



Horace City Council Meeting Minutes

Due to COVID-19 and social distancing, the Horace City Council meeting took place online on May 4, 2020 @ 6:00 pm. Those present on the Zoom video conference call were Mayor Kory Peterson, Councilmember Chelsey Johnson, Councilmember Bryan Schmidt, Councilmember John Koerselman, Councilmember Dave Fenelon. Others present included: Jim Dahlman, Lukas Croaker, Brenton Holper, Barrett Voigt and Russ Sahr.

Mayor Peterson called the meeting to order.

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. Sanitary, Storm Sewer and Street Improvement District No. 2019-1 (Lakeview Drive, 79th Avenue and 63rd Street) & Storm and Street Improvement District No. 2019-3 (63rd Street)
 - i. Change Order No. 2 for \$25,205.88 to modify the Lakeview Drive and High School Entrance and 63rd Street and 82nd Street Intersection.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Koerselman

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

Agenda Item #5: Approval of City Council Meeting Minutes from April 20, 2020

Motion: Approve City Council Meeting Minutes from April 20, 2020.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

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

Agenda Item #6: Public Comment

No comments.

Agenda Item #7: Sheriff's Update

Mr. Holper explained that the Sheriff's report will be available for the next City Council Meeting on May 18, 2020. Mr. Holper addressed the issue of illegal parking and traffic violations in the City which will be enforced by written citations from the Sheriff's department going forward. A municipal court and a municipal judge were also put in place.



Mayor Peterson added that a resident in Sleepy Hollow reported teenagers driving ATVs after dark without their lights on. Deputy Sheriff Krause was to investigate the incident and report back. Councilmember Koerselman suggested to have the Sheriffs organize an Off-Highway Vehicle training program for this summer. Mayor Peterson said that he would ask Deputy Sheriff Krause about a training. Councilmember Johnson added that it should be featured in the next issue of Horace Happenings. Councilmember Koerselman recommended that the rules be listed in Horace Happenings.

Agenda Item #8: Drainage Issues | Brenton Holper, City Administrator

Mr. Holper discussed drainage issues throughout the City. Drainage problems around Park Avenue Drive and 3rd & 4th Street East, River's Edge, Chestnut Drive and Ironwood Drive, and Adelman Way are already being addressed. The area of Old River Oxbow, Northwood and Southwood have not been addressed yet.

Mr. Dahlman mentioned a few solutions for the Old River Oxbow such as a 6 ft wide concrete lining. He pointed out that concrete tiling or pipe systems would be more costly than concrete lining. Mayor Peterson concluded that the issues would need to be taken care of and a solution will be found in the future.

Agenda Item #9: Water, Sewer, Storm and Street Improvement District No. 2020-2 (81st Avenue) | Jim Dahlman, City Engineer & Lukas Croaker, City Attorney

Mr. Dahlman summarized the bid opening for the Water, Sewer, Storm and Street Improvement District No. 2020-2 (81st Avenue) that took place on April 30, 2020. The project received bids from four contractors.

Dakota Underground was the lowest bidder with a bid of \$1,517,978.19 for section 1 and a bid of \$388,730.58 for section 2. The total base bid was \$1,906,708.77. Mr. Dahlman recommended to award the project to Dakota Underground as they were the lowest bidder and have worked for the City before.

Motion: Approve the bid of \$1,906,708.77 for the Water, Sewer, Storm and Street Improvement District No. 2020-2 (81st Avenue) and award the project to Dakota Underground.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Koerselman

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

Agenda Item #10: Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition) | Jim Dahlman, City Engineer & Lukas Croaker, City Attorney

Mr. Dahlman summarized the bid opening for the Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition) that took place on April 30, 2020. The project received bids from three contractors.

KPH Inc. was the lowest bidder with a bid of \$4,524,168.50. KPH Inc. successfully completed work for the City in the past and Mr. Dahlman recommended that the Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition) project would be awarded to KPH Inc.



Motion: Approve the bid of \$4,524,168.50 for the Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition) and award the project to KPH Inc.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Koerselman

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

Mr. Dahlman presented the Engineering Service Agreement for the Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition). The estimate included 132 working days for \$329,000.00. The amount for the design engineering was estimated at \$173,471.32 which brings the net costs not to be exceeded to a total of \$502,471.32.

