

KINDRED CITY COUNCIL - REGULAR MEETING MINUTES
11-03-2021 at 7:00pm – Kindred City Hall

MEETING CALLED TO ORDER AT 7:01pm by Mayor DuBord, CM Spelhaug (via MS Teams, in person@7:44pm), Amerman, Stoddard, and Peraza present. Others present: City Engineer Brandon Oye, City Attorney Sarah Wear, PWS Rich Schock, Auditor Tabitha Arnaud, Building Administrator Mike Blevins, Cass County Deputies Tyler Beckius & Jolene Fletcher, Jeremy Fischer (MDU), Mark Ottis, Kent Burner, Jamie Swenson, Nate Opgrand, Lance & Kari Nokleberg, Sara Anderson, Jan Russell.

APPROVE AGENDA

**MOTION – To approve the agenda with revisions (highlighted, plus move E.ii. to A.iii.);
Stoddard moved, Peraza seconded. RCV; MCU**

COUNCIL BUSINESS

A. Old Business

- 2nd Reading: MDU Natural Gas Franchise Ordinance (2021-91): No changes to ord since 1st reading.

**MOTION, passed – To approve the 2nd reading of MDU Gas Franchise Ordinance 2021-91;
Spelhaug moved, Amerman seconded. RCV; MCU.**

- Grand Farm Proposal: Update via email received on Friday, October 29th stating that Grand Farm is navigating the ARPA process with the state legislature to request state investment into the Grand Farm Innovation facility and workforce development efforts. They have achieved the \$10M funding level at this stage. Work will begin soon with their engineer firm for facility scoping and site due diligence processes.
- City Park ADA Accessibility Improvements: Sara Anderson shared that her family lives in Kindred and she has a 4-year-old son that uses a walker due to spina bifida. Due to the wood-chip base fill, her son cannot use his walker. He is very independent and prefers to play on the park playground equipment by crawling instead of letting someone carry him. He often gets splinters in his hands. His braces make using the swings difficult as well. She shared that she is aware of grant opportunities for these improvements and many of the recreation companies can help too. Maplewood Park in West Fargo located on 17th Ave S west of The Home Depot) was recently renovated to include rubber mat surfaces, many accessible swings, and musical stations. Mrs. Anderson shared that her son is the first student on wheels to attend Kindred Public Schools in 20 years. They were able to help KPS upgrade their school for ADA accessibility too. Council agrees improvements are needs and asked Mrs. Anderson what improvements would be most beneficial for her family. She stated she would like to see a different surface instead of woodchips, possibly rubber matting; a sidewalk and ramp from the main sidewalk to the playground; improvements on the playground equipment itself. She is advocating for other families like hers that may be considering moving to our community, noting that as growth occurs more users will result in more needs to be met. She is also willing to be a reference for info on grants/equipment. She wants to use her experiences to help others. Mayor DuBord thanked Mrs. Anderson for coming and expressing her concerns. With weather getting colder, instead of looking for short term solutions, council said they would work with Mrs. Anderson and Kindred Parks to explore improvement options over the winter.

B. Building Inspector/Code Enforcement: Hearing for Dangerous Buildings at 931 Elm St and 190 5th Ave N.

Attorney Sarah Wear noted that owner, Kent Burner, was not present and suggested that council hold on the hearing in case he does show up. Mayor DuBord said that Burner actually stopped by City Hall last night during a Park Board meeting, possibly thinking that was the Council meeting. DuBord spoke with Burner who is a bit shook up with the intent to demolish his home. Burner asked about the possibility to keep the garage and just demo the house. DuBord said he would relay that request; asked Wear if a time line could be set for Burner with identified consequences. Wear replied that would delay the action on tonight's hearing, thus extending the entire process. If the board were to decide to proceed with tonight's hearing, Burner would have an additional 30 days to appeal the decision or make the improvements himself. Spelhaug stated that it is not their intent to break him with the expenses or require that the work be done, but it is not being completed. Stoddard noted that Burner should be aware of the council's intent and seriousness with all the notices that have been sent. Amerman noted that many deadlines were given and extended many times. Building Administrator Mike Blevins said he visited Burner a few weeks ago and advised him not to continue work on 931 Elm St. Blevins said that keeping the garage could be an issue since it is attached to the dwelling, and that technically a residential lot is not allowed to have an accessory structure without a dwelling. Wear noted that the hearing is for the council to review and vote on the findings of fact and order, and it is the property

owner's opportunity to speak on why council should not proceed. The property owner would have the opportunity to appeal to Cass County District Courts before physical action is taken. DuBord expressed concern that Burner misunderstood that the hearing was last night when he stopped by during the Park Board meeting. Stoddard asked what Burner could say, if he were present, that would change the minds of council to proceed; Burner's properties have looked the same for decades. Discussion on the timing of the process and demolition costs. Peraza stated that they should move forward with the hearing; Amerman, Spelhaug, Stoddard agreed.

