

KINDRED CITY COUNCIL – MEETING MINUTES

Wednesday, June 7, 2023 | 7:00 pm | Kindred City Hall

MEETING CALLED TO ORDER AT 7:03 pm by Mayor Kersting with CMs Spelhaug, Stoddard, and Peraza present. Absent: CM Johnson. Others present: PWS Rich Schock, City Auditor Tabitha Arnaud, City Attorney Sarah Wear, City Engineer Brandon Oye and Anthony Sommerfeld, Building Inspector Michael Blevins, Cass County Sheriff Deputy Bryce Noonan, Marlowe Rud, Lydia Ronningen, Joel Ronningen, Lisa Anderson, Trevor Zens, Brent Plante, Nate Opgrand, Mark Erickson, Codie Zahradka, Jan Russell, Brian Schmidt.

APPROVE AGENDA: MOTION, passed – To approve the agenda. Spelhaug moved; Stoddard seconded. RCV (Roll Call Vote); MCU (Motion Carried Unanimously).

NEW BUSINESS

Off-site Event Permit Application for Hawk’s Market on July 12, 2023: Hawk’s Market owner Andrea Janowicz was unable to attend due to the heavy rainfall moving through the area. She is proposing a new event “Hawk’s Market Taste of Summer Fest” that would be held on the city-owned vacant lot located south of the grocery store on Elm St in late afternoon on Wednesday, July 12. It will include samples of seasonal alcoholic beverages from suppliers and new olive oils and balsamics from Kindred Oil Company. Since the event would be held on City property, an alcohol waiver/acceptance of liability form will need to be completed by Janowicz. **MOTION, passed – To approve Off-Site Event Permit for Hawk’s Market on July 12, 2023. Stoddard moved; Peraza seconded. RCV; MCU.**

Public Hearing for Snow and Ice Removal Assessments during 2022-2023 season: Auditor Arnaud reported that after snow was not removed from sidewalks per City Ordinance Chapter 2-0121, notices were sent to the property owners and one property (20 4th Ave S) did not complete the work by the deadline provided. Public Works submitted the list of dates/times to complete the work throughout the winter season, 6 hours total between 1/18/23-3/15/23. With all of the snow events this season, PW did not move snow every single time, as City streets and properties were of higher priority. Arnaud noted the hearing notice was published in the paper (per NDCC 40-29-19), and was mailed directly to the property owner as well. There were no comments/concerns or written correspondence received prior to this meeting. There was no public comment.

MOTION, passed – To assess \$600.00 to Parcel 04-0100-00818-010 for 2022-2023 snow removal charges. Stoddard moved; Spelhaug seconded. RCV; MCU.

Nate Opgrand, Asphalt Repairs at 931 Elm St: Mr. Opgrand read a [statement](#) to City Council expressing frustrations with the handling of asphalt/street repairs at his property, 931 Elm St. CM Spelhaug thanked Opgrand for coming with his concerns and assured him that the City was not targeting his project. Spelhaug said the asphalt work was needed due to an excavation in the street to install new water/sewer hookups to the new twin homes in March 2022. As the asphalt work to be done was in the City’s right-of-way and the City had some other asphalt needs that were needed, the goal was to combine the work to save on contractor mobilization expenses, however, the work was not secured before the winter season arrived. As the work needed to be done this year, the City requested quotes from contractors used previously and selected the least expensive bid. CM Peraza asked Opgrand to share the quote he had received from his contractor for comparison. Mayor Kersting thanked Opgrand for coming to them with his concerns.

OLD BUSINESS

FM MetroCog: Discussion regarding the MetroCog presentation from February 2023. Agreed to move forward with a letter of intent to become an Associate Member (AM) of the MetroCog organization. This is a no-cost option to be involved with the Policy Board, since Kindred’s population is withing the AM threshold of 600 or more. Designated city representatives would receive information about transportation planning studies in the metro area and the city would be eligible to request planning services from MetroCog which can be partially funded by Federal Transportation Planning funds. CM Spelhaug said it would be beneficial to further explore engaging MetroCog to complete a new comprehensive plan for the city.

