\$1,500
2016	\$49,000	\$47,500	-\$1,500
2017	\$49,500	\$48,000	-\$1,500
2018	\$50,000	\$48,500	-\$1,500
2019	\$50,500	\$49,000	-\$1,500
2020	\$51,000	\$49,500	-\$1,500
2021	\$51,500	\$50,000	-\$1,500
2022	\$52,000	\$50,500	-\$1,500
2023	\$53,000	\$51,000	-\$2,000
2024	\$54,000	\$51,500	-\$2,500
2025	\$55,000	\$52,000	-\$3,000
2026	\$55,000	\$53,000	-\$2,000
2027	<u>\$55,000</u>	<u>\$53,500</u>	<u>-\$1,500</u>
	<b>\$769,500</b>	<b>\$743,500</b>	<b>-\$26,000</b>

Mr. Steve Mattson, Northland Securities, Incorporated was present at the City Council meeting and presented the Final Analysis for General Obligation Improvement Bonds, Series 2012B.

**Council Member Quast motioned to adopt Resolution R-12-23 providing for the issuance and sale of \$780,000 General Obligation Improvement Bonds, Series 2012B, pledging special assessments for the security thereof and levying a tax for the payment thereof. Council Member Schulenberg seconded the motion. Motion carried 4-0.**

b) **Public Art Recommendation – Ralph Millerbernd, Winsted Arts Council**

Mr. Martens stated that Mr. Ralph Millerbernd of the Winsted Arts Council has requested that the City Council review a design for a public art piece to be installed in the promenade area near Mill Reserve Park.

Mr. Millerbernd addressed the City Council and presented the proposed public art piece. Mr. Millerbernd stated that the art piece would represent the City of Winsted's history and help to educate others about Winsted's history. He continued by detailing the materials that would be used in the construction of the public art piece. Mr. Millerbernd stated that the materials selected would be able to withstand the test of time.



Mr. Millerbernd stated that the cost to construct the proposed public art piece would be approximately \$43,000.

The City Council thanked Mr. Millerbernd for designing the impressive art piece.

Mayor Stotko stated that the proposed art piece concurs with the goals and objectives identified by the Downtown Vibrancy Task Force.

The City Council directed Mr. Martens to research possible funding sources for the construction and installation of the proposed public art piece.

**c) Utility Billing Insert Policy**

Mr. Martens stated that at the April 17, 2012 City Council Work Session, Mr. Chris Schultz of the Herald Journal addressed the City Council regarding his concerns about the items the City is publishing in their monthly utility bills that are not government related.

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

Mr. Martens presented the proposed Utility Billing Insert Policy:

**Purpose and Scope:**

To establish guidelines for the City's utility billing insert program and to provide eligibility criteria for outside agency participation in the same.

**Eligibility:**

City of Winsted inserts shall take priority over the inserts of all other eligible entities.

Eligible participating agencies shall include other local governments, quasi-governmental agencies, non-profit organizations which receive financial support from the City or agencies which, in partnership with the City have a primary mission which is in the best interest of the City. The City of Winsted reserves the right to determine agency eligibility for participation in the program.

For profit businesses and corporations are considered ineligible entities.

**Scheduling/Guidelines:**

The City of Winsted distributes monthly utility bills. All billing inserts shall be scheduled by the City on a first come, first served basis (no more than a year in advance). The City also reserves the right to reschedule inserts in the event the inclusion of a City insert becomes necessary.

Inserts must meet the following guidelines:

- Detailed insert information must be received no later than the tenth (10<sup>th</sup>) day of the month in which the insert will be mailed, or a deadline specified by the City.
- The ad or information will be placed on the insert at the City's discretion and in the space allotted by the City.
- Additional costs incurred in conjunction with the preparation, printing, and distribution of bill inserts may be the responsibility of the sponsoring agency.

The City Administrator will evaluate and approve all utility billing inserts for content and appropriateness. To make reservations for a utility billing insert, please contact the Utility Billing Clerk at (320)485-2366.

