

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

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

Staff Present: Brent Mareck, 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**

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

a) **Minutes - City Council Work Session – March 16, 2010**

Accepted the minutes of the City Council Work Session of March 16, 2010.

b) **Minutes – Regular City Council Meeting – March 16, 2010**

Accepted the minutes of the Regular City Council Meeting of March 16, 2010.

c) **Statewide Health Improvement Program Grant – Luce Line Signage Project**

Authorized a grant application for up to \$2,400 in funding from Statewide Health Improvement Program (SHIP) to assist in funding the Luce Line Signage Project.

d) **Public Nuisance Abatement – 404 Westgate Drive**

Awarded the demolition of 404 Westgate Drive, for the purpose of a public nuisance abatement to Henning Excavating for \$7,030.

e) **Demolition Agreement – 404 Westgate Drive**

Approved an agreement with Henning Excavating to demolish 404 Westgate Drive, for the purpose of abating a public nuisance.

f) **Storm Sewer Repair – Kingsley Avenue and Rosalie Avenue**

Authorized Henning Excavating to conduct a storm sewer repair at the intersection of Kingsley Avenue and Rosalie Avenue for \$4,950.

g) **Temporary On-Sale Liquor License – Holy Trinity Spring Dinner Auction**

Approved a one (1) to four (4) day temporary On-Sale Liquor License for Holy Trinity's Spring Dinner Auction on April 17, 2010 at the Holy Trinity School Gym.

h) **Holy Trinity – Winstock Country Music Festival – June 10, 11, and 12, 2010**

Approved the McLeod County Large Assembly Permit for Holy Trinity's Winstock Country Musical Festival for June 10, 11, and 12, 2010.

Approved an application to conduct off-site gambling (pull-tabs) at Holy Trinity's Winstock Country Music Festival for June 10, 11, and 12, 2010.

Approved a one (1) to four (4) day temporary On-Sale Liquor License for Holy Trinity's Winstock Country Music Festival for June 10, 11, and 12, 2010.

Approved an Agreement between the City of Winsted and Holy Trinity for Emergency Services during Winstock Country Music Festival on June 10, 11, and 12, 2010.

i) Higher Ground Music Festival – August 12, 13 and 14, 2010

Approved the McLeod County Large Assembly Permit for Higher Ground Musical Festival for August 12, 13, and 14, 2010.

Approved an Agreement between the City of Winsted and Higher Ground Music Festival for Emergency Services on August 12, 13, and 14, 2010.

j) Winsted Volunteer Fire Department Relief Association – Gambling Contribution

Accepted a contribution from gambling proceeds from the Winsted Volunteer Fire Department Relief Association in the amount of \$2,500 to be dedicated to the City of Winsted's Park Fund for the year 2010.

k) Police Officer James R. Lammers – Enrollment in Public Employees Police and Fire Plan

Adopted Resolution R-10-11, a resolution requesting that James R. Lammers be accepted as a member of the Public Employees Police and Fire Plan.

l) 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 March, 2010.

m) Claims

Approved the Claims List for April 6, 2010.

n) Resolution R-10-12 – McLeod County Road 116 Turnback and Third (3rd) Street Improvements – Bolton and Menk, Incorporated

Adopted Resolution R-10-12 authorizing Bolton and Menk, Incorporated to conduct a Feasibility Study on the McLeod County Road 116 Turnback and Third (3rd) Street improvements.

3) Public Hearings

a) Curfew Ordinance – Ordinance O-10-02

Mareck stated that the McLeod County Police Chief's Association and the McLeod County Sheriff's Department have worked together to create an acceptable Curfew Ordinance that would be put into effect throughout McLeod County. Creating one (1) countywide Curfew Ordinance will help eliminate the confusion for our youth, parents, and Police Officers of what the curfew hours are, and will set a reasonable curfew standard within McLeod County.