Blevins reviewed the Findings of Fact and Order for 931 Elm St, noting that this property is the most structurally damaged and demolition would be recommended versus the extensive repair work needed. Blevins also reviewed the Findings of Fact and Order for 190 5th Ave N that is structurally sounds and in need of exterior repairs. Burner arrived to the meeting at 7:47pm and agreed that all info and documents just discussed have been received. Burner asked council if keeping the garage at 931 Elm St was an option and if so, could the demo of the house be done himself instead of hiring it out to try to reduce costs. Council said a garage alone on a property is not allowed per ordinance, but a variance could be applied for. Burner asked if the Fire Dept could assist or use as practice. KFD Chief Schock shared that the state and insurance regulations put KFD at risk of liability. The structure's proximity to others homes would make the burn dangerous as well.

Amerman stated that the board needed to move forward. Wear said the Burner would have 30 days to plan for the repairs or demolition. DuBord said he was trying to work out a plan for Burner. Spelhaug said that the garage cannot be kept since it is attached to the dwelling and advised that a demo permit would be required from Blevins. Stoddard asked the plans for 190 5th Ave N. Burner replied that the exterior needs repairs, but that he would not be able to do both properties at once within the 30 days. DuBord stated that the board should move forward with the demolition on 931 Elm St and the repairs on 190 5th Ave N. He also said that he is aware this is a difficult process for Burner and council involved, he would like to meet with Burner to discuss the options. Stoddard noted that the council is not doing the work to be intentionally mean, but that it needs to be taken care of.

**MOTION, passed – To approve the Findings and Order for repairs on 190 5th Ave N and demolition of 931 Elm St both with the deadline of December 3, 2021;
Peraza moved, Spelhaug seconded. RCV; MCU.**

C. New Business

- Lagoon Project – Resolution Authorizing the Issuance of Wastewater Treatment Revenue Bond: The project began in July 2019 as two phases of improvements; Phase 1 was the expanded/rehabilitated wastewater ponds, Phase 2 was the main lift station improvements. In 2019, a SRF loan was authorized for \$1.4M to complete Phase 1. With the additional funds awarded from USACE, the loan forgiveness from SRF, and the change of location of the ponds, it was decided to complete Phase 1 & 2 together. Thus, resulting in the need to increase the SRF loan to \$3.87M.

**MOTION, passed – To approve the resolution authorizing the issuance and sale of \$3.87M Wastewater Treatment Revenue Bond 2021 which authorizes the Mayor and Auditor to execute necessary documents;
Peraza moved, Spelhaug seconded. RCV; MCU.**

- Lagoon Project – Debt Payment Schedule, Sewer Rate Review: Peraza stated that he met with Moore Engineering, Tabitha and Rich to review the budgets and the water/sewer rate study documents prepared by Moore. Tabitha shared that the rates have been reviewed multiple times over the last year when the lagoon project began, and sewer rates have not been increased since about 2012 which set our current base rate of \$5.31/mo. As our current system was fairly self-maintained and growth of the community was slower, the expenses remained quite low. Now that the system has grown and some of the infrastructure is reaching its life expectancy, the rates need to increase to not only cover the increase in general operation/maintenance and inflation, but to cover the new project loan as well. There are different options for tracking the expenses that are applied to the water and sewer funds, and those accounts also have reserves that could help offset costs if needed, but they are not a long-term solution to repayment of the loan debt on the project. Peraza noted that the group did review the impact of potentially using some of the ARPA funds or other fund reserves, but the impact on the monthly base rates would only reduce the base rates of a few dollars per month for users. The SRF loan program is requiring proof of a rate increase of at least 50% of where the rates need to be to ensure the loan payments that begin in 2022 will be covered. This increase needs to occur before SRF will approve any fund requests above the original loan of \$1.4M. Guest Nate Opgrand stated that the increases are a cost of the growth in our community; Jamie Swenson said it should be considered that property tax payers are already preparing for increases for the school and park budgets.

**MOTION – To adopt Option C on the Sewer Rate Study;
Peraza moved, Stoddard seconded.**

Discussion and additional review of the documents. Using simple math of loan payment divided by number of users, provided an estimated \$24.00/mo to cover the loan. If reviewing the rates with out the loan payment, the increase needed to cover the full budgeted expenses would be about \$15.00.