*The City of Winsted reserves the right to cancel an insert due to non-compliance with these standards.*

Mr. Martens stated that he received one (1) comment prior to the City Council meeting regarding the proposed Utility Billing Insert Policy from Ms. Julie Guggemos. Mr. Martens stated Ms. Guggemos indicated to him that she is in favor of allowing non-profit organizations to advertise in the utility billing insert. Ms. Guggemos also stated that many non-profit organizations do not have a marketing budget and eliminating the ability to include information in the insert eliminates another way to get the word out on the work and/or events they are doing.

Mr. Chris Schultz, Herald Journal Publishing, Incorporated, addressed the City Council stating that the Herald Journal's opinion has not changed and that they believe that the City cannot make decisions based on content. Mr. Schultz stated that their decision is based on information the Herald Journal has received from their attorneys and Minnesota State Statute Chapter 156, Article Two (2), Section Six (6). Mr. Schultz stated that the Herald Journal is concerned about the competitive function to the Herald Journal. He continued by stating that the Herald Journal does offer affordable options for non-profit organizations to advertise an activity and/or event in the Herald Journal newspaper.

Mr. Schulz stated another concern with the Utility Billing Insert Policy dates back to one and a half (1-1/2) years ago when Municipal Development Group provided an established opinion on ordinance compliance in regards to the use of a sign that is on City property. Municipal Development Group's opinion stated to the Herald Journal and City Council was based on information they received from the League of Minnesota Cities (LMC) and Minnesota State Statute. The opinion from Municipal Development Group stated that the use of the sign on City property could only be for official City business or its content may be in violation of the First Amendment of the United States Constitution. Mr. Schultz stated that the City Council at that time made the decision to only advertise City business on the sign. He continued by stating that if the City Council would adopt the proposed Utility Billing Insert Policy, they would be contradicting the decision they made regarding the use of the sign located on City property.

Council Member Schulenberg asked how long the City has been allowing organizations to put information in the utility billing inserts. Ms. Boelter said for eight (8) years. Council Member Schulenberg asked if there have ever been any conflicts. Ms. Boelter stated never once.

Mr. Schultz stated that the Herald Journal does not oppose the utility billing insert itself; but, some of the content included in the insert. He continued by stating that the City should use the insert for official City business and to help educate the voters on City related issues.

Council Member Quast stated that the City had many issues come up regarding rules and regulations. If Minnesota State Statutes have rules and regulations that do not allow the City to include certain content in the utility billing insert, she stated that she believes that the City is in violation of Minnesota State Statute if they are including information that is not official City business.

Council Member Mochinski stated that he is concerned about how it may affect some of the small organizations that do not have the funding to advertise in the newspaper. He continued by stating that he is not familiar with the rules and regulations of the Minnesota State Statutes so he will not comment on that. Council Member Mochinski stated that he finds when the City enters into issues like the utility billing inserts; there is too much gray area that may come to light down the road.

Council Member Quast stated that the City Council members are elected to represent the residents and business owners so the City Council must consider all sides of the issue. She continued by stating that she feels bad that one (1) of the organizations that would be impacted by the restrictions would be the Winsted Public Library. Mr. Schultz stated that the Herald Journal does provide affordable opportunities for organizations like the Winsted Public Library to advertise their events and/or activities in the newspaper. He continued by stating that the Herald Journal has no plans to not serve the non-profit organizations less effectively than they have in the past; but, just want to maintain their ability to do it and not compete against the tax dollars that the Herald Journal already provides the City.

Council Member Quast asked for City Attorney Fran Eggert's opinion. Mr. Eggert asked if the City has obtained a legal opinion on this issue.

Mr. Martens stated he disagrees with a couple of items that have been presented. He stated that he did contact the LMC for an opinion on this issue and the LMC's opinion disagrees with the opinion of the Herald Journal's attorney.