The main changes in this ordinance deal with the hours of curfew. Currently the City allows youth, ages 16 and under, to be out until 11:00 p.m., Sunday through Thursday,

and until 12:00 midnight, Friday and Saturday. No curfew hours are placed on any youth seventeen (17) years old and older.

The revised ordinance will require that children thirteen (13) years of age and younger be in their residences by 9:00 p.m., fifteen (15) years of age and younger be in by 10:00 p.m., sixteen (16) years and younger be in by 11:00 p.m., and seventeen (17) years and younger be in by 12:00 midnight. These curfew hours apply Sunday through Saturday.

McLeod County has already adopted this proposed Curfew Ordinance as a County ordinance. The City Council is merely adopting the standards set by the County ordinance.

Mayor Stotko asked for public comment. No comments were received.

Ollig motioned to adopt Ordinance O-10-02 making certain amendments to the Curfew Ordinance. Quast seconded. Motion carried 5-0.

b) Liquor Ordinance – Ordinance O-10-03

Mareck stated that the City initiated a process in January, 2010 to review and consider possible amendments to the Liquor 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 Area 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. No comments were received.

Mareck gave a summary of the amendments which included:

1. Deletion of “non-intoxicating liquor.”
2. Combination of “malt liquor” and “strong liquor” into the same ordinance.
3. Creation of standards and guidelines for patios and decks.
4. Required annual forum for Liquor License holders.
5. Elimination of a requirement to cover alcoholic beverages during times when its sale is prohibited.
6. No persons (including employees of the license holder) may consume alcoholic beverages in an establishment more than thirty (30) minutes after a legal sale.
7. Sunday liquor is permitted at 11:00 a.m.

Mareck presented Police Chief, Mike Henrich’s recommendation that a provision be added to the proposed ordinance that would make it a violation for the license holder or an employee of the license holder to be under the influence of alcohol while on duty. Mareck presented the proposed language for the provision:

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.

Mareck stated that this provision was excluded from the proposed ordinance; however, it may be included at the discretion of the City Council.

Ollig asked Scott Bayerl, future owner of The Corner Bar and Grill, 111-1st Street North, if he had any questions and/or comments on the proposed Liquor Ordinance.

Bayerl stated that he met with City staff to discuss some questions he had regarding the Liquor Ordinance and Mareck clarified certain sections for Bayerl.

Quast asked if the City had received any public comments on Chief Henrich's recommendation regarding employees of a Winsted liquor establishment not having a blood alcohol level of .08 or greater while working. Mareck stated no.

Eggert stated that under Chief Henrich's proposed language, an employee of a Winsted liquor establishment may consume alcohol while working; but, they cannot be intoxicated beyond the legal limit of .08.

Mayor Stotko asked Bayerl for comment on Chief Henrich's recommendation regarding employees being intoxicated beyond the legal limit of .08. Bayerl stated that he had no problem with the proposed language.

Quast motioned to adopt Ordinance O-10-03 making certain amendments to the Liquor Ordinance and including the proposed language as recommended by the Chief of Police, Mike Henrich. Wiemiller seconded. Motion carried 5-0.

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

4) **No Old Business.**

5) **New Business**

a) **Liquor License Applications – The Corner Bar and Grill**

Boelter stated that the City of Winsted had received applications for Off-Sale, On-Sale, and Sunday liquor licenses from Scott Bayerl, The Corner Bar and Grill of Winsted, LLC. The applicant's background check has been approved by the Police Chief, Mike Henrich; and the City has received the required Certificate of Insurance. The State of Minnesota has been contacted regarding the applications, and Bayerl has sent his application and fee to the State for a Buyer's card.

Boelter continued by stating that in order to receive On-Sale and Sunday liquor licenses, the State of Minnesota requires that the applicant operate a restaurant and have certification from the Minnesota Department of Health. Bayerl has had an inspection with a representative from the Minnesota Department of Health and will be receiving his certification soon. The liquor license may not be issued until the City receives a copy of the certification.

Bayerl was in attendance at the City Council meeting to answer any questions.

