

City of Winsted
City Council Meeting
Council Chambers
September 15, 2009
6:00 p.m.

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

Staff Present: Brent Mareck, City Administrator
Deb Boelter, City Clerk-Treasurer
Mike Henrich, Police Chief

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

a) The Pledge of Allegiance was taken.

2) Consent Agenda

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

a) Minutes - City Council – Work Session – September 1, 2009

Accepted the minutes of the City Council Work Session of September 1, 2009.

b) Minutes – Regular City Council Meeting – September 1, 2009

Accepted the minutes of the Regular City Council Meeting of September 1, 2009.

c) Royalty Float Storage – Lease Agreement

Authorized an extension of a lease agreement for the storage of the Royalty Float with Steve and Pam Fiecke through December 31, 2010 at \$70 per month, effective January 1, 2010.

d) Fence Installation – Basketball Courts

Authorized Century Fence to install new posts and fencing at the basketball courts for \$2,832; recommended for approval by the Park Commission.

e) Squad Car Set-Up

Authorized C.O.P. Shop LLC to provide and install squad car set-up items for \$10,021.33.

f) August, 2009 Financial Report

Approved the August, 2009 Financial Report as presented.

g) August, 2009 Building Permit Report

Approved the August, 2009 Building Permit Report as presented.

h) 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 August, 2009 in the amount of \$1,500,000 and the Federal Deposit Insurance Corporation (FDIC) in the amount of \$250,000.

i) Salary Step Increase – Amanda Zeidler, Utility Billing and Payroll Clerk

Approved a Salary Step increase for Amanda Zeidler, Utility Billing and Payroll Clerk.

j) Claims

Approved the Claims List for September 15, 2009 in the amount of \$91,867.65, check numbers 7918-7928, 500372E, 833E-841E and 15739-15782.

Winsted Pride Awards

Mayor Stotko presented the Winsted Pride Awards to:

Jim and Doris Menden, 111 Linden Avenue East, the Residential Winner.

St. John's Lutheran Church, 410 - 1st Street North, the Business Winner.

Mayor's Proclamation

Mayor Stotko read a proclamation honoring the Winsted Wildcats for their successful 2009 Baseball season and proclaiming September 15, 2009 as Winsted Wildcats Day in the City of Winsted.

3) Public Hearings

a) Blight Ordinance Amendments – Ordinance O-09-08

Mareck stated that the Blight Ordinance is used as a tool by the City to ensure minimum property maintenance standards in the community. The existence of blight tends to encourage rodents, cause a reduction in property values, and increase a neighborhood's susceptibility to crime.

The City has performed a review of the existing Blight Ordinance in an attempt to better define what should be considered as blight. In addition, the review allowed for an evaluation of enforcement procedures, which gave the City an opportunity to make the process more efficient.

The proposed amendments also clarify the City's ability to remove blighting material on a property and assess those charges to a property owners taxes. This enforcement procedure is a less expensive route to correct blighting conditions, as opposed to the expense of prosecuting a blight charge through the court system.

Mareck presented the proposed amendments.

Mayor Stotko asked for public comment.

Mark Heller, 408 Westgate Drive, addressed the City Council regarding the fire damaged house at 404 Westgate Drive, and other properties in the Westgate Housing Development that he believes have blighting conditions.

Mareck stated that the City was just informed that the Arson Investigation at 404 Westgate Drive is complete and the City can proceed with abatement of the home and the property.

Boelter stated that the property owner was contacted to mow and trim the property and remove other blighting conditions. The property owner did complete Boelter's request in a timely fashion.

Mareck stated that if the City's Building Inspector determines that fifty percent (50%) of the house is damaged due to the fire, the City can require the property owner to tear down the house. The City Council directed Mareck to have the house evaluated by the City's Building Inspector and proceed accordingly.

Quast motioned to adopt Ordinance O-09-08 making certain amendments to the Blight Ordinance. Wiemiller seconded. Motion carried 5-0.

Wiemiller motioned to close the Public Hearing. Ollig seconded. Motion carried 5-0.

