

KINDRED CITY COUNCIL SPECIAL MEETING MINUTES
Monday, March 13, 2023 | 7:00 pm | Kindred City Hall

Present: Mayor Darrell Kersting, CMs Adam Spelhaug, Julie Johnson, Shad Stoddard, and Ozzie Peraza.

Others present: City Attorney Sarah Wear, City Engineer Brandon Oye, City Auditor Tabitha Arnaud, Barbara Rude, Sue Kersting, Jeff Wanner, Tammy Wanner, Katie Tangen, Gene Thompson, Brian Erickson, Michael Klockmann, Sarah Klockmann, Vicki Thompson, Joe Hawkins, Derek Arnaud, Joel Ronningen.

Mayor Kersting called the meeting to order at 6:59 pm.

Sidewalk & Drainage Improvement District 2023-2 (Dakota Street & 5th Ave N) Protest Hearing: Attorney Sarah Wear explained that this hearing is the time and place for property owners to file written protest of the project and may be given an opportunity to speak about the project. There were 10 protest letters received and 1 letter of support, all from property owners on 5th Ave N. Many of those property owners were present to voice their concerns about the estimated cost for their portion of the project being too high, noting that the linear footage value was much higher than the sidewalk costs for Dakota St. CM Stoddard noted that 5th Ave N includes working through private driveways and also has a greater length of sidewalk than the other project areas. Discussed asphalt/concrete driveway sections, and potential improvements to reduce sidewalk damage if existing driveways are gravel. These increase the overall cost estimates for the 5th Ave sidewalk improvements. CM Spelhaug noted that the drainage improvements on 5th Ave were broken out separately from the 5th Ave sidewalks and suggested to be a regional assessment as this area is a collection/route for water runoff in multiple areas. City Engineer Brandon Oye explained that the construction cost estimates are always based on recent average historical construction pricing, which has been changing rapidly with the volatile market. He shared that the estimated assessment values are not detailed at this phase of the project. At this meeting, Council needs to determine if the project work is needed. If yes, then the next step would be the design and bidding phases. Oye also noted that the cost estimates provided are not definitive, as they are based on the proposed scope of work. Wear shared that once the project is designed, put out for bids, and project bids are opened, then the true costs would be known. Later in the project, the Special Assessment Committee would review the project in full detail to determine the benefit each property is receiving, before presenting the individual recommended assessment costs for approval by Council. Further discussion on local versus regional assessment options. Many of the 5th Ave N property owners felt that the sidewalk improvements should be shared regionally, as it is a benefit to the school/whole community. Discussed City ordinance (Chap 2-0102) which states the property owner is responsible to install/maintain sidewalks abutting their property. Also discussed the Elm St sidewalk project completed in 2019, as another main route in town, the costs were not assessed regionally but locally to each property owner for the length of sidewalk abutting their property, as well as any other concrete work completed on their property (private sidewalk to home or driveway sections). Additional lengthy discussion regarding drainage problems/improvements, overgrown/aged trees that would need to be removed for installation (and to prevent damage to new) sidewalks, alternate routes to direct students to Dakota St, sidewalk needs in other areas of town, grants or other options to reduce impact to property owners, alternate options for sidewalks on 5th Ave (install on one side only, walking area along street on asphalt), and better communication to property owners. CM Stoddard stated that this project started mainly due to the addition of the Middle School, which will increase the number of students needing to get to the school's north campus; pedestrian safety and traffic congestion was a concern at the intersection of Dakota St and County Hwy 15. The scope of the project migrated west to consider connectivity/safety to 5th Ave N. He said Council is trying to ensure they do the right thing and are being as thoughtful as they can regarding property owners and the entire community. CM Spelhaug shared that there are some grant options available but they are in heavy demand making them difficult to secure. Some have thresholds for the community's median household incomes (which Kindred does not meet), as well as having an application review period of up to 2 years; we could delay this project in hopes of an estimated 20% grant or, knowing costs will likely continue to rise each year, consider the savings now. Discussed removing the 5th Ave N improvements or bidding this area as an alternate so more definitive costs could be determined. Council thanked everyone for coming and encouraged them to come more often. Wear advised Council action was needed to proceed; as this was a "protest hearing" for the entire Improvement District and there was a lack of 50% or more property owners to submit written protest, a motion would be needed to declare there was insufficient protest. This does not obligate Council to proceed with the project, this is more of a housekeeping item for legal documentation. **MOTION, passed – Determining insufficient protest for Sidewalk and Drainage Improvement District 2023-2; Peraza moved; Spelhaug seconded. (Roll Call Vote); MCU (Motion Carried Unanimously).** Discussed next steps, which project areas to proceed with.

MOTION, failed for lack of second – To wait on the entire project. **MOTION**, passed – To direct engineer to prepare plans and specs removing the 5th Ave sidewalks and drainage. Stoddard moved; Peraza seconded. RCV: Spelhaug = yes; Johnson = no; Stoddard = yes; Peraza = yes; Motion Carried.

Short recess while tables/seating were rearranged for next agenda item.

Sewer Improvement District 2019-1; Notice of Claim filed by KPH – Executive Session

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; Peraza 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 8:53 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, Julie Johnson, Shad Stoddard, and Ozzie Peraza. Also present were City Attorney Sarah Wear, City Engineer Brandon Oye, and City Auditor Tabitha Arnaud.

The meeting minutes will show that the executive session adjourned at 9:33 pm. The public was invited to return to the to the meeting room with the open meeting session resuming at 9:33 pm.

MOTION, passed – To approve interest owed to KPH for late payments (CAP 1-7) per NDCC 48-01.2-14. Spelhaug moved; Peraza seconded. RCV; MCU.

MOTION, passed – To adjourn meeting at 9:34 pm. Spelhaug moved, Stoddard seconded. 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