



Horace City Council Meeting Minutes

The Horace City Council met on April 1, 2019 at 6pm at City Hall. Those present were Kory Peterson, David Fenelon, Chelsey Johnson, and Bryan Schmidt. John Koerselman was absent.

The Pledge of Allegiance was recited.

Mayor Peterson called the meeting to order.

Agenda Item #3: Approve Regular Agenda

Discussion: Mayor Peterson presented the regular agenda for review and approval. Mr. Holper requested the addition of two items: 6a – Sherriff’s update and 6b – Update on Councilmember Koerselman.

Motion: Approve the regular meeting agenda with the addition of item 6a – Sherriff’s update and 6b – Update on Councilmember Koerselman.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed.

Agenda Item #4: Approve Consent Agenda

Discussion: None.

Motion: Approval of the Consent Agenda as presented.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Agenda Item #5: Approval of City Council Meeting Minutes from March 18, 2019.

Discussion: The City Council Meeting Minutes from March 18, 2019 were presented to the City Council. Councilmember Johnson noted that her name was misspelled on page 1.

Motion: Approve the City Council Meeting Minutes from March 18, 2019 with the correction to Councilmember Johnson’s name on page 1.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Agenda Item #6: Public Comment Period

Discussion: Fred Hartson expressed concerns regarding the detour route for the 76th Ave Roundabout project. He requested that stop signs be placed at the intersection of 64th Ave. S. and 81st St. and that the City consider routing the detour one mile north to 52nd Ave.

Action taken: None.



Agenda Item #6a: Sherriff's Update

Discussion: Deputy Nettetstad provided an update on Cass County Sheriff's Department activity in Horace for the month of March. A total of 115 calls were made, 34 traffic stops, and the deputies worked with the City regarding flooding along Memory Lane.

Action taken: None.

Agenda Item #6: Public Comment Period

Discussion: Mayor Peterson provided an update on Councilmember Koerselman to the rest of the City Council and the public. Councilmember Koerselman was involved in a plane crash late Fall of 2018 and suffered a concussion and other symptoms. He was been minimally involved with City Council activities since. He is expected to be unavailable for at least another two months and hopes for his health to return to where he can fully participate on the City Council again.

Action taken: None.

Agenda Item #7: Declaration of State of Emergency for Potential Flooding

Discussion: Mr. Croaker presented a resolution declaring a state of emergency for potential flooding. If flooding was to occur, it is expected to last longer than the Mayor's authority to declare an emergency without the City Council's action, which is 7 days.

Motion: Approve a resolution declaring a state of emergency for potential flooding as presented.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed

Agenda Item #8: Appointed Official Employment Termination

Discussion: Mayor Peterson provided an update to the City Council regarding the termination of Vance Kemmer, City Auditor. Mr. Kemmer's termination was due to the findings in the 2016/2017 Audit, the City receiving notification from the ND Public Finance Authority that it is no longer eligible for State Revolving Fund (SRF) loans, and the lack of supervising the Assistant City Auditor (significant amount of billing errors). Mr. Kemmer signed a termination letter and was given the opportunity to resign.

Agenda Item #9: 2019 Flood Protection Operations – Mutual Aid Agreement

Discussion: Mr. Holper and Mr. Croaker presented the 2019 Flood Protection Operations – Mutual Aid Agreement with Cass County and the City of West Fargo. This agreement outlines responsibilities tied to the Sheyenne River and Sheyenne Diversion within the participating jurisdictions. If flooding was to occur in Horace, the agreement provides the City of West Fargo to address the flooding issue with approval from a City of Horace official (Mayor, City Administrator, or the Public Works Supervisor). Chris Brungardt, Public Works Director for the City of West Fargo discussed flood concerns with the City Council and provided feedback on the authority levels for a single incident and aggregate of incidents.

Motion: Approve the 2019 Flood Protection Operations – Mutual Aid Agreement, with the authority



levels of the City Administrator, Mayor, and Public Works Supervisor being \$10,000 for a single incident and \$50,000 as an aggregate to address flooding issues.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed (3-0).

Agenda Item #10: Cub Creek 1st Addition (Preliminary Plat & Rezone)

Discussion: Rezone of Cub Creek 1st Addition from AG (Agriculture) to R6 (Residential 6).

