



### **Horace City Council Meeting Minutes**

The Horace City Council met on October 19, 2020 @ 6:00 pm at the Community Senior Center in Horace. Those present were Mayor Kory Peterson, Councilmember Bryan Schmidt, Councilmember Chelsey Johnson, and Councilmember Dave Fenelon. Councilmember John Koerselman was absent. Others present included: Brenton Holper, Jim Dahlman, Barrett Voigt, and Lukas Croaker.

Mayor Peterson called the meeting to order at 6:02 pm

The pledge of allegiance was recited.

#### **Agenda Item #3: Approve Regular Agenda**

**Motion:** Approve Regular Agenda.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> 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. Pledge Reports
- d. 3rd & 4th Street Drainage Improvements W19-03-147
  - i. Progressive Estimate No. 2
  - ii. Final Balancing Change Order No. 1
- e. Street Improvement District No. 2017-7 (Maple Lane, Maple Circle and 75<sup>th</sup> Street)
  - i. Final Progressive Estimate No. 10
  - ii. Balancing Change Order No. 5
- f. Storm Sewer and Street Improvement District No. 2019-2 (76<sup>th</sup> Avenue & Roundabout)
  - i. Progressive Estimate No. 9

**Motion:** Approve Consent Agenda.

**1<sup>st</sup> Motion:** Councilmember Fenelon

**2<sup>nd</sup> Motion:** Councilmember Johnson

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

#### **Agenda Item #5: Approval of City Council Meeting Minutes from October 5, 2020**

**Motion:** Approve City Council Meeting Minutes from October 5, 2020.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Fenelon

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



**Agenda Item #6: Approval of the Special City Council Meeting Minutes from October 12, 2020**

Councilmember Schmidt asked why the minutes still had a draft watermark? Mr. Holper responded that the watermark will be removed once Council approved the minutes.

**Motion:** Approve the Special City Council Meeting Minutes from October 12, 2020.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Johnson

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

**Agenda Item #7: Public Comment**

No comments.

**Agenda Item #8: Sheriff's Update | Ross Krause/Thomas Behm, Cass County Sheriff's Department**

No update.

**Agenda Item #9: SSSSt. ID No. 2019-1 (Lakeview Drive) Assessment Appeal and Objection Hearing | Lukas Croaker, City Attorney**

Mr. Croaker presented the SSSSt. ID No. 2019-1 (Lakeview Drive) Assessment Appeal and Objection Hearing. He explained that the residents that filed a written protest with the City will have the opportunity to present their objection to the City Council. The Special Assessments Committee approved the proposed assessments on September 23, 2020.

Mayor Peterson opened the public hearing at 6:08 pm. Levi Bachmeier, Business Manager for the West Fargo School District, protested the proposed SSSSt. ID No. 2019-1 (Lakeview Drive) assessments. Mr. Bachmeier stated that multiple attempts were made to collaborate with the City of Horace. After a meeting on March 5, 2020, the WF School Board expected a communication from elected officials regarding a proposed methodology of how this project could be assessed. The methodology was never sent. Eventually the School District received a letter that as property owners, they should review the final proposed special assessment in the newspaper and attend the objection hearing in September. The School District protested the proposed assessment amounts during the Special Assessment Commission meeting on September 23, 2020. The School District also submitted a written objection letter to the Special Assessment Commission. Mayor Peterson closed the public hearing at 6:12 pm.

Mr. Croaker explained that City Council could either confirm the proposed assessment list, amend, alter the list, or table it to get additional information. Councilmember Schmidt asked if the actual construction cost were on or under budget? Mr. Dahlman explained that the construction costs came in as projected.

**Motion:** Approve the SSSSt. ID No. 2019-1 (Lakeview Drive) Assessment List as Recommended by the Special Assessment Committee.

**1<sup>st</sup> Motion:** Councilmember Fenelon

**2<sup>nd</sup> Motion:** Councilmember Johnson

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



**Agenda Item #10: SSSSt. ID No. 2019-3 (63<sup>rd</sup> Street) Assessment Appeal and Objection Hearing | Lukas Croaker, City Attorney**

Mr. Croaker presented the SSSSt. ID No. 2019-3 (63<sup>rd</sup> Street) Assessment Appeal and Objection Hearing and explained that the procedure would be the same as SSSSt. ID No. 2019-1. Mayor Peterson opened the public hearing at 6:16 pm. Levi Bachmeier, Business Manager for the West Fargo School District, protested the proposed SSSSt. ID No. 2019-3 (63<sup>rd</sup> Street) assessments. Mr. Bachmeier stated that the objection to the assessment was the same as the objection to the Lakeview Drive special assessment. He added that up to the March 5, 2020 meeting, the tentative assessment to the district would be assessed at 150%.