Mr. Martens stated that the City makes discretionary decisions on a daily basis and the City does a good job of making those decisions. He continued by stating that yes the City could be sued; but, what is best. Mr. Martens stated that he understands Mr. Schultz's concern about the competition between the Herald Journal and the City. Mr. Martens continued by stating that the City Council needs to ask themselves if the competition is more of a negative than the benefit for the organizations that include information in the utility billing insert.

Mr. Martens stated that he is comfortable defending the proposed Utility Billing Insert Policy.

Council Member Quast stated that she believes that the organizations that make the City of Winsted what it is should have the dual opportunity to advertise their activities and/or events in both the Herald Journal newspaper and the utility billing insert.

Mr. Schultz stated that the Herald Journal does provide opportunities in the newspaper that give some of the Winsted organizations free advertising. He continued by listing the different opportunities that the Herald Journal provides.

Mr. Schultz stated that the question in regards to this issue is the role of government and how much bigger do we want government to get. Mr. Schultz continued by stating that history shows that government does not always inform the tax payers of important government information. He stated that the Winsted community may be better served by including information about official government business in the utility billing insert.

Mayor Stotko asked Mr. Schultz how the City of Winsted compares to other cities that the Herald Journal serves in regards to this issue. Mr. Schulz stated that the City of Winsted is the only city that they have addressed regarding this issue.

Mayor Stotko asked if anyone else wanted to comment.

Ms. Yvonne Maus, Winsted Lake Watershed Association (WLWA), addressed the City Council and stated that many of the non-profit organizations do not have the funding available for advertising and the utility billing insert is an important tool for public involvement in the WLWA's activities and/or events.

Ms. Nancy Fasching, Winsted Arts Council, addressed the City Council. Ms. Fasching stated that she appreciates Mr. Schultz's position; however, she said she does not see it as competition but another resource for getting information to the public. She continued by stating that the Winsted Arts Council would not choose one (1) advertising opportunity over another; but, use both the Herald Journal and the utility billing insert to reach a greater number of people. She stated that the beauty of living in a small community is that you have these resources available to you for advertising.

Council Member Quast believes what Ms. Fasching is saying is correct and that advertising is important and it would be nice if there was a joint effort.

Mr. Schultz stated that the Herald Journal is not opposed to the City developing a Utility Billing Insert Policy; but, there is the question of what organizations can participate in advertising information in the utility billing insert.

Mr. Schultz stated the Herald Journal is not going to sue the City over this issue; however, if the City does get sued the odds are that the City would lose and it would be an expensive process.

Council Member Mochinski stated that he is uncomfortable doing anything with the proposed Utility Billing Insert Policy at this time and would like a legal opinion on this issue.

Mr. Martens stated that they can talk about the size and role of government from now until forever and he said the public will. He continued by stating that he does not know if the City has the resources to get a legal opinion on First Amendment rights in regards to this issue. Mr. Martens stated that it could potentially take one (1) year to go through the court system to get an opinion on this issue and it still may not be the firm, exact answer that the City Council is looking for.

Mr. Martens stated that the City Council should weigh the competition and risk, which he stated he believes, is very low, versus the benefit to the non-profit organizations.

Council Member Quast asked how many organizations were asked to attend the City Council meeting to address this issue. Mr. Martens stated that every organization that had information in the utility billing insert over the past three (3) years was invited to attend the meeting.

Mr. Schultz stated that he and Dale Kovar, Herald Journal Publishing, Incorporated, would be willing to address and provide a policy that they would agree to and bring it to a future City Council meeting for the City's consideration. Mr. Schultz stated that he and Mr. Kovar would be fair to both sides in preparing the content of the policy they would establish.

The City Council discussed and directed Mr. Martens to work with Mr. Schultz and Mr. Kovar in establishing a policy.

Council Member Quast stated that she would like to have the policy electronically mailed to her before it is presented to the City Council.

**d) Budget Request – Pioneerland Library System**

Mr. Martens stated that the City of Winsted has received a request from the Pioneerland Library System to provide \$6,000 in the year 2013 to support the Winsted Public Library services. Currently, the City has budgeted \$9,950 for the Winsted Public Library for rent, utilities,

maintenance, and janitorial services. Additional funds dedicated towards the Winsted Public Library will require an increase in revenue or decrease in expenditures in other areas of the City's budget.

