



# COUNCIL PROCEEDINGS

CITY OF WINNEBAGO, MINNESOTA

## MINUTES OF THE WINNEBAGO CITY COUNCIL

City of Winnebago, Minnesota

October 20, 2009

A special meeting of the Winnebago City Council was held on Tuesday, October 20, 2009 at 7:00 p.m. in the Municipal Center Council Chambers.

Mayor Nowak called the meeting to order and conducted roll call. Council members present: Gates, Johnson, Ziegler and Stauffer. Staff present: City Administrator Feely and Deputy City Clerk Sturtz. City Attorney: Douglas Johanson.

Mayor Nowak handed out a new agenda with a few changes. Ziegler asked why the agenda has been changed. Mayor Nowak stated that he feels like the issue should be discussed first and then have the public give their input. He stated that originally the Council has the open meeting to the public after the general business then they discuss it further and he feels it is important to know what the citizens have to say. Motion by Stauffer, seconded by Gates to approve the proposed meeting agenda of October 20, 2009 with the changes that Mayor Nowak made. Motion carried.

### General Business

#### Response to complaint filed at October 13, 2009 City Council Meeting

Mayor Nowak turned the meeting over to City Attorney, Doug Johanson. Johanson stated that he has prepared a statement named "Recommended Response to Complaint Filed with Winnebago City Council" so what he says is on public record. The statement read as follows: "Last Tuesday evening, October 13, 2009 City Administrator Jennifer Feely filed a complaint with the City Council. The City Council voted to review the Complaint and decide how to respond to it at a Special Council Meeting called for tonight. A Complaint involving the City Administrator would normally be investigated by the City Council. However, in this case, the Council cannot investigate the allegations set forth in the Complaint since "...four Council members..." have been implicated in the Complaint. This is an obvious conflict of interest. Furthermore, the Complainant has requested there be an independent investigation of the allegations set forth in the Complaint. I stated at the last Council Meeting that my initial impression was that this Complaint would need to be investigated by an independent investigator. After much thought, research and discussion, I have reached the opinion that the City needs to have an independent investigator of the allegations set forth in the Complaint. In

addition, I have been advised by a representative of the League of Minnesota Cities that if an independent investigation is ordered by the City Council, a list of investigators who the League believes are qualified to conduct an investigation of this nature will be provided to me. Since these allegations are serious and employee Complaints must be dealt with in a timely manner, it is important that the Council proceed prudently, fairly and as fast as possible to have the allegations set forth in the Complaint investigated by an independent investigator. I have discussed the Complaint with Mayor Randy Nowak prior to this meeting. Mayor Nowak is in agreement with me that there must be an independent investigation of the allegations set forth in the Complaint. Therefore, I hereby recommend that the Council at this meeting pass a Resolution authorizing the Mayor, in consultation with the City Attorney, to select and hire an independent investigator, from a list of investigators provided by a representative of the League, to thoroughly investigate the issues set forth in the Complaint and submit a written report to the Mayor in care of the City Attorney's office for presentation by the Mayor to the Council at its December 8, 2009 Council Meeting. I have prepared a proposed Resolution and a copy of it has been given to each of you. The proposed Resolution reads as follows: It is hereby resolved that the Mayor, in consultation with the City Attorney, is hereby authorized to retain an independent investigator, from a list of investigators recommended by the League of Minnesota Cities, to investigate in a prudent and fair manner the allegations set forth in the City Administrator's Complaint on file herein and to submit a written report to the Mayor in care of the City Attorney's office for delivery by the Mayor to the City Council at its December 8<sup>th</sup>, 2009, Council Meeting. In conclusion, I hereby urge the passage of this Resolution. I cannot envision adjourning this Special Council Meeting without the Council requesting an independent investigation. For the Council to do nothing will only erode public confidence in this body and lead to possible allegations of a cover-up. The Complaint must be dealt with in a fair and impartial manner as soon as possible. Dated: October 20, 2009." Johanson stated that he wanted to submit this in writing so there is no misunderstandings. Mayor Nowak asked if the Council had anything to say. Gates stated that he is in favor of the investigation. Stauffer agreed that the Council owes it to the community to find out where the issues are and she 100% supports the investigation. Ziegler agreed at well. Johnson also agreed.