BOARDS & COMMITTEES

Kindred Parks & Rec – Proposal for Use of Rustad Lots: Park Board Member Lydia Ronningen presented a [proposal](#) for improvements for the vacant Rustad Lots on Linden St that the city purchased last year. Noting that greenspace is hard to come by, Kindred Parks & Rec is proposing a semi-permanent to permanent use of the space that could include an off-leash

dog park space, a bike “pump” track or dirt jump space, volleyball courts, and additional shelter/picnic space. Ronningen noted that the goal is to fundraise and seek donations to reduce the expenses, as well as make the improvements a volunteer or community supported event to create the park. The request of the City includes allowing the Park District to utilize the space for a minimum of 7 years, completing any necessary soil testing or mitigation, volunteer time and use of equipment, removal of any remaining trees, and access to water and lighting. Discussion on excavation/stripping the space, liability concerns, and maintenance of the space. With no immediate plans for these lots, Council agreed to the ideas and directed Ronningen to move forward with additional plans/quotes to utilize the space.

Update on pool improvements: Ronningen shared that all is running well to her knowledge. CM Spelhaug stated some repairs were completed, PWS Schock did the tile work, and a quote to install a camera in the mechanical room (about \$600) would allow remote monitoring of any leaks, spills, and/or staff maintenance. CM Peraza noted that the mechanical room upgrades were completed, but there was a leaking pump issue. Schock said that some of the existing plumbing was not level and fittings were not adequately installed, causing the leak. Schock noted the plumbing and electrical needs were not included in the \$22K mechanical upgrade, so had to subcontract that work out. CM Peraza shared he has concerns with the PVC liner after further discussions with another pool contractor, who says that concrete pools are best because they can always be refinished whereas a liner will need to be glued in and has a life expectancy of about 10 years. Also discussed possible repairs/replacements needed to the skimmers with the liner installation; contractor estimate provided was \$5K per skimmer, with 10 skimmers in the pool, this could be another \$50,000.00. The \$67K contract for the PVC liner was signed in April and a 10% deposit provided. The final specs for the liners have not yet been submitted.

Kindred Master Gardeners: Lisa Anderson presented an [update](#) on plantings at City Park. Six Gilbertson peonies were transplanted from flowerbeds by the pool to the large City Park sign flowerbed last fall and they have survived the winter season! This spring the sign and Veteran’s Memorial flowerbeds were refreshed. Thank you to Jean and John Hertsgaard and Kindred High School FFA for donating a few plants/flowers! 32 pollinator plants were planted as well and will be eligible for an 80% reimbursement under a Cass County Soil Conservation program. Thank you to Public Works for providing water each week! THANK YOU, Master Gardeners, for your time and efforts to beautify the park!!

Kindred Renaissance Zone: Auditor Arnaud shared that she inspected Kindred’s inaugural RZ project after receiving notice from the applicant that the work was complete as of May 2023. Arnaud inspected the property to confirm the project work indicated on the application was complete and verified the total project expenses met the required threshold (20% of total assessed value for residential projects). After passing along this information to ND Division of Community Services, the state issued a [notice of final approval](#) for the project. **MOTION, passed – To approve Renaissance Zone Project 1-KIN (140 Linden St) for an individual State Income Tax Exemption for the period of May 2023-April 2028 and Single-Family Property Tax Exemption for 100% of the building value for tax years 2023-2027. Peraza moved; Stoddard seconded. RCV; MCU.**

BUILDING INSPECTOR/CODE ENFORCEMENT - Building Inspector Michael Blevins provided a [YTD building permit report](#).

POOLS/PARKS - Update above under Boards & Commissions.

PLANNING & ZONING

There is still one board member vacancy remaining, however, there is at least one interested resident who will be attending the next P&Z meeting. Christina Woller-Cornog’s term is also expiring July 2023. As this seat is for the Extra-Territorial (ET) representative, interested parties apply with and are appointed by Cass County Commission. Woller-Cornog has already submitted her application seeking reappointment. Cass County will review the applications and make a decision at their upcoming June Commission meeting. Board reviewed a letter from James Erickson, owner of current agriculture zoned land within the City’s ET and potential owner of land within ½-mile outside the City’s ET. [Erickson’s letter](#) is a formal request for the City to consider expanding its ET jurisdiction from the current ½-mile to 1-mile as NDCC allows. This letter was received 6/5/23 and will be shared with the P&Z Board at their meeting next week, June 12.