4) **No Old Business.**

5) **New Business**

a) **Parking Lot Expansion – Road House Restaurant and Winsted Floral and Gifts**

Mareck stated that Winsted Floral and Gifts and the Road House Restaurant are requesting that the parking lot that serves their businesses be connected with the parking lot at Campbell Field. The applicants are concerned about the number of accidents that have occurred in their parking lot. According to the applicant, connecting their parking with Campbell Field's parking would open up traffic patterns, facilitate the use of a drive through and lead to less accidents in the parking lot. The parking lot would also be available to be used by users of Campbell Field. The connection would be made by excavating down and installing Class Five (V) gravel in a location that is approximately 1,600 square feet.

Mareck stated that the improvements would be made privately, at no cost to the City.

Mareck also stated that if the City Council wishes to pursue this, an agreement should be created between the City and the property owner. The agreement would provide guidance on future maintenance, plowing, future improvements, insurance and other miscellaneous items.

Wiemiller stated that he would like the City to remove the two (2) evergreen trees located on the property to be excavated and relocated to another site in the City.

Ollig motioned to prepare a draft agreement between the property owner of Winsted Floral and Gifts and the Road House Restaurant and the City of Winsted to construct a joint parking lot with the existing Campbell Field parking lot. Mochinski seconded. Motion carried 5-0.

b) **Liquor License Violation – Big Al's Bar and Grill**

Henrich stated that on April 25, 2009, at 2:25 a.m., Officer Justin Heldt and Officer Jim Lammers observed that Big Al's Bar and Grill had several cars parked outside it and the bar's lights were on. Upon going inside the bar; officers observed three (3) people at the bar, and the bar owner Al Graunke behind the bar cleaning up. The three (3) people at the bar were identified as James Carlson, Gary Nelson (Al Graunke's brother) and Amanda Elke. Nelson is an employee of the bar; however Carlson and Elke are not employees of the bar.

There was a glass of beer in front of Carlson that was three-fourths (3/4) full of beer which he picked up and drank in front of Officer Heldt and Officer Lammers.

Al Graunke was charged with three (3) separate liquor violations. These liquor violations were all misdemeanor charges and were as follows:

1. No person to drink liquor thirty (30) minutes after legal sale can occur.
2. No liquor container to remain on the bar thirty (30) minutes after close.
3. No person other than an employee to be inside thirty (30) minutes after close.

Henrich stated that Al Graunke plead guilty to counts #2 and #3. Count #1 was dismissed. Graunke was assessed a fine of \$250 per guilty plea. Per the City's Liquor Ordinance, the City Council may suspend a bar's liquor license for up to sixty (60) days. The Ordinance also states that a bar's liquor license can be suspended for a minimum one (1) day. In addition, the Ordinance allows the City Council to impose a fine of \$500 (minimum) or up to a \$2,000 (maximum) fine for each liquor violation.

Henrich presented the following options for the City Council to consider:

1. One (1) day suspension of a liquor license, being on a Friday or Saturday, with a \$1,000 fine.

2. One (1) day suspension of liquor license, being on a Monday, Tuesday, Wednesday or Thursday, with a \$1,000 fine.
3. One (1) day suspension of liquor license, being on a Friday or Saturday with a \$1,000 fine. This suspension and fine being stayed for a period of one (1) year from this date; as long as there are no other liquor violations by this establishment for a one (1) year period.

Graunke addressed the City Council and apologized for the liquor violations that happened at Big Al's Bar and Grill. Graunke stated that the Winsted Police Department Officers have stopped in since the aforementioned incidents and Big Al's Bar and Grill has been in compliance with the Ordinances .

Graunke stated that when the other liquor establishments in the City of Winsted were cited for liquor violations, they were given a suspension. Graunke requested that the City Council consider doing the same for Big Al's Bar and Grill. He continued by stating that a one (1) night closure would be financially detrimental to them.

Ollig stated that he believes that the City Council should be consistent with what they have cited for the other liquor establishments in Winsted when making a decision on the citation they issue to Big Al's Bar and Grill.

Graunke addressed the City Council regarding his concerns with the Winsted Police Department's Officers parking their squad cars in area businesses to watch patrons leaving Big Al's Bar and Grill and detaining them for suspected drunk driving. Graunke stated that he has had several people tell him that they will not come to Big Al's Bar and Grill because of the increased surveillance conducted by the Winsted Police Department.

