



Horace City Council Meeting Minutes

Due to COVID-19 and social distancing, the Horace City Council meeting took place online on January 19, 2021 @ 6:00pm. Those present on the Zoom video conference call were Mayor Kory Peterson, Councilmember Chelsey Johnson, Councilmember Bryan Schmidt, and Councilmember Dave Fenelon. Others present included: Sarah Veit, Jim Dahlman, Lukas Croaker, Brenton Holper, and Barrett Voigt.

Mayor Peterson called the meeting to order at 6:00pm.

Mayor Peterson forwent the pledge of allegiance.

Agenda Item #3: Approve Regular Agenda

Motion: Approve the Regular Agenda.

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed. Motion carried.

Agenda Item #4: Approve Consent Agenda

- a. Vendor Invoices
- b. Balance Sheet & Income Statement
- c. Sanitary Sewer Improvement District No. 2018-1 (100th Avenue South Forcemain)
 - i. Progressive Estimate No. 3 to KPH Inc.
- d. Water, Sewer, Storm and Street ID No. 2019-7 (Maple Lakes Estates)
 - i. Progressive Estimate No. 7 to KPH Inc.

Motion: Approve the Consent Agenda.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed. Motion carried.

Agenda Item #5: Approval of City Council Meeting Minutes from January 4, 2021

Motion: Approve the City Council Meeting Minutes from January 4, 2021.

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed. Motion carried.

Agenda Item #6: Sheriff's Update | Craig Keller and Thomas Behm, Cass County Sheriff's Department

There was no update from the Sheriff's Department.

Agenda Item #7: Oath of Office for Recently Appointed City Councilmember Sarah Veit

Mr. Holper explained that during the last City Council meeting on January 4, 2021, Sarah Veit was appointed for the remainder of John Koerselman's Council seat until the special election on April 20, 2021 will take place. He added that Ms. Veit will be sworn in and once the oath of office is notarized, Ms. Veit will be able to act and vote as a City Councilmember. Sarah Veit recited and signed the oath of office and the document was notarized by Wendy Kopkie.



Agenda Item #8: Special Elections | Brenton Holper, City Administrator

Mr. Holper gave an update on the two special elections that will take place in Horace on March 9, 2021 and on April 20, 2021. The first special election will be held for two councilmember seats (Mr. Fenelon and Mr. Schmidt). The filing deadline has passed and there will be five names on the ballot.

The second special election will be held for the seat of former Councilmember Koerselman. The filing deadline for the petition is on February 15, 2021 at 4:00 pm. Anyone who would like to be added to the voting ballot will need 45 signatures. Mr. Holper recommended that candidates get more than 45 signatures just in case a few of the signatures are not valid. He added that on February 15, 2021, Horace's City Hall will be closed in observance of President's Day. Mr. Holper explained that he will leave his phone number at the door in case someone would like to drop off their application on that day. Until the special election on April 20, 2021, Councilmember Veit will be acting as the interim Councilmember.

The two elections could not be combined due to mandated filing deadlines. Cass County will be administering the elections. The County provided an agreement because they will cover staff time but will not cover equipment use. The agreement states that the cost for each election is estimated at \$5,000.

Motion: Approve the Cass County Agreement for the Upcoming Special Elections on March 9, 2021 and April 20, 2021.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed. Motion carried.

Agenda Item #9: Special Assessment Interest Refund | Becky Streitz, Finance Director

Ms. Streitz explained that the City made a commitment that Horace residents could pay off their special assessment interest free (for projects certified in 2020) if they would pay them off in full by the end of 2020. Ms. Streitz presented the list of residents who paid off their 2020 special assessments before the end of the year. Cass County charged those residents interest because their software did it automatically. Ms. Streitz asked the Council to approve reimbursement of the interest that was paid by the residents who paid off their 2020 special assessments (for projects certified in 2020). The combined total was \$885.88.

Motion: Approve the Reimbursement of the Interest that Was Paid by Residents who Paid Off Their 2020 Special Assessments for Projects Certified in 2020 as Presented by Staff.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed. Motion carried (4-0).

Agenda Item #10: Noise Ordinance | Brenton Holper, City Administrator

Mr. Holper explained that the City received complaints about construction noise. One complaint for example was a subcontractor who was framing a house outside at 9:00 pm. Another complaint the City received was that a subcontractor was siding a house at 11:30 pm. In Horace, construction noise is exempt from the noise ordinance.



