

KINDRED CITY COUNCIL MEETING MINUTES
Wednesday, October 5, 2022 ~ 7:00pm ~ Kindred City Hall

MEETING CALLED TO ORDER AT 7:03pm by Mayor Kersting, CMs Spelhaug, Johnson, Stoddard (at 7:43pm), and Peraza present. Others present: City Engineer Brandon Oye, City Attorney Sarah Wear, PWS Rich Schock, Auditor Tabitha Arnaud, Cass County Sheriff's Deputy Bryce Noonan, Lisa Anderson, Pam Hall, Karen Hertsgaard, Marlowe Rud, Lydia Ronningen, Mark Ottis, Eric Merhiy, Nate Opgrand.

APPROVE AGENDA

MOTION, passed – To approve the agenda;

Peraza moved; Spelhaug seconded. RCV (Roll Call Vote); MCU (Motion Carried Unanimously).

COUNCIL BUSINESS

A. Boards & Committees

- Kindred Public Library: Board of Trustees and Friends of KPL are in early stages of planning for fundraising and grant research. Meetings still need to be set with City reps to discuss purchase agreements.

B. Old Business

- Memorial Building Improvements: Auditor Arnaud presented an updated quote from AireServ for the HVAC system. They honored the quote received this spring with a total cost of \$12,831.00; less than the \$15,000.00 approved last month. There will still be additional electrical costs with this; those are not yet determined but estimated to be around \$2,000.00. Confirmed that the Energy Conservation Grant through ND Dept of Commerce is again accepting applications after having funds replenished; will work to get the paperwork updated and submitted.
- Memorial Building/City Hall Rental Policy: CM Peraza said that he, Auditor Arnaud and Deputy Auditor Johnson are still working through different category options for users and selecting rental rates/deposits. More info to be provided next month, with the plan to implement the changes January 1, 2023.

C. New Business

- City Park Flower Beds Proposal: Master Gardeners Lisa Anderson, Pam Hall, & Karen Hertsgaard previously assisted with planning flowers in the new City Park flower bed prior to Kindred Days. Today they presented a plan to City Council to continue the care and maintenance of this flower bed, the Veteran's Memorial flower bed, and helping to transplant the peonies from the flowerbeds at the NE corner of the pool. The peonies were created and planted by Ben Gilbertson during his time at NDSU. This species never made it to market, so they are one-of-a-kind. Due to their age, transplanting them needs great care. PWS Schock noted that the flag pole at the NE corner of the pool is in disrepair and intends to remove it at some point. This is part of the reason for moving the peonies and eventually remove that smaller flower bed area. Mrs. Anderson said fall is the best time to complete this and they plan to start with the healthiest bulbs, and next season they can move the remaining bulbs. Discussed the need for water in the area, PWS Schock said he would work this out between PW and Parks Director Mike Brown. Mrs. Anderson said the group is requesting a budget of about \$700.00 for next June to purchase and plant additional perennials and annuals, lay mulch, and place decorative sheeting in the City Park flower bed. Each year, more perennials can be added into the space so that annual expenses will be slowly reduced. The Master Gardeners will handle the maintenance and care of both flower beds, asking City staff to assist with weekly watering as necessary. Council is grateful for the Master Gardeners taking over this area of the park beautification!
- 2023 Final Budget Hearing: Auditor Arnaud noted that only one phone call was received at City Hall after the estimated tax statements were mailed by Cass County. After reviewing the separate line items with this resident, they understood that the property tax statement includes all the levying districts (County, City, Kindred Public School, Park District, etc) and with the recent property value reassessment, most everyone's property taxes increased. It was also noted that the City's tax portion also includes "pass-through" levies for the library and airport; these districts set their own levy, it is just routed through the City for collection and disbursement. Discussed the main attributing factor for the increase in City's levy, which is for the expected audit firm expenses. \$22K is estimated for 2022, and \$34K for 2023 to get the City's audits for years 2017-2021 completed. CM Johnson supported the option to leave the full audit firm expenses in the budget so we have the assurance of knowing it will be covered, while noting it is difficult knowing that taxes went up for most everyone. Total City Levy for General Fund and Share of Specials Fund is \$240,750.00.

MOTION, passed – To approve the 2023 final budget with a total levy of \$254,950.00;

Spelhaug moved; Johnson seconded. RCV; MCU.

D. Building Inspector/Code Enforcement: Building Official Mike Blevins was absent; Auditor Arnaud provided updates.

- 190 5th Ave N: The roofing was completed just yesterday by Top Flight Construction. They also provided an updated quote for the siding; still need to get additional quotes from other companies.

- 851 Elm St: Mr. Gette has had verbal conversations with Mike Blevins and CMs Stoddard & Peraza regarding the need to have siding put on this property; he shared that his is having troubles getting contractors arranged. Attorney Wear stated that a written notice could be provided to create documentation of the request and a deadline for completion. Council agreed to proceed with a written notice.
- 241 Linden St: An attempt to get a quote for repairing the fence was denied after Mr. Peterson stated that the fence would be taken down, not repaired. No completion date was provided for this yet. Discussed the issues with the front yard (refrigerator, overgrown grass/vegetation, smaller “junk” items like coolers). Attorney Wear suggested getting updated photos and sending an updated notice based on that. Council agreed.