Henrich stated that the Winsted Police Department does not do surveillance outside the City's liquor establishments for the purpose of identifying drunk drivers. Henrich stated that the Winsted Police Officers do visit all the liquor establishments in the City to confirm that they are following the City's Liquor Ordinance. Henrich stated that the Police Officers are visiting Big Al's Bar and Grill because he violated the City's Ordinance. Henrich stated that if there are still cars located in the parking lots of any of the liquor establishments thirty (30) minutes after the required closing time, the Police Officers are going to enter the bar to ensure that they are in compliance with the City's Liquor Ordinance.

Quast stated that she believes that when Carlson continued drinking his beer, and Graunke ignited his cigarette, in the presence of Heldt and Lammers, they were blatantly challenging the Police Officers and the City's Ordinances. However, Quast stated that she also believes that the City Council should be consistent with what they have cited for the other liquor establishments in Winsted when making a decision on the citation they issue to Big Al's Bar and Grill.

Wiemiller asked Graunke if he knew the City's Liquor and Tobacco Ordinances when he opened Big Al's Bar and Grill. Graunke stated yes. Wiemiller asked Graunke if he believed that he was responsible for his actions on the date of the liquor violations. Graunke stated yes he was responsible.

Mayor Stotko stated that he also believes that the City Council should be consistent with what they have cited for the other liquor establishments in Winsted when making a decision on the citation they issue to Big Al's Bar and Grill. He continued by stating that he is disappointed that the bar owners are not following the City's Ordinances.

Mayor Stotko stated that the City has Ordinances in place and if the City Council is not going to penalize violators according to what the Ordinances specify, then why does the City have the Ordinances.

The City Council stated that if there are any other liquor licensing violations that occur in the City of Winsted in the future, they will no longer issue lenient citations.

Ollig motioned to suspend the Liquor License of Big Al's Bar and Grill for three (3) consecutive days, in which one of those days shall be a Friday or a Saturday; and that Big Al's Bar and Grill pay a \$1,000 fine, with the suspension and fine held for a period of twenty-four (24) months pending an additional liquor license violation. Quast seconded. Motion carried 4-1. Wiemiller opposed.

c) Variance – 470-5th Street North – Doug Pawelk

Mareck presented Doug Pawelk's, 470-5th Street North, request for a variance to accommodate the construction of a ten (10) feet by twelve (12) feet accessory building that will encroach into the front setback by fourteen (14) feet. All structures in an Residential One (R1) zoning district are required to maintain a thirty (30) feet front setback.

The property sits on a corner lot bordering 5th Street North and Fairlawn Avenue West, which requires the property to maintain two (2) front setbacks. The applicant did begin construction prior to being notified by the City of his need to obtain a variance to construct a shed in its existing location. No additional work has been done to the shed since the City informed the applicant of his need to obtain a variance.

Mareck stated that the construction of the shed within the front setback does not appear to negatively impact driving sight lines in the area. The shed is well screened on both its east and west side by two (2) mature evergreen trees. In addition, a commercial building to the west of the applicant's property currently maintains a ten (10) feet front setback (existing non-conforming) to Fairlawn Avenue West.

The applicant contends that the shed cannot be constructed in another location upon his property, due to drainage issues (low area) from surrounding properties.

Mareck stated that the applicant's request appears to have little impact on the surrounding properties. In addition, the applicant's "hardship" meets the criteria for granting a variance. The Planning Commission recommended unanimously that the variance request be approved.

Ollig motioned to grant a variance to Doug Pawelk, 470-5th Street North, to construct an accessory building to encroach fourteen (14) feet into the front setback. Mochinski seconded. Motion carried 5-0.

d) Zoning Guidance – Adult Training and Habilitation Center (ATHC)

Mareck stated that the Adult Training and Habilitation Center (ATHC), 311 Fairlawn Avenue West, is proposing to operate a Thrift Store at their facility. The Thrift Store would operate as a "walk-up" business to the general public. The ATHC has submitted information on hours of operation, parking, and other pertinent information, for the proposed Thrift Store; however, the primary issue before the Planning Commission is the zoning of the property.

The property is currently zoned as Residential Two (R2), high density residential. The existing operations at the ATHC are permitted as a "conditional use" under:

"clinics and other buildings for the treatment of human beings contingent upon adequate parking being provided."