Motion: Approve the Engineering Service Agreement for the Water, Sewer, Storm and Street Improvement District No. 2019-7 (Maple Lake Estates Addition).

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

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

Agenda Item #11: WSSSt. ID No. 2020-4 ID Agreement Amendment (Lost River 5th Addition) | Lukas Croaker, City Attorney

Mr. Croaker presented the WSSSt. ID No. 2020-4 ID Agreement Amendment (Lost River 5th Addition). Originally the developer agreed to pay the City the total amount of \$662,249.87 in lieu of the land dedication for the parks. The developer requested to subtract \$114,660.45 for design engineering for Meadow Park. Mr. Croaker recommended to deny the request because neither the Park Board nor the City Council gave authority to the developer to design the parks.

Mr. Croaker explained the second request which was to revise section 14 of the WSSSt. ID No. 2020-4 ID Agreement (Lost River 5th Addition). The original agreement stated that the developer will maintain Lot 14 Block 3 which is a sewer and storm lot. The plat however indicates that the City will own Lot 14 Block 3. Mr. Croaker recommended to approve the WSSSt. ID No. 2020-4 ID Agreement Amendment (Lost River 5th Addition) because the developer will not need to maintain a lot owned by the City.

Motion: Deny request for in-kind contributions towards cash in lieu and approve City ownership of pond lot (Lot 14, Block 3 of the Lost River 5th Addition).

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Koerselman

Action taken: Three in favor, Councilmember Johnson abstained. Motion carried (3-0).

Agenda Item #12: Water, Sewer, Storm and Street Improvement District No. 2020-4 (Lost River 5th Addition) | Jim Dahlman, City Engineer & Lukas Croaker, City Attorney

Mr. Dahlman summarized the bids for the Water, Sewer, Storm and Street Improvement District No. 2020-4 (Lost River 5th Addition) that took place on April 30, 2020. The project received bids from three contractors.



Dakota Underground was the lowest bidder with a bid of \$5,631,024.39. Mr. Dahlman recommended to award the project to Dakota Underground as they were the lowest bidder and have worked for the City before.

Motion: Approve the bid of \$5,631,024.39 for the Water, Sewer, Storm and Street Improvement District No. 2020-4 (Lost River 5th Addition) and award the project to Dakota Underground.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Koerselman

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

Mr. Dahlman presented the Engineering Service Agreement for the Water, Sewer, Storm and Street Improvement District No. 2020-4 (Lost River 5th Addition). The estimate included 115 working days for \$410,000.00. The amount for the design engineering was estimated at \$20,000.00 which brings the net costs not to be exceeded to a total of \$430,000.00.

Motion: Approve the Engineering Service Agreement for the Water, Sewer, Storm and Street Improvement District No. 2020-4 (Lost River 5th Addition).

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

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

Agenda Item #13: Designate Depository of Public Funds | Brenton Holper, City Administrator

Mr. Holper presented the Depository of Public Funds. The City's checking and savings accounts are with Starion Bank, the City's bond monies are with First International Bank and Starion Bank.

Motion: Approve Starion Bank and First International Bank as the City's Depository of Public Funds for the next two years.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

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

Agenda Item #14: Establishment of the Horace Building Authority | Lukas Croaker, City Attorney

Mr. Croaker explained that the Horace Building Authority needs to be established for financings such as a new City Hall. The City Council would act as the Horace Building Authority and the City Administrator would act as the Secretary.

Motion: Approve the Establishment of the Horace Building Authority.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Koerselman

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

Agenda Item #15: Enno Enterprises – Overpayment of Special Assessments | Brenton Holper, City Administrator

Mr. Holper summarized that in 2013 Enno Enterprises sold two lots, but they have continued to pay for special assessments. The new owners of the two lots have also been paying for special assessments. City staff has worked with the Cass County's Tax Equalization office to resolve the issue and has concluded



that Enno Enterprises has overpaid the total amount of \$18,129.07 which will be refunded by the District Improvement Fund not the General Fund.