Winsted Public Librarian, Ms. Mary Henke, addressed the City Council regarding the request from the Pioneerland Library System asking the City of Winsted to provide \$6,000 in the year 2013 to support the Winsted Public Library services.

The City Council discussed and informed Ms. Henke that the City is in the process of establishing the year 2013 Budget and they will take Pioneerland Library System's funding request into consideration.

**e) Nuisance Abatement Contract – Henning Excavating**

Mr. Martens stated that the Nuisance Abatement Contract being presented to the City Council is in regards to the house that was damaged by fire at 171 McLeod Avenue West.

Mr. Martens stated that he intended to have the City Council approve the quote from Henning Excavating, Incorporated to abate the nuisance at 171 McLeod Avenue West; however, the City Attorney, Fran Eggert, is recommending that the City Council table the approval of the Nuisance Abatement Contract to be discussed at a future City Council meeting.

Attorney Eggert stated that he has had contact with a representative of the property owner and a representative from the mortgage company that will eventually be taking control of the property. Attorney Eggert continued by stating that there are different reasons why it has taken so long for the property owner to abate the nuisance; but, it is his opinion that it would be in the best interest of the City to have either the property owner or the mortgage holder remove the house and not the City. Therefore, Attorney Eggert recommended that the City Council table the Nuisance Abatement Contract to the second City Council meeting in September, 2012 or the first meeting in October, 2012.

Mayor Stotko asked how long the quote from Henning Excavating, Incorporated would be good for. Mr. Martens stated that he was uncertain and would have to review the quote.

Council Member Schulenberg asked if the mortgage holder dictates what company can remove the house. Attorney Eggert stated that the mortgage holder does not have control of the property at this time; so, the property owner is still the legal entity that owns the property.

Mayor Stotko asked if the building is secured enough to have the City Council table the nuisance abatement for another thirty (30) days. Attorney Eggert stated that the mortgage holder has taken the responsibility of making sure the grass is mowed and the house is secured.

Mr. Martens stated that adjacent property owners have contacted the City because it has been one (1) year since the fire and they would like to see the house removed; however, any time the City can move forward and not get involved is the decision, it is better for the City.

**Council Member Schulenberg motioned to table the Nuisance Abatement Contract at this time and have it presented again at a future City Council meeting. Council Member Quast seconded the motion. Motion carried 4-0.**

**f) Skydiving Agreement – Westside Skydivers**

Mr. Martens stated that in April, 2010 the City of Winsted entered into an agreement with Mr. Joe Johnson for the purpose of using the Winsted Municipal Airport to operate a skydiving business, including a drop zone on Airport property. The agreement outlined the terms of the use along with language for termination of the agreement.

Mr. Martens stated that on August 7, 2012, the City terminated the agreement effective immediately due to noncompliance with the agreement. The City then drafted a new skydiving agreement and approved it at a Special City Council meeting on August 10, 2012. Mr. Johnson has not signed the approved agreement and has stated that he will not sign the approved agreement. Staff informed Mr. Johnson that if he wishes to present an agreement he will sign to the City Council, he may do so.

Mr. Martens stated that the City has received a proposed agreement drafted by Mr. Johnson which adjusts terms from the City Council approved agreement from August 10, 2012. City staff is not in favor of approving the agreement presented by Mr. Johnson as it does not adequately address the issues taking place at the Winsted Municipal Airport. Mr. Martens recommended that the City Council continue to offer the previously approved agreement from the August 10, 2012 Special City Council meeting.

Council Member Mochinski stated as the City Council liaison to the Winsted Municipal Airport Commission he has talked to several people about the issue of the contract between the City of Winsted and Mr. Joe Johnson.

Council Member Mochinski gave a brief overview of his involvement at the Airport as the City Council liaison to the Winsted Municipal Airport Commission.