E. Pool/Parks: PB Member Lydia Ronningen shared that the joint board meeting will be next week.

F. Marketing: Auditor Arnaud noted that we are looking at ordering additional winter banners, considering mesh for the newer street light posts between 4th Ave and County Hwy 15 to reduce the wind/movement issues.

CM Stoddard arrived at the meeting at 7:43pm.

G. Police: Deputy Bryce Noonan presented the [September 2022 report](#) with 12 calls for service, including the following: 1-assist fire, 1-burglary, 1-gas drive off, 3-medical assist, 1-parking complaint, 2-suspicious, 3-disturbance. Deputy Noonan shared that Cass County Highway Department has added another 25mph sign to southbound Hwy 15 and will be looking to create a no passing zone in this area next spring. He discussed graffiti found in the area matching others in Fargo, Moorhead, and Page; they have vehicles/persons of interest, nothing indicates ties to the area; Noonan believes it was likely a random act. He also provided updates about CCSO Breast Cancer Awareness campaign for the month of October, and the Enderlin school bus accident in rural Leonard stating that there was no fault found as it was due to a medical emergency; although a traumatic experience, all occupants survived and will recover from physical injuries.

H. City Engineer:

- **Wastewater Treatment Improvements; Sewer Improvement District 2019-1**: City Engineer Brandon Oye provided an update on the [September 29 project schedule](#). He also reviewed the change proposal process when a time extension is requested or there is an event that causes a change to the contract price. Discussed ME responses to four change proposals submitted by KPH. One Change Proposal is for increased expenses and a 30-day extension request due to the revised delivery date of the [automatic transfer switch](#); ME recommendation is to deny the request in whole. Second Change Proposal is for additional compensation and a 28-day extension regarding the [excess clay stockpile](#); ME prepared a draft response and recommends denying this request in whole. CM Stoddard asked if all the excess clay came from the new lagoon site; Oye said yes, it should have. He asked if the City could sell the excess material; yes, that is an option. CM Spelhaug noted that the material could be used elsewhere for other City projects, or to fill in the existing lagoon site once it is decommissioned. Two other Change Proposal requests (Control Panel Delay and Wet Spring Weather Delay) are still under review. KPH is also considering a claim on interest due for delayed payments. Discussed delays in funding reimbursement requests from USACE (grant dollars), so payments to contractor were delayed as well. Oye stated the first he heard of this concern was about 1.5 weeks ago. Since then, the City has increased its funding requests from ND SRF program (loan dollars) to make up the difference of the delayed grant funds, as the turnaround on SRF requests are timelier. This has allowed all contractor payments to be completed at this time, while withholding the August ME invoice payment until the USACE funds are received. Attorney Wear stated that since the first notice from the contractor on this concern was so recent, the recommendation would be to deny the interest request. Oye presented Contractor’s Application for Payment No. 8 for \$469,195.17. ME recommends an offset for liquidated damages (LDs) under the construction contract as the project has not yet met substantial completion; the recommended adjustment is \$162,000; resulting in a recommended payment of \$307,195.17 for CAP8.

MOTION, passed – To approve Contractor’s Application for Payment No. 8 for \$307,195.17, withholding \$162,000 for liquidated damages;

Peraza moved; Stoddard seconded. RCV; MCU.

MOTION, passed – To approve ME Invoice 31302 for \$51,368.78;

Peraza moved; Spelhaug seconded. RCV; MCU.

- **Newport Ridge Phase 4 and Water Loop, District 2020-1/2020-2**: Mayor Kersting, CM Spelhaug, Engineer Oye, PWS Schock met with KPH President Mr. Merhiy, as Mr. Merhiy was not agreeable to the final offset of \$23,521.00 on the final payment for this project. No formal rebuttal has been submitted on this yet. ME invoices are for additional time on these final steps to close out the project. There will likely be one more final invoice for time to close out the BND loan.

MOTION, passed – To approve ME Invoices 31377 for \$21,155.00 and 31378 for \$11,200.00;

Peraza moved; Stoddard seconded. RCV; MCU.