Motion: Approve the refund of \$18,129.07 to Enno Enterprises for special assessment overpayment.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

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

Agenda Item #16: Engineering / Public Works | Jim Dahlman, City Engineer

- a. The bid opening for the Sanitary Sewer Improvement District 2018-01 (Service to 100th Avenue South Area) will be taking place on May 28, 2020.
- b. The Sanitary Sewer Improvement District 2019-04 (Service to 64th Avenue Area) is still in the developing construction stage.
- c. Mr. Fenelon asked to remind the Maple Grove developer to finish up landscaping as soon as possible now that the weather has improved. Mr. Dahlman said that he would remind him.
- d. On April 20, 2020, the construction for the North Dakota Parks and Recreation Recreational trail has started. Earthwork and the aggregate base have been completed. Concrete forms are being constructed. The completion date is set for the middle of June.
- e. Lakeview Drive and 79th Avenue earthwork continues. The project is 39% complete.
- f. 63rd Street earthwork is complete, and the aggregate base installation continues.
- g. Streetlight installation will start next week in the Adelman Addition (Roundabout and 76th Avenue).
- h. Streetlight installation and earthwork continues in the Visto Industrial Additions.
- i. Cub Creek earthwork, pipework and the aggregate base were completed. Curbs and gutter are almost completed. Paving will begin by the end of the week.
- j. There was a water main break on Monday night (April 27, 2020) at the corner of Sheyenne Street and Park Drive. The break was caused by a bow in the water main which the contractor repaired with a temporary sleeve. The temporary sleeve did not seal the break because the bow was too severe. Public Works and the City decided to replace that section of the water main. The street has been temporarily filled with gravel and will be paved at a later date.

Agenda Item #17: City Administrator | Brenton Holper, City Administrator

- a. City Hall has reopened to the public after COVID-19 restrictions have been updated.
- b. Hydrant flushing was interrupted due to the water main break. Hydrant flushing will continue this week.
- c. The City's audit is expected to take longer, due to COVID-19 the auditors are not able to come onsite which will delay the auditing process.
- d. Interviews will be taking place this week for the Communication Specialist position, the Building Inspector's position, and the Public Works position.

Agenda Item #18: Portfolio Reports

- a. Mayor Peterson – no updates.
- b. Councilmember Koerselman – no updates.
- c. Councilmember Fenelon – no updates.



d. Councilmember Johnson – Horace Happenings is on track. It was sent to the printer and will be in mailboxes this week. Bean Days will still be taking place but on a smaller scale due to COVID-19 concerns.

e. Councilmember Schmidt – Horace has a Nextdoor account and the latest number listed from the Census bureau showed that North Dakota has a participation rate of 56%. Horace current census participation rate is at 75%. Councilmember Schmidt will be presenting at the FM Realtors Association meeting on May 19, 2020. He will give an update on Horace housing constructions projects.

Agenda Item #19: Executive Session – Dreamfields Land Dispute | Lukas Croaker, City Attorney

Mr. Croaker explained that there will be an executive session about the Dreamfields land dispute. He asked that the City Council meeting adjourns and that everyone joins the executive session after a five-minute break.

The executive session started at 7:41 pm and was attended by Mayor Peterson, Councilmember Chelsey Johnson, Councilmember Bryan Schmidt, Councilmember John Koerselman, Councilmember Dave Fenelon, City attorney Lukas Croaker, and City Administrator Brenton Holper. The executive session was regarding attorney consultation and discussion of potential negotiation strategy related to Constellation Development, LLC v. City of Horace; Houston Engineering, Inc.; and KPH, Inc., pursuant to N.D.C.C. § 44-04-19.1(2)&(9) ended at 7:50 pm.

The City Council resumed the regular agenda at 7:50 pm.

Motion: Authorize execution of the release agreement.

1st Motion: Councilmember Koerselman

2nd Motion: Councilmember Fenelon

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

Agenda Item #20: Adjourn

Motion: Approve meeting adjourn at 7:51 pm.

1st Motion: Councilmember Koerselman

2nd Motion: Councilmember Schmidt

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

The Next City Council Meeting is May 18th, 2020 at 6:00 pm