Public Hearing: Opened at 6:33pm and closed at 6:33pm.

Motion: Approve the rezone of Cub Creek 1st Addition from AG (Agriculture) to R6 (Residential 6).

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed.

Discussion: Mr. Lower presented the Preliminary Plat for the City Council's consideration. Mr. Lower noted that the developer has been responsive to the City's feedback throughout the planning process.

Public Hearing: Opened at 6:35pm and closed at 6:41pm. Don Dabbert Jr. discussed the approach used for lot sizes within the proposed Cub Creek development.

Motion: Approve the preliminary plat as proposed.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #11: Maple Lakes Estate Addition (Rezone)

Discussion: Mr. Croaker presented the rezone request for the Maple Lakes Estate Addition.

Public Hearing: Opened at 6:43pm and closed at 6:43pm. No comments were received.

Motion: Approve the rezone from R2 (Residential 2) to R4 (Residential 4) as proposed.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #12: Visto's 3rd Addition Final Plat

Discussion: Mr. Lower presented the final plat of the City Council's consideration. Conditions were recommended from the Planning Commission, which include – 1) Provide a landscape plan compliant with the 17.8.8 of the Revised Ordinances of 2003; 2) Coordinate with Cass County on any necessary approach permits or proposed changes to approved approach permits; 3) Southeast Cass Rural Water District Approves the Development Prior to the Signing of the Developer's Agreement.

Public Hearing: Opened at 6:47pm and closed at 6:47pm. No comments were received.

Motion: Approve the final plat with the recommended conditions.



1st Motion: Councilmember Johnson

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Agenda Item #13: Visto's 3rd Industrial Addition Special Assessment Improvement Districts

Discussion: Mr. Dahlman presented the proposed special assessment district for Visto's 3rd Industrial Addition for Water and Sanitary Sewer.

Motion: Approve the resolution creating the Visto's 3rd Industrial Addition Special Assessment Improvement District for Water and Sanitary Sewer.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Discussion: None

Motion: Approve the resolution directing the engineer to prepare the report on the Visto's 3rd Industrial Addition Special Assessment District.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Discussion: Mr. Dahlman presented the proposed special assessment district for Visto's 3rd Industrial Addition for Streets and Drainage.

Motion: Approve the resolution creating the Visto's 3rd Industrial Addition Special Assessment Improvement District for Streets and Drainage.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #14: Storm Sewer & Street Improvement District No. 2019-2 (Roundabout & 76th Ave)

Discussion: Mr. Dahlman presented the bid results for the project and discussed the low bid. Numbers for the bid were below the engineering estimate. Mr. Holper discussed the alternate bid for storm sewer improvements in the Adelman's neighborhood. He recommended Council did not award the alternate as a poll of the neighborhood showed the majority of the neighbor was not in support.

Motion: Accept the Northern Improvement as the base bid and deny doing the alternate bid

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.



Agenda Item #15: Sanitary, Storm Sewer & Street Improvement District No. 2019-1 (Lakeview Drive & 79th Ave.)

Discussion: Mr. DeVillers presented the plans and specifications for the Sanitary, Storm Sewer & Street Improvement District No. 2019-1

Motion: Approve the plans & specifications for Sanitary, Storm Sewer & Street Improvement District No. 2019-1

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Discussion: None

Motion: Advertise for Bids for Sanitary, Storm Sewer & Street Improvement District No. 2019-1.

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed.

Agenda Item #16: Storm Sewer & Street Improvement District No. 2019-3 (63rd St. from 81st Ave. to 76th Ave.)

Discussion: Mr. DeVillers discussed the engineering services agreement for design and construction in the Storm Sewer & Street Improvement District No. 2019-4. Mr. Holper explained that the project also includes design for 63rd Ave. all of the way down to 81st Ave. to account for the proposed Cub Creek 1st Addition.

Motion: Approve the Engineering Services Agreement as proposed.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Discussion: Mr. DeVillers introduced a resolution to approving plans and specs for the Storm Sewer & Street Improvement District 2019-3 (63rd St. from 81st Ave. to 76th Ave.) as proposed.