MARKETING & BEAUTIFICATION

Arnaud thanked Public Works for installing the summer light pole banners on Elm St. She also shared that there were 15 flower planters recently placed downtown and at the Pool/Memorial Building area. These were completed as a group effort between Mayor Kersting, Park Board Member Ronningen, & PWS Schock. Thanks to all involved, as well as Public Works and Parks & Rec for assisting with a watering schedule!! Anyone interested in being a Flower Sponsor can contact City Hall.

POLICE REPORT

Deputy Noonan presented the [May police report](#) with 20 calls for service as follows: 4 medical assists, 2 parking complaints, 5 suspicious, 4 traffic complaints, 5 disturbances. He provided an update on the [seat belt law changes](#): Beginning August 1, 2023, all vehicle occupants must be buckled regardless of age, children younger than eight years of age are required to use a car seat or booster seat, and this law become a primary offense instead of a secondary offense. Deputy Noonan also announced that Cass County Sheriff Department is working to co-host a community "Night to Unite" event, tentatively scheduled Thursday, August 3, 2023 from 5-8pm. Stay tuned for more information!

CITY ENGINEER

Wastewater Collection and Treatment Improvements; District No. 2019-1: City Engineer Brandon Oye reported that KPH will be completing ongoing work on punch list items and reclamation of the old lagoon cells over the next 1-2 months. CM Stoddard stated that he had completed a walk through with Public Works to review street damage from contractor equipment being moved throughout town, noting that some cuts were 1-1.5" deep. Oye said he would discuss this with Project Engineer to be sure it is documented. **MOTION, passed – To approve ME Invoice 33737 for \$17,717.05. Peraza moved; Spelhaug seconded. RCV; MCU.**

Dakota St Sidewalk, Spruce St and Elm St Drainage Improvements: A 75% Plan Review Meeting and Plans-In-Hand Inspection were completed on May 31. A final plan review with PW Committee is set for June 16, goal to post the plans for bidding on June 21, with a tentative bid opening for July 6 (which would require a special council meeting). Discussed funding options for the project. **MOTION, passed – To approve Resolutions Approving Plans and Specifications and Directing Auditor to Advertise for Bids, both contingent on Public Works approval. Peraza moved; Spelhaug seconded. RCV; MCU. MOTION, passed – To approve ME Invoice 33734 for \$19,300.68. Peraza moved; Stoddard seconded. RCV; MCU.**

Floodplain Ordinance: Oye shared the new ordinance was reviewed again and sent to Ohnstad for formatting. Attorney Wear sent the draft ordinance this morning and just needs to confirm some of the section sequence numbering to be sure it is correct. The second reading could be approved contingent on that proofreading being completed. Council opted to table the 2nd reading to next month's meeting. Oye explained that due to the setbacks with the state updating their model ordinance during the City's ordinance creation, there was additional Moore staff time involved than the original \$5K contract included; \$3K additional, new total \$8K. **MOTION, passed – To approve Floodplain Ordinance Agreement Amendment for additional \$3,000.00. Peraza moved; Spelhaug seconded. RCV; MCU.**

Plains Addition Plat (Water Reservoir property): Oye shared the title opinion work is finally complete so we can move forward with scheduling the public hearings for the final plat with P&Z and City Council. Discussed meeting date options and closing date on purchase agreement, which needs the new legal descriptions added before it can be completed. Oye noted there was additional Moore staff time involved for title opinion assistance than the original contract included; \$2,700 additional expenses, new agreement total \$23,130.00. **MOTION, passed – To approve Plains Addition Plat Agreement Amendment for additional \$2,700.00. Peraza moved; Stoddard seconded. RCV; MCU.**

Newport Ridge Phase 5 and 7th Ave Paving: A plat was approved last year for NPR 8th Addition with 9 single-family residential lots added, but the project was too costly to keep estimated special assessments reasonable for those properties. The PW Committee have held numerous meetings with NPR developers to complete the final build out of this residential development, which would create an additional 16 new lots, for a combined 25 lots to become part of the final phase project. Additional work to be included with the final build-out project is the paving of Sheyenne St E from Newport Parkway to Prairie Parkway and Prairie Parkway itself. Also to be included with the project is resurfacing of NPR 1st Addition streets, as those were completed 16 years ago (typical street life-span is estimated at 15 years). Paving of 7th Ave S on the west side of town is also considered to be included in the project, as this will hopefully provide a cost savings if the work is bid and constructed as one project. Each work area will be defined and separate improvement districts are proposed. Discussed the lengthy project process, multiple resolutions/steps/hearings that are required, and the separate special assessment process. Due to the overlapping work areas within the final project work for NPR, it was discussed that a public information meeting would be held for the property owners to learn about the scope of the project and ask any questions they may have. Oye noted that the resolutions to be approved are required to continue moving forward with the project plans, but does not require the projects be bid/awarded/completed. **MOTION, passed – To approve the following resolutions: creating [Sewer, Water and Street Improvement District 2024-1 \(NPR Phase 5, Sheyenne St, and NPR 1st Addition\)](#); directing engineer to prepare report;**