There are several options that the Council could approach the ordinance revision. Option one could be summer and winter hours. Option two could be a little before sunrise and a little after sunset.

Councilmember Johnson suggested that a set time might be a solution for everyone. Mayor Peterson asked if other communities have construction timelines? Councilmember Veit suggested that the construction types should be differentiated because commercial construction is very different from residential construction. She added that outdoor residential work should be regulated because indoor commercial construction does not affect residents. A common timeframe for residential construction is 9:00 pm.

Mr. Holper concluded that he will work with the City's attorney and draft up an ordinance that will work for everyone which will also help the deputies enforcing it.

Agenda Item #11: Land Ordinance Consultant Selection | Brenton Holper, City Administrator

Mr. Holper explained that the City of Horace interviewed consultants to rewrite its land use ordinances. An RFQ (request for quotation) was closed a few weeks ago and six candidates (individuals or firms) applied for the project. Out of the six candidates, four were invited to interviews. The interview committee consisted of planning commission members, elected officials, and staff. Two of the four candidates were further reviewed after the interviews.

The front runner was a firm called Giffels Webster. Mr. Holper added that Giffels Webster is a reputable firm with an extensive background in writing and updating land use ordinances. The expertise matched what the City is looking for. Staff will work with them to draft up a contract and will present it when it is complete in about six weeks.

Agenda Item #12: Plan Review Fee | Brenton Holper, City Administrator

Mr. Holper explained that homebuilders have to get a building permit for any new built in Horace. The City currently charges a plan review fee which is 65% of the building permit cost (e.g., if a building permit costs \$1,000, the plan review fee would cost \$650.00). Staff compared communities in the surrounding areas and found a variety of different fee structures. Wahpeton charges 65% but West Fargo only charges 25% of the building permit for their plan review fee.

Mr. Holper suggested to lower the fee to around 35% to 40% because the City has costs tied to plan reviews (engineer and building inspector). Mayor Peterson emphasized that it is important that the City's costs were always covered. Mr. Holper concluded that he will bring a proposal of the new plan review fee to Council in the future.

Agenda Item #13: FY 2021 Water Projects | Brenton Holper, City Administrator & Jim Dahlman, City Engineer

Mr. Holper summarized the FY 2021 Water Projects. The first project is the waterline replacement to overhaul the Horace water system. The second project is the connection to Cass Rural Water. The City has applied for funding from the State Water Commission (SWC) for the projects and has also looked into low interest loans. Mr. Holper added that the City was not eligible for grant monies in the past because of an adverse audit opinion. The City was just named eligible recently after the "2019 audit's



results were clean". After the City's audit came back clean, the North Dakota Public Finance Authority declared the City of Horace eligible for funds again.

A subcommittee of the SWC met last week to review the projects that were submitted, and it was determined that the two Horace Water Projects will be eligible. The subcommittee decided that they will recommend funding (cost share of up to 60%-40% for the water line replacement project and 75%-25% cost share for the connection to Cass Rural water project) for the preliminary engineering costs tied to the two projects. The funding for the construction costs (it will also be a cost share) for the projects would be brought to the State Water Commission later in April. The City will continue to reach out to the City's legislators to make sure that they are aware of the importance of the projects.

Mr. Dahlman added that the other projects that were submitted to the SWC had their construction timeline in 2022. Horace's water projects have the construction timeline set in 2021. It was not clear if construction could start in 2021 if the City would receive funding from the SWC or if construction had to wait until 2022. Mr. Holper explained that the City would try to use a low interest loan to pay for the rest of the costs in order to avoid special assessing the residents.

