

City of Winsted
Regular City Council Meeting
Council Chambers
Tuesday, July 20, 2010
6:00 p.m.

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

Staff Present: Deborah R. Boelter, City Clerk-Treasurer
Fran Eggert, City Attorney
Amanda Zeidler, Utility Billing & Payroll Clerk

1) The Mayor 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. Mochinski seconded. Motion carried 5-0.

a) Minutes – City Council – Work Session – July 6, 2010

Accepted the minutes of the City Council Work Session of July 6, 2010.

b) Minutes – City Council – Regular Meeting – July 6, 2010

Accepted the minutes of the City Council Regular Meeting of July 6, 2010.

c) Alcohol Compliance Check Grant – Minnesota Institute of Public Health

Approved the Alcohol Compliance Check Grant agreement between the City of Winsted and The Minnesota Institute of Health.

d) Salary Step Increase – Deb Boelter

Authorized a salary step increase for Deb Boelter.

e) Forty (40) Hours of Vacation – Deb Boelter

Approved an additional forty (40) hours of vacation for the year 2010 for Deb Boelter.

f) June, 2010 Financial Report

Approved the June, 2010 Financial Report.

g) June, 2010 Building Permit Report

Approved the June, 2010 Building Permit Report.

h) Meeting Reschedule – City Council Work Session – November 2, 2010

Authorized the City Council Work Session, scheduled for November 2, 2010, to be rescheduled for Wednesday, November 3, 2010 at 5:00 p.m., due to the General Election.

i) Meeting Reschedule – Regular City Council Meeting – November 2, 2010

Authorized the Regular City Council Meeting, scheduled for November 2, 2010, to be rescheduled for Wednesday, November 3, 2010 at 6:00 p.m., due to the General Election.

j) Wastewater Treatment Facility Grant Application – Resolution R-10-21

Adopted Resolution R-10-21 authorizing City officials to execute a grant agreement on behalf of the City of Winsted for the Wastewater Treatment Facility improvements.

k) Claims

Approved the claims list for July 20, 2010.

3) NO PUBLIC HEARINGS.

4) NO OLD BUSINESS.

5) NEW BUSINESS

a) Winsted Summer Festival – City Sponsored Committee

Boelter stated that in the past, the Winsted Summer Festival and its committee members have been covered under the City of Winsted's Liability Insurance Policy through the League of Minnesota Cities Insurance Trust (LMCIT). The LMCIT's coverage would apply to suits and claims against the City, its officers, employees, and volunteers; if the claims would arise out of "acts on behalf of the City." The LMCIT has been looking at the cities it insures and questioning whether their city celebrations act on behalf of their city. At the time of the City of Winsted's annual renewal, LMCIT stated that they do not believe that the Winsted Summer Festival "acts on behalf of the City."

Boelter stated that the LMCIT compiled a list of questions that would determine if an organization "acts on behalf of its city" and therefore, should be insured under the city's liability insurance policy. These questions include:

- How the decisions relating to the festival are actually made and by whom?
- How and in whose name contracts are let?
- How are funds handled? Is the money run through the city's treasury, disbursed by city checks with council approval? Or does the festival have its own bank account in which it places the money from its sales and from which it makes its own expenditures? If the latter, it doesn't appear to be a city operation & acting on behalf of the city.

Boelter confirmed that from the standpoint of LMCIT, the real question is what degree of control the Winsted City Council has over the Winsted Summer Festival.

Boelter informed the City Council that there would be gaps in insurance coverage and gray areas on what will be covered if the Winsted Summer Festival committee does not purchase their own liability insurance, and because the committee does not meet LMCIT's definition of a covered group. The LMCIT would not provide protection for the individuals responsible for organizing the Festival, even if those individuals were sued because of something the City did. If LMCIT did cover some City liability which arose out of a negligent action of the Festival volunteers, the LMCIT would likely try to recover damages from the Festival committee and/or other responsible individuals.

Boelter stated that the LMCIT's requirements have been discussed with Dale Maus, Winsted Summer Festival, and he has stated that the committee would consider becoming a City sponsored entity. This would be accomplished by:

- Annual City Council approval of the activities and events being held during the Winsted Summer Festival.
- Contracts would be between the City of Winsted and the contractor.
- All accounts receivable and accounts payable would be conducted through the City of Winsted.

Dale Maus, Winsted Summer Festival, and Erin Kutz, Flagship Insurance were present to address the City Council. Maus informed the City Council that he is waiting for a signed contract from the fireworks company. Boelter asked Maus to try to make sure that he receives a copy of proof of liability insurance

for all Summer Festival vendors, and activities. Boelter explained that contracts would be brought before the City Council each year, and all of the money would be run through the City. In addition, all expenses and revenues would be brought to and paid by the City.