Motion: Approve the plans and specifications for the Storm Sewer & Street Improvement District 2019-3 (63rd St. from 81st Ave. to 76th Ave. as proposed.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Discussion: Mr. DeVillers introduced a resolution to advertise for bids for Storm Sewer & Street Improvement District 2019-3.

Motion: Approve the City Auditor to advertise the Storm Sewer & Street Improvement District 2019-3 (63rd St. from 81st Ave. to 76th Ave. project for bids.

1st Motion: Councilmember Schmidt



2nd Motion: Councilmember Fenelon

Action taken: All in favor, none opposed.

Agenda Item #17: West Fargo School District Addition Rezone First Reading

Discussion: Mr. Croaker presented the rezone request to change the zoning on the parcel to feature the stormwater retention pond for the school from AG (Agriculture) to PF (Public Facilities).

Motion: Approve the rezone of the West Fargo School District Addition.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #18: Food Truck Ordinance

Discussion: Mr. Lower presented the Food Truck Ordinance for second reading. At the March 18, 2019, the City Council requested that Mr. Lower check with the ND health department for feedback on this ordinance. No comments were received from the ND health department or Cass County Public Health.

Motion: Approve the second reading for the proposed Food Truck Ordinance.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Agenda Item #19: 2019 Financial Planning Assistance On-Call Agreement

Discussion: Mr. Holper presented a proposed agreement with AE2S for on-call auditor assistance and financial planning assistance. The agreement is for up to \$25,000.

Motion: To approve the 2019 Financial Planning Assistance On-Call Agreement with AE2S for up to \$25,000 as proposed.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #20: Appointment of the City Auditor

Discussion: Mayor Peterson proposed that Mr. Holper be appointed as the Interim City Auditor. Mr. Holper also would retain the City Administrator title.

Motion: Appoint Mr. Holper as the Interim City Auditor.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed

Agenda Item #21: City Administrator Update

Discussion: Mr. Holper informed the City Council that proposals are being obtained from recruiting firms



for the Finance Director position. This position is new and replaces the City Auditor position. Sand bags and sand are available for the community if needed for free. This is located just to the west of the City Shop. The State Legislators did not renew funding for the ND Department of Commerce's Partners in Marketing grant. The City is a recipient of this grant program and will need to have until June 30th, 2019 to expend these funds.

Mr. Holper proposed that the City return \$40,000 to the former developer of Alivia Acres, as this is the location of Maple Lakes Estates and a check for the same amount is expected to be submitted to the City soon.

Motion: Pay back the \$40,000 to the former developer of Alivia Acres.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed

Agenda Item #21: Portfolio Reports

Mayor Peterson: Discussions are still occurring in regard to the diversion and its impacts on the City. A general permit is being looked into in order to have temporary Levey's installed if needed.

Councilmember Koerselman: Absent

Councilmember Fenelon: None.

Councilmember Johnson: Expressed that Mrs. Perkins (the City's new Communications Specialist) has been transitioning well and is getting up to speed on special events.

Councilmember Schmidt: Reminded the City Council that the new water and sewer rates will be applied to the next utility bill that is due in May. Forestry, Vector, and Trash rates have been applied in the utility bills due in April.

Agenda Item #23: Executive Session

Motion: Executive session under North Dakota Century Code Section 44-04-19.2 for a confidential and privileged attorney-client consultation permitted pursuant to North Dakota Century Code Section 44-04019.1(2) to receive advice from legal counsel on the City's legal risks, strengths, and weaknesses related to support for the Fargo-Moorhead Area Diversion Project – Plan B and potential ramifications and legal recourse through civil litigation or adversarial administrative proceedings, and to discuss attorney work product pursuant to 44-04-19.19(1) related to the Diversion Project.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Discussion: Re-opening of the regular City Council meeting. No action was taken in the executive session.

Motion: To reopen the regular City Council meeting.

1st Motion: Councilmember Fenelon



2nd Motion: Councilmember Johnson.

Action taken: All in favor, none opposed.

Agenda Item #24: Adjourn

Discussion: None.

Motion: To adjourn the meeting.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

Action taken: All in favor, motion carried. Meeting adjourned at 8:27pm.

Kory Peterson, Mayor

Brenton Holper, Interim City Auditor