Agenda Item #14: Engineering/Public Works | Jim Dahlman, City Engineer

- a. Plan preparation and general design work continues for Southdale Farms Third Addition. The plan is to bid that project out in the early spring of 2021.
- b. Staff continues to work with the Chestnut Drive residents to determine the problems that need attention. The project will be a rehabilitation not a reconstruction project.
- c. Terra Garden's Third Addition's developer's agreement is currently being discussed. Council will receive the preliminary engineering report during the next Council meeting on February 1, 2021.
- d. Staff will meet with the County on January 26, 2021 to discuss the extension of 63rd Avenue going east. The project will be bid out in February. The City will also work on a memorandum of understanding between the City of Horace and the County to determine specifics such as lighting, shared use path etc.
- e. Public Works reached out to Kindred to find out about their dewatering wells that were installed in some of their neighborhoods. Kindred's dewatering wells are a success because they are working and get the job done. Staff is looking into installing dewatering wells in Horace in the Adelman's Addition, Chestnut/Ironwood, and Dreamfield's neighborhoods. These neighborhoods have drainage issues. The company Water Smith Inc. in West Fargo recommended that test wells would be installed in the three Horace subdivisions to determine the water flow rate. The three test wells are estimated at a total of \$14,000. Mr. Holper added that the City would pay for this from the sale's tax fund which is designed to pay for infrastructure projects.

Agenda Item #15: City Administrator | Brenton Holper, City Administrator

- a. The City is working on developing a special assessment policy for Horace in collaboration with the consulting firm Stantec. The first public meeting to discuss the special assessment policy will be held in the beginning of February. More details will follow as they become available.
Governor Burgum adjusted the COVID-19 regulations and guidelines for North Dakota. If the



public meeting will be held in person in February, we encourage residents to continue to wear a mask during the meeting.

- b. Rapid COVID-19 tests are being made available to cities in North Dakota. The ND League of Cities is working with the State to help cities organize public COVID-19 testing events. The City of Horace is collaborating with the Horace Fire Chief to organize its first public COVID-19 testing event in the second week of February. More details will follow as they become available. The State is using COVID-19 Care Act relief money to purchase the rapid tests for cities.

Agenda Item #16: Portfolio Reports

- a. Mayor Peterson reported that he attended the State of the Cities event that was hosted by the FM Chamber on January 14, 2021. This is the first time that Horace participated in the annual event. Challenges, opportunities, growth, goals, and successes from the past year were discussed by the area's mayors. The group met in person but because of COVID-19 the event was streamed virtually. Mayor Peterson is looking forward to participating in the future.

Mayor Peterson added that the latest COVID-19 numbers in Horace have dropped to eight active cases. If the numbers continue to decrease, the City Council meetings will start being held in-person soon.

- b. Councilmember Veit received an announcement from the Garrison Diversion Conservancy District that the Horace Park District was awarded a matching recreation grant. The grant will be used for the phase two development of Meadowlark Park. She wanted to congratulate the Horace Park District to winning this grant.
- c. Councilmember Fenelon explained that as of 2021, Horace is the chairman of the MetroCOG executive board and committee. Councilmember Fenelon will be the president of MetroCOG committee for one year.
- d. Councilmember Johnson welcomed Councilmember Veit and added that she is looking forward to collaborating with her in the future.
- e. Councilmember Schmidt asked if the City of Horace will be writing a letter of support for the upcoming bonding bill and if the City has been in contact with its legislators about this upcoming bill? Mayor Peterson explained that the bonding bill that was presented the previous week was dropped. A new and improved bonding bill was presented on January 18, 2021. Staff is currently reviewing the new bill. The City will continue to be in contact with its legislators to support a bonding bill. Mr. Holper added that the deadline for introducing new bills has passed and no new bills will be introduced going forward.

The North Dakota League of Cities will keep the cities posted on updates and progress. They will also update the cities on needed support letters and testimonies.

Agenda Item #17: Executive Session – BR Development Company, LLC v. City of Horace | Lukas Croaker, City Attorney

The Executive Session started at 7:40 pm and was attended by Mayor Peterson, Councilmember Chelsey Johnson, Councilmember Schmidt, Councilmember Veit, Councilmember Fenelon, City Attorney Lukas Croaker, City Engineer Jim Dahlman, and City Administrator Brenton Holper. The executive session was



regarding attorney consultation related to BR Development Company; LLC v. City of Horace pursuant to N.D.C.C. § 44-04-19.1(2).

Motion: Approve Entering the Executive Session Regarding Attorney Consultation Related to BR Development Company, LLC v. City of Horace Pursuant to N.D.C.C. § 44-04-19.1(2).

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed. Motion carried.

The City Council resumed the regular agenda at 8:26 pm.

Motion: Approve Entering the Regular Session at 8:26 pm.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed. Motion carried.

Agenda Item #18: Adjourn

Motion: Approve Meeting Adjourn at 8:26 pm.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed. Motion carried.

The Next City Council Meeting is February 1, 2021 at 6:00 pm