

KINDRED CITY COUNCIL SPECIAL MEETING MINUTES
Monday, April 28, 2025 | 7:00 pm | Kindred City Hall

Present: Mayor Darrell Kersting, CMs Ozzie Peraza, Lydia Ronningen, and Adam Spelhaug. Absent: Matt Sharp.
Others present: Auditor Tabitha Arnaud, PWS Rich Schock, City Engineer Brandon Oye, City Attorney Sarah Wear, Mark Ottis, Eric Merhiy, Kevin Bartram, Matt Hall.

Mayor Kersting called the meeting to order at 7:00 pm.

PUBLIC HEARINGS – Final Plat and Rezone for Plains 3rd Addition (Meadow Trails Development): Mayor Kersting opened the public hearings. Matt Hall noted that the only remaining items to be revised are details on the signature page, incorporating comments from the legal review and adding a signature block for the Kindred Park District dedicated land. Arnaud reported that the surrounding commercial property owners requested copies of the plat documents, but no public comments were received; P&Z held their public hearings at the 4/21 meeting with no public comment and did pass motions to recommend the final plat and rezoning as presented. The Planned Development District zoning regulations will be worked into the Improvement District Agreement so there will be a single legal document to be recorded and referenced. The developer team shared appreciation for the boards/staff and city support, they are very excited for the new park spaces and mixed-use development! Mayor Kersting closed the public hearing. **MOTION, passed – To approve the Final Plat of Plains 3rd Addition. Spelhaug moved; Peraza seconded. RCV; MCU. MOTION, passed – To approve the First Reading of the Rezone Request for Plains 3rd Addition. Spelhaug moved; Peraza seconded. RCV; MCU.**

Improvement District 2025-2 (Meadow Trails Development) Engineering Services: Mayor Kersting expressed hearing concerns with MBN Engineering providing the engineering services for this project, noting they do not have much experience in municipal projects. CM Spelhaug stated that there has been some back-and-forth communication between MBN and Moore Engineering to verify a lot of the items on the project thus far; he believes MBN could possibly do the work necessary but would like to meet with both engineers prior to awarding a contract. City Attorney Sarah Wear noted that once a contract is awarded, it becomes a City project and the engineer then works for the City not the developers; some other cities have policies in place that the City Engineer becomes the project engineer once a bid is awarded. Oye ensured that ME is not recommending either firm and that it is a City Council decision; shared that MBN has more experience with commercial/industrial projects, not as familiar with municipal projects, noting that a 2013 code was referenced in the project manual when the standard should be the 2018 version. Oye and MBN have been communicating well and MBN expressed they are open to ME assistance for certain aspects of the engineering needs. With limited experience in municipal projects, ME can assist with the design of the West Elm St water main replacement that is to be included in this improvement district. Other areas MBN could use ME's assistance would be the construction documents, construction contracts, and funding assistance (applications, tracking, requests, etc). Both MBN and ME will be involved in administration as MBN is the design engineer and ME will review daily inspection logs. Mayor Kersting worried the extra back-and-forth would increase costs and suggested ME could handle things more efficiently/responsibly; he wants to make sure that issues that arise are addressed with the City's best interest in mind. CM Ronningen recalled this was discussed a bit at the last meeting and feels a single engineer would streamline the process. Developer Partner Kevin Bartram shared that MBN has been mostly clarifying the City standards with their communications to ME and would like to see additional discussion between MBN/ME to see how the project can be managed to be most efficient/timely. Mayor Kersting suggested the engineers meet prior to the next City Council meeting. CM Spelhaug stated that he does not see any red flags with MBN overseeing and doesn't want to change it this late in the game. Ottis asked how the 4% developer fee would be applied to engineering invoices, how project totals (over/under) would be handled. Further discussion would be needed to be sure all parties understand this. Bartram shared that once a bid is awarded, all engineers could meet to discuss all the engineering agreements necessary.

Payloader Discussion: PWS Schock shared that the quote received for trade in of the current/repaid payloader for a new 2023 payloader with 6-yrs warranty will be honored until tomorrow, 4/29. Arnaud shared proposed loan options from Kindred State Bank, noting that the current payloader has one remaining loan payment of about \$17k that will

need to be paid as well. **MOTION, passed – To approve purchase of 2023 JD payload for \$127k with trade in on a 3-year KSB loan. Spelhaug moved; Peraza seconded. RCV; MCU.**

Non-Responsible Bidder Discussion: Mayor Kersting reviewed a list of issues with KPH, Inc on past projects. Projects/items included: 1) 2019-1 Wastewater (Lagoon) Project: going over the completion dates; claims files prior to project completion, mediation process, agreed settlement, not followed through; force main joint/coupler issue, installation not per specs, failure, agreement included exploratory dig that has not been completed; control panel/ATS/generator issues, statements to contractors regarding non-payment on work due to City not approving the full CAP (withholding liquidated damages); change order #3 requesting inflated cost to replace damaged sanitary sewer services during excavation on 3rd Ave S; removing top soil from new lagoon site with out approval; damaged streets/signage; disagreeing with punch list items but not providing specifics on why, still have some remaining even after all of the 2024 construction season. 2) 2020-1 Newport Ridge 7th Addition and 2020-2 Water Looping Project: changed hydrant location without discussion/approval from City; installed water line outside easements north of cemetery so easements had to be widened, and legal documents revised/signed; project did not meet completion dates. 3) additional projects with issues in the past were on other Newport Ridge (NPR) phases (2017-1, 2014-2, 2006-2/3). Mayor Kersting expressed that the lawsuit/mediation for the lagoon project was the most impactful. He stated that if he were using a mechanic and they continued to provide poor work, have complaints, and not receive resolution of the problems, he would be looking for a new mechanic without that type of history. CM Spelhaug stated the lagoon project was not fun; the last NPR project in 2024 included KPH as a sub-contractor and that went quite well having a different general contractor as a mediator. PWS Schock also shared that the lagoon project was very unpleasant, and too much time was wasted. CM Peraza stated he was also disappointed with the excess time and resources spent on the project. CM Ronningen, new to the board, is still aware of the various issues on the lagoon project and would like to see the remaining work completed. KPH owner Eric Merhiy discussed the County 15 ditch grading issue, the additional coupler location was suggested in Nov 2024 but not confirmed in writing by City, control panel was a Sweeney Controls notification, the airport authority approved hydrant relocation, excess clay material was not mentioned. Mayor Kersting asked for a motion on the topic, no response. Bartram expressed not having any concerns with KPH over the years or with Merhiy as a partner. Oye and Wear noted it would be a Council decision. CM Spelhaug said with the last project having Northern Improvement as the general contractor and KPH as the subcontractor, he was not comfortable making a motion. Mayor Kersting again asked for a motion. Hearing none, he expressed concern that things go better in the future and that the City does not need to go through the same process as the lagoon project again.

MOTION, passed – To adjourn meeting at 7:45 pm. Spelhaug moved, Peraza seconded. RCV; MCU.

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

<hr/> Darrell Kersting, Mayor	<hr/> Tabitha Arnaud, City Auditor	<hr/> Date approved
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