Council Member Mochinski stated that the City of Winsted worked with Mr. Joe Johnson to prepare and implement a contract that would allow him to operate his skydiving business at the Winsted Municipal Airport. Since the approval of the contract, Council Member Mochinski stated that Mr. Johnson has violated the terms of the contract numerous times and that is why the issue is being presented at tonight's meeting.

Council Member Mochinski stated that as City Council members they must listen to all entities that are concerned about issues at the Airport; the residents of the City who built the Airport, the hangar owners and local business owners. He continued by stating that the City must also make sure that we are a good neighbor to those living near the Winsted Municipal Airport.

Council Member Mochinski stated that at the August 7, 2012 Regular City Council meeting, he voted against discontinuing the contract with Mr. Joe Johnson because he was thinking only of the revenue that would be lost and not of the liabilities. He continued by stating that after the City Council meeting he thought about the issue more and realized that he should have voted the same as the rest of the City Council to discontinue the contract with Mr. Joe Johnson because the repeated violations of the contract are a large liability to the tax payers.

Council Member Mochinski stated that since Mr. Johnson has started operating his skydiving business at the Winsted Municipal Airport, the City has received so many more complaints about different issues at the Airport. He continued by stating that when the contract was discontinued, the City Council decided to address some of the issues in a new contract to protect the City.

Council Member Mochinski stated that Mr. Johnson did not add any items to the new contract; but, removed many of the items added by the City. He asked Mr. Johnson to comment on the items he removed.

Mr. Johnson addressed the City Council and discussed the items he removed from the contract.

Council Member Mochinski asked Mr. Johnson why he removed the contract sentence stating, "Johnson agrees to use a flight path not lower than 1,000 feet above the ground over residential property." Mr. Johnson stated that the sentence is not necessary because their flight path is 1,300 feet above the ground. Council Member Mochinski stated then it should not be an issue and the sentence can remain in the contract. Mr. Johnson agreed.

Council Member Mochinski asked Mr. Johnson why he removed the sentence in the contract stating that he is responsible for any damage done to the Airport property by his customers and/or employees. He continued by asking who would be responsible. Mr. Johnson stated that the individual who caused the damage should be responsible. Mr. Johnson contested this sentence. Council Member Mochinski stated that he is not in favor of removing this sentence because the City's tax payers are not responsible for paying for any damage done to the Airport property by Mr. Johnson's customer and/or employees. Council Member Mochinski stated that there are over forty (40) hangars at the Airport, and millions of dollars worth of property stored at the Airport, and it is not the responsibility of the tax payer to pay for damage done by customers and/or employees of Westside Skydivers.

Council Member Mochinski contested Mr. Johnson's removal of the sentence requiring Mr. Johnson to provide his customers with a portable bathroom facility. He continued by stating that

the Winsted Municipal Airport's Arrival/Departure (A/D) Building is not for commercial use in accordance with the Federal Aviation Administration (FAA). Council Member Mochinski stated that the bathrooms in the A/D building are not designed to accommodate a commercial business. Mr. Johnson stated that he contacted four (4) other Minnesota Airports that have skydiving businesses and they allow the customers and/or employees of the skydiving businesses to use their bathroom facilities in their A/D buildings. Mr. Johnson stated that he has agreed to reimburse the City for expenses related to the cleaning of the A/D building and paper products used in the bathroom facilities until he can find a more permanent solution for bathroom facilities for his customers and/or employees. Council Member Mochinski asked Mr. Johnson if he plans on adding reimbursement to the City for "wear and tear" on the A/D building. Mr. Johnson stated that he can add that to the contract.

Council Member Mochinski asked Mr. Johnson why he removed the suspension from operating his business under the section titled, "SUSPENSION/TERMINATION." He continued by stating that his removal of these items suggests that Westside Skydivers plans on violating the terms of the contract. Mr. Johnson stated that the number of days he can operate his business are limited because it is a seasonal operation and so he would rather pay the fine than have to be suspended.