#### Open Meeting to Public

Mayor Nowak opened the meeting to the public for the first time. Norma Schmidt stated that she is very disappointed in the Council and that she has respected them and some of them have been her friends. She stated that what she has read on the computer about the things going on and that it is hurting Winnebago's business district. She stated that if anybody's worked hard, it's been the City's merchants and what the Council has done is terrible. She stated that she knows that their salaries are minimal and that the citizens pay their salaries and they can call for your resignations if this investigation doesn't come to a fair decision. She said that she heard a city employee called the City Administrator the B-word. Henry Schmidt reminded the council that being on the council is voluntary and the he believes that the Council and city employees need to learn the chain of command. He stated that if you work for somebody and you don't sign your

paycheck, you take orders. He suggested that if people don't know how to take orders or follow the chain of command to join the Service and learn. Mike Baumann stated that what he has heard by two people is that the Council is guilty and that they have automatically assumed that the Council is guilty. He asked if any of these allegations have been proven. He stated that he has the got the utmost confidence in the City Council and zero confidence in the City Administrator who does nothing but fight progress. He stated that instead of pointing all of the guilt at the Council, they should figure out what is going on. He asked how does anyone know that the chain of command was not followed and who in the audience can say that they didn't do it. He stated that all of the stuff that he is hearing on the street is getting sickening and that there is nothing here that people can prove. Norma Schmidt stated that the fact that the Police Chief had to report what he had heard is proof enough for her and that she feels bad that he had to do what he had to do. Henry Schmidt stated that if the shoe fits, you wear it. He stated that the Council volunteered for the job and they know what they did was wrong so why not admit it and resign instead of going through with the investigation. Johanson emphasized to the audience that these are allegations and the only way to deal with allegations is to have an investigation and no one should point fingers at this point. He pointed out that everyone needs to be treated fairly and that is the purpose of a fair investigation. Norma Schmidt asked Johanson if the employees and Council will have to get their own attorneys. Johanson stated that he represents the City Council as a whole and everyone has the right to get an attorney on any issue. Scott Robertson, Chamber of Commerce President, stated he is not going to stand here and let anyone run Jennifer down and that they have done a lot of things for Main Street. He stated that she has been behind him 100% and that she has great ideas. He stated that he sees a lot of good things that she has did for this town. He stated that the investigation should take place and if the allegations are true, everyone should do the right thing. Bret Osborn asked the Council to ask the employee's opinions of City Administrator Feely before her review takes place. He stated that as you look in the audience tonight there is not one person beside the Deputy City Clerk that works under her here tonight. He stated to Scott Robertson that Main Street is great and asked does Winnebago revolve around Main Street only. He challenged Administrator Feely in that she has been in town for two years and he has not seen her at his business once to thank him. He stated that it is not all about Main Street and he knows that is what people see when they drive through, but there are other businesses in town. Mayor Nowak stepped in and stated that we are not here to go back and forth about businesses and the issue on the table is the allegations set forth. Tom McCollum asked how inclusive the investigation will be. Johanson stated that the intend will be to get a qualified, competent, thorough investigator and the League of Minnesota Cites has assured him that he will get a list of competent investigators. Their charge would be to talk to everyone and to deal with all issues that surround this situation. It comes down to how everything proceeds and there obviously needs to have statements taken from individuals to deal with the issues on the table. He stated that the Union has written a letter stating that Union representation will be present for all which is common sense for any Union members. It is intended to be thorough. McCollum asked if it will include all city employees. Johanson stated

that the investigator will look at who they will talk to and that the parties named they will talk to and he assumes that they will talk to everyone. Ronald Osborn asked if they get public input or just city employees. Johanson stated that this is an investigation to determine what happened and not to find out who is in favor of one person or another person. This is to find out the facts surrounding the allegations that are set forth in the Complaint. Hearing no more comments, Mayor Nowak closed the meeting to the public.

Further Discussion and Response to Complaint Filed October 13, 2009, City Council Meeting  
Motion by Ziegler, seconded by Stauffer to approve the Resolution presented by the City Attorney, Doug Johanson, to authorize the Mayor to retain an investigator listed by the League of Minnesota Cities to investigate the Compliant listed. Mayor Nowak asked if the Council needs a resolution number for this. Administrator Feely stated the number will be 451-2009. Motion carried.

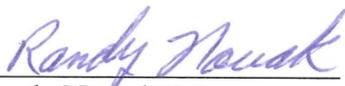
Johanson stated that he will move as fast as possible to get the names of the investigators to the Mayor and hopefully meet with Mayor Nowak within 48 hours subject to the League getting the information to Johanson. He stated that they should make contact with those parties and check what their charges are to ensure they are in a reasonable bracket. After reviewing the charges, the Mayor will, based on the Resolution, pick out one of the people from the list. Once that person is selected the person is retained, the next step is to issue a press release to inform everyone who was selected and move forward from there. The Council will also receive a written statement on who was selected. Ziegler stated that he would like to review the criteria of how the investigator is selected and would like to know the parameters of the investigation. Johanson stated that would be up to the investigator and all Mayor Nowak and Johanson would be doing is seeking resumes of investigators and reviewing billing rates.

Open Meeting to Public

Mayor Nowak opened the meeting to the public for the second time. Tom McCollum stated that no matter what happens, no one is going to be the victor in this. Hearing no more comments, Mayor Nowak closed the meeting to the public.

Motion by Gates, seconded by Johnson to adjourn the meeting. Motion carried.

**Presented to Council November 10, 2009**

  
Randy Nowak, Mayor

**ATTEST:**  
  
Jessi Sturtz, Deputy City Clerk