Boelter stated that the cost for the Winsted Summer Festival to obtain its own liability insurance coverage would be approximately \$2,000, and it would be an expense that would be a burden to the committee. Boelter also stated that if the Winsted Summer Festival would become an entity of the City of Winsted and defined as "acting on behalf of the City," there would be an additional insurance premium of \$250 for fireworks.

Kutz stated that for a minimal amount, the City would receive sufficient coverage, if a lawsuit was ever brought to the City. Maus stated that the fireworks contractor has liability coverage of \$5,000,000, and that the City is already covered by the contractor's liability insurance as an additional insured. Kutz stated that a contractor's liability coverage may list the City as an additional insured, but it may not actually provide coverage to the City. Kutz mentioned that she would like to see the actual language of the contractor's policy. Eggert stated that the liability coverage should also cover defense costs. Eggert stated that the proposed additional insurance would cover any additional attorney fees, and recommends purchasing the additional coverage, since fireworks are a hazardous activity.

Ollig asked if the organizers of the Winsted Summer Festival are covered under the City's policy. Kutz stated that the organizers will be under the City's policy, as long as they do not have separate coverage, and they are acting on behalf of the City.

Maus asked for clarification in regards to coverage for the Winsted Ambassadors. Kutz replied that the ambassadors would be covered under the City's policy. Kutz stated that if the ambassadors are physically on the royalty float and something were to happen, their parents Personal Injury Protection coverage on their auto policy would take primary effect first and once those limits are exhausted (\$20,000 is the state minimum) the driver's policy becomes secondary. This would be to cover any medical expenses incurred due to an accident injury. Also, Kutz stated that whoever is towing the royalty float, their automobile policy extends the liability to the trailer. Kutz stated that Flagship Insurance is recommending that the City confirm that all drivers do have an in-force auto policy. Volunteers who are towing the float are not covered under the City's policy, unless they are driving a City vehicle.

Ollig asked if the City has a say as to who can be on the Summer Festival Committee. Kutz stated that the Summer Festival should provide the City with the proposed officers of the committee for the City Council to approve each year. Boelter asked Maus to prepare a list of officers of the Winsted Summer Festival Committee, to be approved at the August 3, 2010 Regular Council Meeting.

Maus asked how on-demand payments will be handled with the City. Boelter asked if the vendors would be willing to set-up accounts with the City. Boelter asked Maus to try to get prior approval on claims that are known ahead of time, and they will work together to pay the remaining vendors after the Festival has concluded.

Quast motioned to establish the Winsted Summer Festival as an entity of the City of Winsted. Mochinski seconded the motion. Motion carried 5-0.

Wiemiller motioned to approve the events and activities of the 2010 Winsted Summer Festival. Ollig seconded the motion. Motion carried 5-0.

6) DEPARTMENT REPORTS

a) Metro West Inspection Services, Incorporated – Building Inspector

Rob Beckfeld, Metro West Inspection Services, Incorporated reported on the following:

- The issuance of permits has been fairly quiet in our entire area.
- There have been no new homes in Winsted.
- Permits are consisting of decks, basement finishes, reroof, reside, and windows.
- M&N Structures, Incorporated has a foundation and the underground plumbing is completed. Framing has begun and the project is moving forward.
- St. Mary's Care Center is looking at another remodel. The project is still in the plan review stage and permits will hopefully be issued in the near future.

- The Assisted Living Facility on the St. Mary's Care Center Campus has been approved, but no permits have been issued.
- The home at 320 Westgate Circle has a new foundation with poured concrete walls. The Contractor is planning to reroof and reside the house, and these projects are also on the permit. The Contractor will be shifting the garage back and building a two (2) stall garage. Beckfeld will check on the status of the work being done and the deadline.

6) OPEN FORUM

a) Wes Olson – Candidate for McLeod County Sheriff

Wes Olson, Glencoe, Minnesota, addressed the City Council as a candidate for McLeod County Sheriff.

8) ANNOUNCEMENTS

Boelter stated that the new City Administrator starts Monday, July 26, 2010. Everyone is welcome to stop by City Hall and introduce themselves.

9) ADJOURN

Quast motioned to adjourn the meeting. Mochinski seconded the motion. Motion carried 5-0. The meeting adjourned at 6:35 p.m.

Respectfully submitted,

Amanda J. Zeidler

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Utility Billing & Payroll Clerk