Mareck stated that the existence of a public and/or commercial use Thrift Shop may not be consistent with the provision that allows the ATHC to operate in its current zoning district. At times commercial uses cause traffic, signage, lighting and other issues that impact a residential neighborhood. Commercial uses are sometimes allowed in a building that does not have a commercial zoning classification; however, these businesses are operating as an ancillary use in relationship to the primary operation and are not typically used by the general public.

Mareck presented the following options for the City Council to consider:

1. Rule that the use is consistent with the current zoning for the property and take no further action. The basis for this recommendation would be that the Thrift Store is a result of the business being involved in the "treatment of human beings" and as such complies with

the zoning ordinance. In addition, the City Council would find that the Thrift Store would have little to no impact on the surrounding neighborhood.

2. Require that the use be subject to a Conditional Use Permit (CUP) process. A CUP would allow the City to dictate hours of operation, signage, lighting, and other issues which may negatively impact the surrounding neighborhood. In addition, a CUP process would formally notify property owners in the area of the ATHC's proposal to operate a Thrift Store.

Mareck stated that although the CUP process will take some additional time for the applicant to go through, it offers the best resource to the City to provide surrounding property owners with an opportunity to formally comment on the project. In addition, the CUP process will allow the City to specify certain minimum conditions such as; hours of operation, parking, signage, and more, for the use.

Mareck stated that the Planning Commission recommended unanimously that the ATHC obtain a CUP prior to operating a Thrift Store at 311 Fairlawn Avenue.

Tonia Bymers, ATHC Program Director, addressed the City Council regarding the proposal to have a Thrift Store. Bymers stated that the ATHC has lost some of the job opportunities that it had available for their clients. The Thrift Store would enable the ATHC to teach the residents how to make some type of craft and sell it in the store. It would also allow the ATHC to provide their clients with skills to work in a retail job.

Ollig stated that the Planning Commission discussed the proposal from ATHC and they decided they wanted it to go through the CUP process to give property owners in the area an opportunity to give their input on the proposed Thrift Store.

Mochinski stated that he would like to see the ATHC go through the CUP process so property owners located in the area of the ATHC can give their input on the proposed Thrift Store.

Mochinski motioned to require Adult Training and Habilitation Center to obtain a Conditional Use Permit prior to beginning Thrift Store operations at 311 Fairlawn Avenue. Quast seconded. Motion carried 5-0.

6) Department Report

a) Police Department

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

- Police Officers Heldt and Pohl successfully completed the Emergency Medical Technician (EMT) program and Henrich thanked the City Council for recognizing them at a past City Council meeting.
- Officer Mensen is currently taking the EMT class.
- 2009 National Night Out.
- Crime Watch Program.
- The Winsted Police Department, and other emergency agencies, will be conducting a city-wide Emergency Response Drill at the Winsted Municipal Airport. It will be a mock airplane crash.
- The status of the change to the eight hundred (800) megahertz radio system. Henrich discussed grant opportunities that will be available.
- The status of the new squad car.
- Reviewed some of the cases that the Police Department has been dealing with.
- Henrich gave an overview of a Sex Offender Informational meeting he attended in Plato, Minnesota.
- E-ticketing. Henrich stated that eventually the Winsted Police Department will be able to print tickets from a computer in the squad cars. The McLeod County Sheriff's Department has received a grant for the ticket printers and they will be installing them in two of the City's squad cars.
- Henrich reported that the Winsted Police Department has received a grant to do liquor establishment compliance checks.
- Henrich reminded the City Council that the Police Officers will continue to enter the City's liquor establishments to verify compliance when there are several cars located in the

parking lot after the bar is closed and it is thirty (30) minutes after the regulated closing time.

7) **Open Forum**

a) **Crosswalk – Intersection of Main Avenue West and McLeod County Road 1**

Bruce Gatz, 203 Westgate Terrace, addressed the City Council regarding the crosswalk at the intersection of Main Avenue West and McLeod County Road 1. He asked the City Council to consider installing signage that would indicate that there is a crosswalk there so drivers will pay attention in the event someone is crossing at the crosswalk.

The City Council directed Mareck to contact John Brunkhorst, McLeod County Highway Engineer, to ask if the City can install a marker sign indicating there is a crosswalk.

8) **No Announcements.**

9) **Adjournment**

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

Respectfully submitted,

Deborah R. Boelter
City Clerk-Treasurer