Wiemiller motioned to approve the Off-Sale, On-Sale and Sunday liquor license applications for the period of May 1, 2010 through June 30, 2010 for Scott Bayerl, The Corner Bar and Grill of Winsted, LLC. Ollig seconded. Motion carried 5-0.

b) **Delinquent Winsted Municipal Airport Land Lease – Rod MacCharles**

Mareck stated that Rod MacCharles, Minnetrista, Minnesota, is the owner of hangar #37 at the Winsted Municipal Airport. MacCharles has been contacted several times by the City of Winsted in regard to the outstanding balance on his Land Lease. In addition, the City ran into some issues with MacCharles on paying his lease in full in 2009.

The City recently sent MacCharles a letter indicating that if his lease was not paid in full by Friday, April 2, 2010; the matter would be turned over to the City Council. The letter went on to say that the City Council may authorize that access to the taxi-way from his hangar be prohibited and that proceedings could begin to terminate his Land Lease at the airport.

Mareck stated that the outstanding balance on the account is \$752.95. In addition, the current year invoice in the amount of \$752.95 has been sent out and will be due May 1, 2010.

Mareck provided the City Council with the following options to consider regarding Rod MacCharles' past due balance:

1. Take no action.
2. Authorize that upon seven (7) days notice, access to the taxi-way from hangar #37 be restricted; and that upon non payment after thirty (30) days, that lease termination proceedings begin.

Mareck recommended that the City notify MacCharles that access to his taxi-way will be blocked within seven (7) days if payment is not received in full. In addition, provide notice that if payment is not received within thirty (30) days, the City of Winsted will begin lease termination proceedings under the terms of the lease agreement.

Quast stated that if he does not pay his Land Lease the City is basically storing his airplane and she believes he should be paying a daily fee for rental.

Mochinski asked how long the barriers will remain. Mareck stated that the barriers will remain thirty (30) days after April 13, 2010 if he does not pay the Land Lease.

Mochinski asked if the City can charge MacCharles with some type of penalty or fee due to the extra work the City Staff and Public Works' Department incurred as a result of his payment delinquency.

Eggert stated he will review the City's Land Lease to determine if the City can charge additional fees and/or penalties.

Mochinski asked when the City last talked to MacCharles. Mareck stated four (4) or five (5) months ago.

Mochinski motioned to authorize the restriction of taxi-way access to Winsted Municipal Airport Hangar #37 if payment of the outstanding Land Lease is not paid in full by April 13, 2010 and further authorize that "lease termination" proceedings begin if the Land Lease is not paid in full by May 6, 2010. Quast seconded. Motion carried 5-0.

c) Wastewater Treatment Plant Operator

Mareck stated that over the last several months, the City Council has been reviewing proposals for the operation of the Winsted Wastewater Treatment Plant (WWTP). The plant and lift stations are currently operated by People Service, Incorporated through a Service Agreement with the City that will expire on August 1, 2010.

The City received proposals from People Service, Incorporated and Doug Kammerer. Kammerer currently serves as the Public Works Superintendent for the City of Watertown, Minnesota (MN). As a part of his duties, Kammerer serves as the Chief Operator of the WWTP for the City of Watertown, MN.

Mareck stated that the City Council has interviewed People Service, Incorporated and Kammerer regarding their proposals and qualifications for running the City's WWTP. In addition, City officials met with officials from the City of Watertown, MN regarding Kammerer's ability to perform contracted duties in Winsted, while still tending

to his official duties in Watertown, MN. As a result of this process, Kammerer has agreed to provide contracted wastewater services to the City of Watertown, MN rather than as a City employee. As a contracted service provider, Kammerer would have greater flexibility in tending to emergency situations and preventive maintenance requirements of both Watertown, MN and Winsted's WWTPs.