approving engineer's report and declaring work necessary, both contingent on PW approval. Spelhaug moved; Stoddard seconded. RCV; MCU. **MOTION**, passed – To approve the following resolutions: creating [Street Improvement District 2024-2 \(7th Ave\)](#); directing engineer to prepare report; approving engineer's report and declaring work necessary, both contingent on PW approval. Peraza moved; Stoddard seconded. RCV; MCU. Attorney Wear noted a housekeeping item will be addressed next month, a resolution to close out the unneeded Improvement District 2023-1 (NPR Phase 5, 8th Addition).

Drain No 60 Maintenance Agreement: Oye and CM Spelhaug will attend the June 13th SE Cass Rural Water Resource District board meeting to discuss the draft agreement with them, as well as inquire if budgeted maintenance funds could be shared with the city to help cover costs to maintain the area of Drain 60 that is within Kindred city limits. The [draft agreement](#) was provided for review.

PUBLIC WORKS - PWS Schock noted all his items were addressed in the above.

AUDITOR REPORT

Consent Calendar: **MOTION**, passed – To approve Meeting Minutes of 05-03-2023 & 05-08-2023; Annual Liquor License Renewals for Hawk's Market, Spring Brook Tavern, & The Uptown Eatery; Delinquent Utility Accounts List; Bills for payment (hold My Aquatic Services) and financial reports for May 2023. Spelhaug moved; Stoddard seconded. RCV; MCU.

Arnaud shared that REDItech, an internet/television/phone company had stopped by City Hall to inquire about installing infrastructure within the city to connect their network from Horace to Lisbon. Attorney Wear said she would review the franchise ordinances, as there may need to be a new one created for them.

COUNCIL & MAYOR REPORTS - none.

[8:40 pm – 8:45 pm] Short recess while tables/seating were rearranged for next agenda item and public attendees departed.

EXECUTIVE SESSION – Sewer Improvement District 2019-1; Notice of Claim filed by KPH

Mayor Kersting stated the next item on the agenda is in regard to a Notice of Claim filed by KPH related to Sewer Improvement District 2019-1. This item may be discussed in an executive session. The legal authority for closing this portion of the meeting is North Dakota Century Code section 44-04-19.1. The topic or purpose of this executive session is to consult with the city attorney regarding and in anticipation of reasonably predictable or pending civil or criminal litigation or adversarial administrative proceedings or to receive its attorney's advice and guidance on the legal risks, strengths, and weaknesses of an action which, if held in public, would have an adverse fiscal effect on the City of Kindred.

MOTION, passed – To move into executive session. Spelhaug moved; Stoddard seconded. RCV; MCU.

Mayor Kersting noted there were no members of the public in attendance. The meeting minutes will show that the executive session began at 8:51 pm. City Council met in executive session to discuss a Notice of Claim filed by KPH related to Sewer Improvement District 2019-1. Present were Mayor Darrell Kersting, CMs Adam Spelhaug, Shad Stoddard, and Ozzie Peraza. Also present were Attorney Brian Schmidt, PWS Rich Schock, and City Auditor Tabitha Arnaud.

The meeting minutes will show that the executive session adjourned at 10:13 pm. The public was invited to return to the to the meeting room with the open meeting session resuming at 10:13 pm. **MOTION**, passed – To authorize our attorney to execute the litigation document discussed and to proceed in accordance with the instructions provided. Spelhaug moved; Peraza seconded. RCV; MCU.

ADJOURNMENT

MOTION, passed – To adjourn meeting at 10:15 pm. Spelhaug moved; Peraza second. RCV MCU.

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

Darrell Kersting, Mayor

Tabitha Arnaud, City Auditor

Date approved