Mr. Dahlman stated that 150% was an effort to recognize that the school requested this project. Mr. Holper explained that many conversations took place with the School District and that the School District was aware about the assessment amounts. Mr. Croaker added that the focus should not be on the 150% because the amount would be the same and it was not an over-assessment. The School District was assessed the benefit that the Special Assessment Commission determined.

Don Dabbert explained that he is the adjoining property owner. He protested the assessment and suggested that a different methodology was used. He added that he did not ask for a three-lane road. The roads in Cub Creek are normally \$100 per foot. This road (SSSt. ID No. 2019-3) cost \$400 per foot. Mr. Dahlman explained that Equal Units were used to determine the special assessment amount and it would have been unfair to Cub Creek otherwise. Mr. Dahlman added actual construction cost came in right around the estimated budget. Mayor Peterson close the public hearing at 6:24 pm.

**Motion:** Approve the SSSSt. ID No. 2019-3 (63<sup>rd</sup> Street) Assessment List as Recommended by the Special Assessment Committee.

**1<sup>st</sup> Motion:** Councilmember Johnson

**2<sup>nd</sup> Motion:** Councilmember Schmidt

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

**Agenda Item #11: SSSSt. ID No. 2019-2 (Roundabout and 76<sup>th</sup>) Assessment Appeal and Objection Hearing | Lukas Croaker, City Attorney**

Mr. Croaker presented the SSSSt. ID No. 2019-2 (Roundabout and 76<sup>th</sup>) Assessment Appeal and Objection Hearing and explained that the procedure would be the same as the last two special assessment objection hearings. Mayor Peterson opened the public hearing at 6:26 pm. Resident Sharon Arnold stated that she was assessed for 9.98 acres which the City called 9.98 building units. Her land is considered agricultural land and that the property has a 200-foot setback that she was not allowed to build on. Ms. Arnold stated that her assessment amount should be reduced by 36% because of the setback plus the additional set up on County Road 8 which would reduce the assessment by another half an acre. Her total assessment should be closer to 5.5 acres. Mr. Croaker stated that Ms. Arnold's property could be rezoned, and that she could then build on it because the setbacks would be less.

Resident Marie Laufenberg asked if properties at 2 acres or less were assessed around \$425? Mr. Dahlman said that the amount was around that number. Ms. Laufenberg explained that she was assessed for 3.89 acres and that the amount should be closer to \$850 for 4 acres. Ms. Laufenberg asked if the area she lives in would be assessed again in the future, if the City will send out letters because not



many people read the newspaper anymore? Councilmember Schmidt responded that sending out letters is not a requirement but that the City will try to do that. Mayor Peterson added that the City is looking into the possibility on the legislative level of future notices being posted on the City's website.

Resident Martin Hochhalter explained that he wrote a letter to the City contesting the special assessment. He said that he would like to see another method on how special assessments are calculated and that he only drives one car around the roundabout, not several. He was assessed for close to four acres and does not have any ambitions to subdivide his property. Councilmember Schmidt explained that Mr. Hochhalter was assessed for how much land he owns, not on how many cars he drives into the roundabout. Mr. Croaker added that the Committee discussed several assessment options and that the Commission makes the assessment on what is fair to all residents.

Resident Harvey Brakken stated that he was assessed \$115,000 and that the amount is too high. He paid \$500 for this land 25 years ago. Right now, Mr. Brakken's taxes are at \$20.00 per acre and his taxes will increase to \$41-\$42.00 per acre. Another gentleman asked who would be responsible for the special assessment when the land gets sold? Mr. Croaker explained that the assessment amount will stay with the property. Mayor Peterson closed the public hearing at 6:55 pm.

Mayor Peterson asked how much the City contributed towards this project? Mr. Dahlman replied that the County put \$1M towards it. The City of Horace contributed \$1M from its sales tax fund as well as an overassessment of \$250,000 on City owned property.

**Motion:** Approve the SSSSt. ID No. 2019-2 (Roundabout and 76<sup>th</sup>) Assessment List as Recommended by the Special Assessment Committee.

**1<sup>st</sup> Motion:** Councilmember Fenelon

**2<sup>nd</sup> Motion:** Councilmember Schmidt

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

#### **Agenda Item #12: WSSSt. ID No. 2019-5 (Visto Industrial) Assessment Appeal and Objection Hearing | Lukas Croaker, City Attorney**

Mr. Croaker presented the WSSSt. ID No. 2019-5 (Visto Industrial) Assessment Appeal and Objection Hearing which included the same procedure as the last three objection hearings. Mr. Croaker explained that there was one objection which was already amended during the Special Assessment Commission meeting. Mayor Peterson opened the public hearing at 6:58 pm. No objections were received. Mayor Peterson closed the public hearing at 6:58 pm.