Council Member Mochinski addressed the contract's "HOURS OF OPERATION." He continued by stating that the contract states the hours of operation from 8:00 a.m. to thirty (30) minutes before sunset to please those people who live near the Airport. Council Member Mochinski stated that Mr. Johnson's addition to the contract allowing night jumps is ridiculous. Mr. Johnson stated that he is required to do a limited amount of night jumps each year to be certified. By adding this to the contract, it would allow them to do the night jumps.

Council Member Mochinski stated that the items Mr. Johnson removed from the contract create a huge liability to the City. He continued by stating the City should only approve the contract presented to Mr. Johnson on Friday, August 10, 2012.

Mr. Johnson asked the City Council to allow his customers and/or employees to use the bathroom facilities in the A/D building if he agrees in the contract to reimburse the City of any and all expenses related to the use of the building. Council Member Mochinski stated that he would only consider Mr. Johnson's proposal to use the bathroom facilities in the A/D building if it was brought to the Winsted Municipal Airport Commission for their consideration and recommendation. He continued by stating that he does not believe that it is a necessity to allow the A/D building to be used for commercial businesses.

Mr. Johnson stated that there is another commercial business operating out the Winsted Municipal Airport; so, are their customers not allowed to use the bathroom facilities in the A/D building. Council Member Mochinski stated that if the other commercial businesses' customers would have created the problems that Mr. Johnson's customers and/or employees have, they would not be allowed to use it either.

Council Member Mochinski stated that he believes that the City Council does not have any problems with a skydiving business at the Airport; the problem is with the way Mr. Johnson is managing the Westside Skydivers business.

Council Member Mochinski stated that the amendments that Mr. Johnson has made to the proposed contract are a liability to the City. Mr. Johnson did not agree.

Council Member Mochinski stated that the contract the City gave Mr. Johnson on Friday, August 10, 2012 is very fair and addresses everyone's concerns. He continued by stating that the proposed amended contract from Mr. Johnson addresses only his concerns.

Mr. Johnson stated that he would be willing to sign the contract from Friday, August 10, 2012 if the City Council would allow him to use the A/D building.

Mayor Stotko asked Mr. Johnson if the cost to rent portable bathroom facilities was the issue. Mr. Johnson stated that it is not the cost; it is the fact that the customers are paying a substantial amount of money to skydive and he would like to be able to offer them clean bathroom facilities.

Council Member Mochinski stated that he does not believe it is the City's responsibility to provide bathroom facilities for Westside Skydivers and the A/D building's bathrooms are not designed for commercial use.

Council Member Quast stated that she was happy to have Mr. Johnson operate his skydiving business out of the Winsted Municipal Airport. She continued by stating that she is still happy for the success he has had with the business.

Council Member Quast stated that she is upset because the City Council has taken the blame for the contract with Mr. Johnson being terminated and it is not the City's fault that the contract was terminated; it is Mr. Johnson's fault for violating the terms of the contract. She continued by stating that it is the City Council's responsibility to make decisions based on the best interest of the tax payers that they represent and that is what they did when terminating the contract with Mr. Johnson. Mr. Johnson stated that he apologized for the violations and he never thought the City would terminate his contract.

Council Member Quast stated to Mr. Johnson that he helped the City prepare the initial contract and he violated the terms of the contract that he helped write. She continued by asking Mr. Johnson why he did not contact the City to amend the contract if he did not like the terms in the contract. Council Member Quast stated that she wants the general public to know that Mr. Johnson helped prepare the same contract that he violated. Mr. Johnson stated that everyone does know that. Council Member Quast and Council Member Mochinski stated that not everyone does know that.

Council Member Quast stated that every time Mr. Johnson approached the City, the City Council has tried to help him in any way possible. She continued by stating that she does not have any problem of following the FAA's rules and allowing Mr. Johnson to operate his business from sunrise to sunset.

Mayor Stotko asked for Council Member Schulenberg to comment. He declined.