- **Dakota St & 5th Ave N Sidewalk Improvements:** PW Committee met to discuss the options for drainage improvement options on Spruce St due to the sump pump discharge from Hawk's Market; a) mill & overlay, b) replace curb/gutter, c) no change; will continue to discuss options/costs. PWC will be meeting again with the school to review the sidewalk and crossing options along Dakota St.
MOTION, passed – To approve ME Invoice 31328 for \$6,962.50;
Johnson moved; Spelhaug seconded. RCV; MCU.
- **Storm Water Management Assistance:** Oye stated they are continuing to work on drafting a fee structure and ordinance, should be provided next month.
MOTION, passed – To approve ME Invoice 31336 for \$458.75;
Peraza moved; Stoddard seconded. RCV; MCU.
- **Floodplain Ordinance Assistance:** Oye met with Auditor Arnaud on the draft ordinance presented, Number 2022-99. They started with the State's draft model ordinance, Attorney Wear reformatted to fit current City ordinance. After it is adopted, the ordinance would allow the Floodplain Administrator (FPA) to assist with property development. After discussing the FPA duties with surrounding township FPAs, the City's Building Official, and P&Z, it was deemed that the City Auditor is the best suited to be named the FPA. Auditor Arnaud will be taking on this role officially. The ordinance is written to reference the "most current adopted FEMA Flood Insurance Rate Map" so that as FEMA adopts revised maps, changing the ordinance is not necessary and can evolve along with the FEMA FIRM revisions. Oye noted that the most current version of the FEMA FIRM was set to be adopted this fall, but has now been pushed ahead to Spring 2023.
MOTION, passed – To approve first reading of Ordinance 2022-99 regarding Floodplain Management;
Spelhaug moved; Peraza seconded. RCV; MCU.

MOTION, passed – To approve ME Invoice 31338 for \$2,157.50;
Peraza moved; Stoddard seconded. RCV; MCU.
- **Water Reservoir Plat:** Oye and ME team met with PWC. Final updates are being prepared for the "Plains Addition" plat; noted that the City property south of the residential lots will be one parcel.
MOTION, passed – To approve ME Invoice 31339 for \$11,442.13;
Spelhaug moved; Peraza seconded. RCV; MCU.
- **Newport Ridge Phase 5, District No 2023-1*:** Oye noted that he and the PWC met with the developers recently and there has been a change in the project. Instead of the developers completing this project privately, they are requested the City to take on the project. The City would then put the project out for public bid, the special assess the project costs to each of the lots involved. The developers signed a petition requesting this. Once approved, Oye said the City can move forward to create the special assessment district, begin the financing paperwork with BND, and the engineers can prepare a study/report with the project plans. CM Johnson asked what the benefit is to the City in taking this on? Oye stated that private developments are actually quite unique and usually funding is more difficult for private investors to obtain. Attorney Wear said that with a City project, the City has better control of the project plans and the contractor that is awarded the bid. *Note: the District Number is changed from 2022-1 to 2023-1 since the construction will begin in 2023.
MOTION, passed – To accept Developer's Petition for Improvements, and approve resolutions creating Improvement District 2023-1 (Newport Ridge – Phase 5) and directing engineer to prepare report;
Spelhaug moved; Stoddard seconded. RCV; MCU.
- **General City Engineer:**
Parking Improvements for United Methodist Church: UMC contacted the City/Engineers about having the boulevard area paved with asphalt instead of being returned to gravel parking, since the lagoon project has the area ripped up anyway. They are willing to pay for the additional costs of the asphalt if it is reasonable. Attorney Wear recommended an encroachment agreement. Oye said that drainage should be reviewed; the change from gravel to asphalt is not big, but water will shed differently. CM Stoddard and Spelhaug agreed the timing of the project work here would make it ideal. Oye will review it further with UMC and project.

J. PWS:

- Compost is still a struggle some weeks, with the swaps not occurring as scheduled. If PW staff is helping if they're available when residents arrive to full dumpsters.
- Curbstop failure at United Methodist Church. It was set too low and under the sidewalk panels. Repaired and now at the proper grade.

- CM Stoddard asked about the “junk” cars at the shop. PWS Schock noted they were loaned from Hopewell’s Salvage and used for fire department training. Will be taken back to Hopewell’s shortly.
- Mayor Kersting asked about the street cleaning and damages from the lagoon project contractor’s equipment. Engineer Oye said they are documenting all issues and it will be part of the punch list items if not addressed.

K. Auditor Report

- Consent Calendar:

MOTION, passed – To approve City Council meeting minutes of 09-07-2022; Delinquent Utility Accounts List; Raffle Permit for Friends of the Kindred Public Library; Tax Exemptions for New Home Construction on 454 Skylane St & 522 Piper St; September 2022 financials and unpaid bills report; Stoddard moved; Peraza seconded. RCV; MCU.

M. Council & Mayor Reports:

- Johnson: Reviewed and discussed agenda layout options. Submitted ideas as a thought, was not expecting revisions; liked Auditor Arnaud’s revisions but is ok to leave it as it is too. The last meeting went pretty long and just want to be sure the City employees get the time they deserve as well.
- Peraza: Library meetings are going well, the boards are starting out with great ideas to fundraise for the building fund. Stay tuned and help spread the word!
- Mayor Kersting: Really encouraged by the beautification ideas. Flower planters downtown would be a great addition, maybe the businesses could sponsor/care for them. If there are others, please send them along.

ADJOURNMENT

MOTION, passed – To adjourn meeting at 8:32pm; Spelhaug moved; Peraza second. RCV; MCU.

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

Darrell Kersting, Mayor

Attest:

Tabitha Arnaud, City Auditor

Date approved: _____