**Motion:** Approve the WSSSt. ID No. 2019-5 (Visto Industrial) Assessment List as Recommended by the Special Assessment Committee.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Johnson

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

#### **Agenda Item #13: Water Purchase Ordinance | Brenton Holper, City Administrator**

Mr. Holper presented the 1<sup>st</sup> reading of the Water Purchase Ordinance and explained that staff has been looking at better water quality options for Horace water users for years. Councilmember Schmidt and Mr. Holper met with Cass Rural Water representatives to work out a water purchase agreement. Mr.



Croaker added that the Water Purchase Ordinance states that the City of Horace will purchase water from Cass Rural Water. The term agreement cannot exceed 40 years which is set by the Century Code, but the City can shorten the term in the agreement. After the second reading, a notice that the ordinance being approved will be published in the local newspaper.

Councilmember Schmidt asked if the ordinance would prevent residents from receiving water from their own wells? Mr. Croaker stated that the ordinance would not prevent residents from receiving water from their own wells.

**Motion:** Approve the Water Purchase Ordinance as Presented by Staff.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Fenelon

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

**Agenda Item #14: Gas Franchise Ordinance (Northern States Power) | Brenton Holper, City Administrator**

Mr. Holper presented the 2<sup>nd</sup> reading of the Gas Franchise Ordinance (Northern State Power). There were no changes made or comments received. The franchise fee is a 2% fee that the gas company will pay to the City which is the same fee that other utilities pay. Councilmember Fenelon added that the utility companies can therefore work in the City's easements without having to acquire a permit every time.

**Motion:** Approve the Gas Franchise Ordinance (Northern States Power) as Presented by Staff.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Johnson

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

**Agenda Item #15: Terra Gardens 3<sup>rd</sup> Addition Plat | Barrett Voigt, Community Development Director**

Mr. Voigt explained that there was a rezone application submitted for this agenda item. Mr. Voigt asked if the Council would like to take action on the 1<sup>st</sup> reading? He concluded that the public hearing will be done during the next City Council meeting on November 2, 2020.

**Action taken:** None taken. Discussion was tabled.

**Agenda Item #16: Deer Creek Estates Addition Plat (Table) | Barrett Voigt, Community Development Director**

**Action taken:** None taken. Discussion was tabled.

**Agenda Item #17: Parking Lot Buffer | Barrett Voigt, Community Development Director**

Mr. Voigt presented the Parking Lot Buffer proposal. Staff cleaned up the language, added exemption language, and reduced the parking lot buffer from 10 feet to 5 feet. Staff did not receive any comments. Councilmember Johnson asked if boulevard trees could still be planted? Mr. Voigt replied that the landscape standards require a commercial zoned property to plant four units for every 1,000 feet of property. Mayor Peterson opened the public hearing at 7:14 pm. No comments or questions were received. Mayor Peterson closed the public hearing at 7:14 pm.

**Motion:** Approve the Parking Lot Buffer Ordinance Amendment as Presented by Staff.

**1<sup>st</sup> Motion:** Councilmember Fenelon



**2<sup>nd</sup> Motion:** Councilmember Johnson

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

**Agenda Item #18: C1, C2, and C3 Zoning District Requirements Amendment | Barrett Voigt, Community Development Director**

Mr. Voigt presented the C1, C2, and C3 Zoning District Requirements Amendment which included allowing restaurants and removing lots width for C1. Reducing the lot size from 5 acres to 0.5 acres, removing parking areas from lot coverage maximum requirements and removing lot width minimums for C2. Allowing “Professional Office” land use, removing lot width minimum, and reducing lot size minimum from 1 acre to .75 acres for C3. Staff recommended approval as stated in the staff report.

Mayor Peterson asked if any changes were made since the last meeting? Mr. Voigt explained that the only changes that were made were to remove the lot width minimum which will optimize land use and will be consistent with the zoning ordinances of surrounding cities.

**Motion:** Approve the C1, C2, and C3 Zoning District Requirements Amendment as Presented by Staff.

**1<sup>st</sup> Motion:** Councilmember Fenelon

**2<sup>nd</sup> Motion:** Councilmember Schmidt

**Action taken:** All in favor, none opposed. Councilmember Johnson abstained. Motion carried.

**Agenda Item #19: County Road 17 Shared Use Path | Jim Dahlman, City Engineer**

Mr. Dahlman presented the continuation of the County Road 17 Shared Use Path from 81<sup>st</sup> Avenue to the roundabout at 76<sup>th</sup> Avenue. The project is administered by the North Dakota Department of Transportation (NDDOT) and sponsored by Cass County. A cost participation and maintenance agreement was drawn up by the NDDOT which states that the City of Horace will be responsible for the local share cost. City Council would have to approve the local cost share by motion. The grant the City will receive for the continuation of the County Road 17 Shared Use Path will be \$186,206.00 and the City will have to cover any additional costs. The project will not be finished until 2022.