Operational Costs	Doug Kammerer All Plants	People Service, Inc. Class C	People Service, Inc. Class B	People Service, Inc. Class A
Utilities and Related	\$41,200	\$41,200	\$41,200	\$41,200
Annual Maintenance	\$14,000	\$0 (included)	\$0 (included)	\$0 (included)
Supplies and Services	\$7,314	\$0 (included)	\$0 (included)	\$0 (included)
Personnel, Overhead, Insurance	\$65,000	\$94,800	\$106,200	\$123,400
Total Service Cost	\$127,514	\$136,000	\$147,400	\$164,600
Estimated Savings with Doug Kammerer	Not Applicable	\$8,486	\$19,886	\$37,086

Mareck stated that throughout the review process, the primary issue with selecting Doug Kammerer for contracted services was determining his ability to tend to the needs of the Winsted wastewater treatment system, while still serving as a full-time employee of the City of Watertown, MN. This issue appears to be less significant based on Kammerer's ability to truly operate as a contract service provider for both communities.

Although People Service, Incorporated has provided the City of Winsted with excellent service for many years, the costs savings realized by using Kammerer would be difficult to pass up considering the City's required improvement projects for the system. A one (1) year agreement would be preferable to provide the City the opportunity to review the performance and overall quality of Kammerer's services.

Mareck reminded the City Council that the City of Winsted must notify People Service, Incorporated by May 1, 2010 of its intention not to renew the Service Agreement. Should the City not provide People Service, Incorporated with at least ninety (90) days notice, the Service Agreement would automatically renew for one (1) year.

Ollig asked Mareck if Kammerer would maintain his full-time position with the City of Watertown, MN should the City of Winsted decide not to contract with him. Mareck stated that he would.

Dan Wroge, People Service, Incorporated was in attendance at the meeting and addressed the City Council regarding details of the services provided in the People Service, Incorporated proposal.

Mochinski asked if the proposals from People Service, Incorporated and Kammerer presented at previous City Council meetings were comparing "apples-to-apples." Mareck stated that they were.

Mochinski stated that the City is pleased with the service provided by People Service, Incorporated; however, the City needs to evaluate their budget due to constraints and find ways to save money.

Ollig stated that the WWTP is one of the most important and expensive operations the City of Winsted has. He stated that he hesitates to turn its operation over to an organization that has no history with the City. Ollig also stated that he has reservations on what type of service the City will receive with Kammerer. Ollig stated that there are some budget cuts that are not the safe and/or prudent thing to do.

Quast stated that she was in agreement with Ollig. She stated that People Service, Incorporated has done an exceptional job of taking care of the City's WWTP and finds it difficult to end the City's contract with them.

Wiemiller stated that he is in agreement with Ollig and Quast. He stated that the WWTP is an important part of the City.

Mayor Stotko stated that he likes the service that People Service, Incorporated has provided to the City and its WWTP; but, he also agrees with what Mochinski stated about the City identifying ways to save money.

Ollig asked if People Service, Incorporated would be willing to do a one (1) year contract. Wroge stated that he would have to confer with People Service, Incorporated's administration.

Mochinski stated that the contract with Kammerer would only be for one (1) year and if it does not work the City can again contract with People Service, Incorporated.

Wroge stated that if the City does not go with People Service, Incorporated for one (1) year, the City's current operator, Phil Robinson, will be without a job for one (1) year.

Eggert recommended that the City Council consider allowing Mareck to negotiate terms with People Service, Incorporated.

Mareck stated that he would prefer the City Council decide who they want to contract with to operate the City's WWTP and at that point he can discuss the terms with both Kammerer and People Service, Incorporated.

Ollig motioned to authorize the City Administrator and the City Attorney to prepare a Service Agreement with People Service, Incorporated to operate and maintain the City's Wastewater Treatment Plant. Wiemiller seconded. Motion carried 3-2. Mayor Stotko and Council Member Mochinski opposed.

- 6) **No Department Report.**
- 7) **No Open Forum.**
- 8) **No Announcements.**
- 9) **Adjournment**

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

Respectfully submitted,

Deborah R. Boelter
City Clerk-Treasurer