Mayor Stotko thanked Council Member Mochinski for doing such a thorough job of explaining the contract and presenting the City Council's viewpoints. He continued by stating that he agrees with the comments made by Council Member Mochinski and Council Member Quast. The frustrating issue for him is the fact that the City submitted a contract to Mr. Johnson that contained amendments that they believed were necessary and important and Mr. Johnson removed them. Mayor Stotko continued by stating that this is not negotiating a contract.

Mr. Johnson stated that he thought that this was the purpose of tonight's meeting was to negotiate the contract.

Council Member Quast stated that it is important that the City have a contract with Mr. Johnson. She asked if it was a requirement of the FAA that the City have a contract with Mr. Johnson. Mr. Johnson stated no.

Mr. Martens stated that the purpose of the contract is so that Westside Skydivers may use the Winsted Municipal Airport for their business and for the drop zone area that they use to land.

Mayor Stotko stated that he agrees with Council Member Mochinski that the previously offered contract is still valid and on the table. Mayor Stotko stated that he would be more comfortable with Mr. Martens negotiating the terms of the contract with Mr. Johnson because he does not believe that Mr. Johnson should have to negotiate the terms with the five (5) City Council members.

Mr. Johnson asked if there could be two (2) amendments to the proposed contract. The first (1<sup>st</sup>) would be that the hours of operation be from sunrise to sunset. The second (2<sup>nd</sup>) would be to allow his customers to use the bathroom facilities in the A/D building if he agrees to reimburse the City for the cleaning and products used.

Mr. Martens stated that he does not have an opinion on the hours of operation being from sunrise to sunset; however, he does not agree that the City should allow a private business to use the A/D building when it is federally funded by the FAA. He continued by stating that it is being used

now because it is not stated in Mr. Johnson's contract that he cannot use it.

Council Member Quast asked Mr. Johnson what Minnesota airports he was referring to earlier that are allowing a skydiving business to use their A/D buildings. Mr. Johnson stated that he contacted the airports in Forest Lake, Milaca and two (2) operations out of Waseca. Council Member Mochinski asked if the A/D buildings are federally funded by the FAA. Mr. Johnson stated that Waseca is FAA funded; but, Forest Lake is not and he does not know about Milaca. Council Member Quast directed staff to confirm Mr. Johnson's information.

Mayor Stotko asked if Mr. Johnson is required to have a contract tonight to continue operating his skydiving business. Mr. Johnson stated that he can continue to conduct his business; but, he would like to have a new contract.

Council Member Mochinski stated that if Mr. Johnson can continue to operate his business then he recommends that the City Council approve the contract from the August 10, 2012 Special City Council meeting or do not approve any contract.

Council Member Quast stated that she would like Mr. Martens to confirm with the FAA if the City would be violating FAA regulations if they allow Mr. Johnson to use the A/D building for commercial use.

Council Member Schulenberg stated that he is concerned about the A/D building. The excess use by Mr. Johnson's customers could cause it to be ruined within two (2) years. He continued by stating that he is uncertain how the issue of the use of the A/D building by Mr. Johnson's customers is going to be resolved.

Mayor Stotko stated that he is taking the same position as Council Member Mochinski.

Mr. Johnson stated that he would be willing to sign the proposed contract with the two (2) amendments that he is proposing.

The City Council discussed and agreed that they wanted Mr. Johnson to approve the contract as presented to him at the August 10, 2012 Special City Council meeting. Mr. Johnson did not agree to sign this contract.

**g) Addendum Number One (1) to Work Order Number One (1) – 2011 Arrival/Departure Building Improvements**

Mr. Martens stated that over the course of the construction of the new Arrival/Departure Building at the Winsted Municipal Airport, additional engineering fees were incurred due to disputes between the City and the contractor. Addendum Number One to Work Order Number One addresses these additional costs that have been incurred.

The additional engineering fees incurred total \$6,000, of which ninety-five percent (95%) will be paid by the Federal Aviation Administration (FAA). The City is responsible for \$300.

The City Council should be aware that construction costs for the Arrival/Departure Building are projected to be \$13,560.22 less than expected. This means that overall; the project will still be under the approved budget.