**Motion:** Direct Staff to Enter a Memorandum of Understanding (MOU) with Cass County.

**1<sup>st</sup> Motion:** Councilmember Johnson

**2<sup>nd</sup> Motion:** Councilmember Schmidt

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

**Agenda Item #20: Storm Sewer Improvement District No. 2020-5 (Old Oxbow Drainage) | Jim Dahlman, City Engineer**

Mr. Dahlman summarized the bid opening for the Storm Sewer Improvement District No. 2020-5 (Old Oxbow Drainage) that took place on October 8, 2020. The project received bids from two contractors. Dirt Dynamics was the lowest bidder with a bid of \$82,615.00. The other contractor’s bid was \$134,273.00 and the Engineer’s estimate was \$117,250.00. Mr. Dahlman recommended to award the project to Dirt Dynamics as they were the lowest bidder and have worked for the City before. The completion date for this project is June 2021.

**Motion:** Approve the Bid of \$82,615.00 for the Storm Sewer Improvement District No. 2020-5 (Old Oxbow Drainage) and Award the Project to Dirt Dynamics.

**1<sup>st</sup> Motion:** Councilmember Johnson

**2<sup>nd</sup> Motion:** Councilmember Fenelon



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

**Agenda Item #21: Employee Handbook Revisions | Brenton Holper, City Administrator**

Mr. Holper explained the Employee Handbook Revisions. Under the benefits section, sections identifying insurance (health, visual and dental) and retirement were updated. Every August, updates to the health insurance plans are presented to Council. Staff meets with insurance providers annually to make sure the best and most cost-effective health insurance plan is provided to City employees. A new retirement plan (401K) effective January 1, 2021 was added to the handbook. The City will match up to 6% of the employee's 401K contribution. Until now, the City paid 3% to employee's 401K no matter how much the employee paid into their 401K.

Councilmember Fenelon added that this new retirement plan makes the City of Horace competitive to other surrounding cities in the metro area.

**Motion:** Approve the Employee Handbook Revisions as Presented by Staff.

**1<sup>st</sup> Motion:** Councilmember Schmidt

**2<sup>nd</sup> Motion:** Councilmember Johnson

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

**Agenda Item #22: Engineering/Public Works | Jim Dahlman, City Engineer**

Mr. Dahlman updated Council on the status of current construction sites.

- a. A Lost River 5<sup>th</sup> Addition walkthrough is scheduled for October 30, 2020 at 8:00 am and the final project meeting will be held that afternoon.
- b. Southdale Farm is complete except installation of streetlights and topsoil. The completion date is set for November 2, 2020.
- c. Four streetlights still need to be installed in Lakeview and 81<sup>st</sup>. The project still has not been completed.

**Agenda Item #23: City Administrator | Brenton Holper, City Administrator**

- a. Hydrant flushing will take place in Horace from October 19 to October 21, 2020.
- b. Cass County has moved into COVID-19 level orange. Staff is looking into adjusting operations at City Hall.
- c. Horace Happening went to the printers last week and will be delivered to residents as soon as the issues will be delivered from the printing company.
- d. Due to COVID-19 and the CARES Act Funding, the City of Horace is eligible for law enforcement cost reimbursement. Mayor Peterson and Mr. Holper met with Cass County representatives who explained that the money will need to be spent on COVID related improvements.

Mayor Peterson said that the 82<sup>nd</sup> Street project's notice to proceed was not on the agenda. Mr. Holper replied staff reviewed the minutes from the October 2, 2020 Council meeting and Council voted that staff has the authority to sign the notice to proceed when all parties agree.



**Agenda Item #24: Portfolio Reports**

- a. Mayor Peterson explained that he will not cancel Halloween. He urged residents to follow the CDC safety guidelines. Residents can turn their porch lights on to signal that they are participating in Halloween. They should turn their porch light off if they choose not to participate.
- b. Councilmember Fenelon said that the City should continue posting on Facebook that there will be no voting in Horace this year. In-person voting will only be available in Fargo. The information about in-person voting in Fargo is also available on the Cass County website.
- c. Councilmember Johnson – no updates.
- d. Councilmember Schmidt – no updates.
- e. Councilmember Koerselman was absent.

**Agenda Item #25: Adjourn**

**Motion:** Approve Meeting Adjourn at 7:38 pm.

**1st Motion:** Councilmember Fenelon

**2nd Motion:** Councilmember Johnson

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

**The Next City Council Meeting is November 2, 2020 at 6:00 pm**