Three rate options were presented for the annual sewer budget of \$276K:

*Option A (Full Proposed Budget) = general user base sewer rate of \$44.49

*Option B (Breakeven Budget) = general user base sewer rate of \$40.04

*Option C (Loss of \$50K/yr) = general user base sewer rate of \$31.14

Further discussion on the potential for the project to be completed under budget and the full loan amount would be reduced, resulting in lower annual payments. As more users are added to the system, there is also potential that the base rates may not need to be as high, or that the “Loss” (if Option C was chosen) could be recovered. Amerman asked to verify that the loan payments were factored into Option C; answer is yes. Spelhaug noted that the costs for operating the new systems should really be less than the old/current system.

**AMENDED MOTION, passed – To adopt Option C of Sewer Rate Study effective January 1, 2022;
Peraza moved, Stoddard seconded. RCV; MCU.**

- Cass County Sheriff’s Department 2022 Policing Contract: Tabitha shared that the new contract includes the current contract hours of a 0.5 FTE, and an increased rate of \$1600/yr. These figures were provided early enough for them to already have been incorporated into the 2022 budget.

**MOTION – To approve the Cass County Sheriff’s Department 2022 Policing Contract;
Stoddard moved, Peraza seconded.**

C. Pool/Parks: Post season PB/CC meeting date to be set soon.

- Pool Insurance Update: Review of the investigative report and letter from Cincinnati Insurance denying the insurance claim for damage to the pool (surface cracks in bowl and on deck) citing earth movement not a covered item in policy. Rich spoke with the claims adjuster and it was determined there is a special underwriter policy that is available to cover these types of damages, but it was not something on the city policy. Rich pointed out a few items in the investigative report that seemed to conflict with data of the site. He could try contacting the insurance agent to question further, and Attorney Sarah Wear could review the policy and document if the city wished to dispute the denial claim. Board opted to proceed with getting quotes for repairs and/or additional options to improve the pool and they could be reviewed at the co-meeting with park board.
- Purchase of Property - Rustad Lots: Mayor DuBord shared that he discussed the sale of the Linden St lots with the Rustad family. The agreed price is \$120K which includes removal of the American Legion building. can be split into two payments (\$60K with signed purchase agreement, and \$60K next calendar year once the building has been moved. DuBord shared that this is an opportunity to secure land for future city use. Discussed the sales tax fund for payment. Peraza noted that future growth of the community could make this ideal for park or community center use, it is a good location next to current park & pool, it has been vacant for so long that having the lot cleared would be a benefit in itself. Attorney Sarah Wear said that a purchase agreement would be put into place that would include the deadlines for moving the building out.

**MOTION – To approve further discussion to purchase the Rustad Lots for \$120K contingent on building to be moved;
Peraza moved, Stoddard seconded.**

Discussed the sales tax fund for payment. Peraza noted that future growth of the community could make this ideal for park or community center use, it is a good location next to current park & pool, it has been vacant for so long that having the lot cleared would be a benefit in itself. Attorney Sarah Wear said that a purchase agreement would be put into place that would include the deadlines for moving the building out. DuBord noted that the sales tax is a good use of those funds to be put back into the community. Amerman asked if those funds could also be used to pay down the sewer project or cover the annual losses. Spelhaug asked if the board should consider using these funds to help reduce the impact on residents in other areas; could the pool operations water bill surcharge be funded from the sales tax fund or pool passes instead of utility users? Tabitha shared that per ordinance the sales tax funds are specifically designated to city owned parks, grounds, and facilities making those reserve funds a good fit for this purchase. Peraza shared that Rustad’s has had many inquiries on the property in recent years, but wants to give the City first option to purchase.

Stoddard said that with the value of property in Kindred currently, it could be a good investment. If the building is removed and the city replats the lots, they could be more marketable for resale. Spelhaug said with earlier discussions of deficits in one fund and now a surplus in others, it is hard to spend this money if it could be used elsewhere. DuBord said the council should consider the opportunity to acquire this property and possibly make the money back with resale if it is decided that the city won't use it. Guest Mark Ottis suggested that the current market value for vacant lots be considered. Stoddard agreed. Discussion on remaining balance of special assessments; total principal is just under \$5K, annual installment is about \$770.

AMENDED MOTION, passed – To purchase of the Rustad Lots for \$120K with sales tax funds, contingent on the owner removing the building currently on the property;

Peraza moved, Stoddard seconded.

RCV: Spelhaug, Amerman = No; Stoddard, Peraza = Yes, Tie Breaker Vote: Mayor DuBord = Yes; Motion Carried.