**Council Member Quast motioned to approve Addendum Number One (1) to Work Order Number One (1) for 2011 Arrival/Departure Building Improvements at the Winsted Municipal Airport. Council Member Schulenberg seconded the motion. Motion carried 4-0.**

**6) Department Report**

**a) Winsted Police Department**

Chief Mike Henrich, Winsted Police Department, reported on the following:

- 2012 Winstock Country Music Festival.
- Gas Leak in the Westgate Neighborhood.
- 2012 National Night Out.

- 2012 Winsted Summer Festival.
- New Squad.
- Civil Defense Siren on Sixth (6<sup>th</sup>) Street South.
- Update on the Winsted Farmer's Elevator case.

Mayor Stotko asked Chief Henrich how often the Winsted Police Department is patrolling at the Winsted Municipal Airport. Chief Henrich stated that the Police Department is patrolling at the Winsted Municipal Airport at least one (1) time each night.

**7) No Organization Report.**

**8) Open Forum**

**a) Glenn Weibel – Winsted Municipal Airport**

Glenn Weibel, 540 - 1<sup>st</sup> Street North and Winsted Municipal Airport, addressed the City Council.

Mr. Weibel stated that he is a member of the FAA Safety Team and he presented a safety issue that he had witnessed at the Winsted Municipal Airport.

Mr. Weibel stated that he resigned from the Winsted Municipal Airport Commission because his input was resisted, not wanted and there were some hostile moments. He continued by stating that he is not willing to be a part of the Winsted Municipal Airport because safety is an issue.

Mr. Weibel stated that he regrets resigning from the Airport Commission; but, his professional integrity and honesty will not allow him to continue.

Mr. Weibel stated that Mayor Stotko asked both he and Mr. Johnson to resign from the Airport Commission. He continued by stating that he did resign; but, Mr. Johnson did not. He stated that he believes that Mr. Johnson should not be on the Airport Commission because he has a contract with the City of Winsted to operate a skydiving business at the Winsted Municipal Airport and his involvement on the Airport Commission is a conflict of interest.

Council Member Mochinski informed Mr. Weibel that his resignation was removed from the tonight's City Council meeting's Consent Agenda and not accepted.

Mr. Weibel stated that then he will retract that part of his statement. He continued by stating that he has talked with the FAA about Mr. Johnson's flight path. Mr. Weibel presented other allegations against Mr. Johnson in regards to his use of the Winsted Municipal Airport and FAA regulations.

Attorney Eggert stated that Mr. Johnson should be in attendance at the City Council meeting if there is going to be allegations presented against him.

Attorney Eggert asked Mr. Weibel if he is withdrawing his resignation. Mr. Weibel stated he is withdrawing his resignation.

Attorney Eggert stated that if Mr. Weibel is aware of FAA regulations that are being violated, he should inform the FAA.

Mr. Martens stated that he believes that he has been clear with the members of the Winsted Municipal Airport Commission and Mr. Weibel on what the specific process is for complaints to be heard regarding the Winsted Municipal Airport. Mr. Martens stated that he does take issue with Mr. Weibel's comment that the information he has given regarding the Airport is being resisted and not wanted. He continued by stating that he has made it very clear to Mr. Weibel that the City can address some of the information that he presents; but, the FAA has to address some of the issues that he presents. Mr. Martens stated that he has reviewed the proper processes with Mr. Weibel repeatedly. Mr. Martens continued by stating that he wants the City Council to know that the information he has received from Mr. Weibel has not been resisted or not wanted; but, redirected to the proper authority.

Mayor Stotko asked Mr. Martens to include discussion about termination of the Winsted Municipal Airport Commission on the September 4, 2012 Work Session Agenda.

9) **No Announcements.**

10) **Adjournment**

**Council Member Mochinski motioned to adjourn the meeting. Council Member Quast seconded the motion. Motion carried 4-0.**

The meeting was adjourned at 8:03 p.m.

*Steve Stotko*

Steve Stotko  
Mayor  
City of Winsted

ATTEST:

*Deborah R. Boelter*

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