D. Police: Deputy Beckius was present and stated that there were 27 calls for service for October 2021 with 3 gas drive offs that were all identified, located, and paid. Deputy Beckius also noted that as of now the 2022 Kindred contract deputy will be Deputy Bryce Noonan.

G. Engineering:

- **Wastewater Treatment Improvements; Sewer Improvement District 2019-1**: Brandon Oye the force main installation is moving along Maple St and Linden St. KPH is hoping to make the connections and start pumping to new ponds yet this year. They are also planning to begin stripping at new lagoon site to start constructing the berm; goal is to construct the northern cells.

MOTION, passed – To approve Contractor's Application for Payment #3 for \$243,594.86 and Moore Engineering Inv 28364 for \$58,297.06;

Spelhaug moved, Peraza seconded. RCV; MCU.

- **Newport Ridge Phase 4; Improvement District 2020-1 & Water Looping Project 2020-2**: Final inspection was completed with Rich and Casey Odegaard (Airport Manager). Little cleanup items remain, grass seeding will need to be done in 2022. 99.5% complete. Final payment request will be in December or January.

- **Capital Improvements Plan**: Working on finalizing water system items with Rich and Spelhaug.

MOTION, passed – To approve Moore Engineering Inv 28355 for \$830.00;

Stoddard moved, Peraza seconded. RCV; MCU.

- **Downtown Improvements**: Preparing hi-level estimates on infrastructure needs, might have next month. Shifting remaining contracted dollars from the CIP to the DI since they are related.

MOTION, passed – To approve Moore Engineering Inv 28369 for \$3,652.50;

Stoddard moved, Peraza seconded. RCV; MCU.

- **Drain 60 Fill-In**: Brandon was contacted by Steve Hall who was surprised that the school board decided not to share the cost of the hydraulic study estimate of \$5K, so he wanted to bring it back to clarify that the city would need to pay up to \$5K not the planned \$2500 as discussed last month. Reviewed that the Water Resource District is paying for \$5K as well. It was noted that it would be ideal for the drain fill-in to be extended eastward to the Prairie Pkwy intersection.

MOTION, passed – To approve up to \$5,000 on hydraulic study for Drain 60 fill-in;

Spelhaug moved, Peraza seconded. RCV; MCU.

H. PWS:

- Preparing for potential snow event next week. Equipment is ready to go.
- Multiple meetings with Moore Engineering held over the last month. Identifying lead & copper replacement needs. Working on the CIP document.
- Some cleanup in NPR on new basements. Expressed appreciation to Nate Opgrand for his patience and help policing the subcontractors on new builds.
- Discovered issues with the trace wire installation of the 2020-1 NPR. This means that the sewer main and services throughout NPR can't be located. Utility Logic representative is coming out to inspect and assess the problem and what type of solutions might be available. If there is no repair solution, it is likely that a deduction from the project could be discussed.

I. Auditor Report

- Consent Calendar

MOTION, passed – To approve City Council meeting minutes of 10-06-2021 and 10-21-2021; October 2021 financials and unpaid bills report; Spelhaug moved, Peraza seconded. RCV; MCU.

- Reviewed new 2021 special assessment balances sent to county.
- Auditing and Finances: Letter from ND State Auditor’s Office states that the 2017 & 2018 audit reports submitted by our CPA Harold Rotunda were rejected. Rotunda was not easy to reach, but finally emailed me saying he was working to remedy the situation. I spoke with NDSAO who advised the Kindred was a few of Rotunda’s clients that were having this issue. They had not yet received contact from Rotunda on the City of Kindred’s audits. They stated that Rotunda’s audits do not meet the state requirements and are more of a financial statement than an audit.

MOTION, passed – To seek RFPs for a new governmental auditor; Peraza moved, Stoddard seconded. RCV; MCU.

J. Council Reports:

- Peraza: Thank you to Moore Engineering, Rich, and Tabitha on the rate study. Will help with presentation to residents and users.

K. Mayor Report:

- Most recent newsletter looks great!! Thanks Jackie!
- Would like to consider looking into a company or firm that may contract for financial services, to help with financial understanding or help with special assessments, funds, budgeting, accounting practices, etc.
- The position of council person can be challenging and emotional, tonight has proved that. I appreciate all of you who have stepped up to serve our community!

ADJOURNMENT

MOTION, passed – To adjourn meeting at 9:53pm; Spelhaug moved, Stoddard seconded. RCV; Motion carried unanimously.

(Minutes subject to council approval.) (Agenda deadline is noon Wednesday the week before the meeting.)

Jason DuBord, Mayor

Attest: _____
Tabitha Arnaud, City Auditor

Date approved: _____