



Horace City Council Meeting Minutes

The Horace City Council met on November 2, 2020 @ 6:00 pm at the Community Senior Center in Horace. Those present were Mayor Kory Peterson, Councilmember Bryan Schmidt, Councilmember Chelsey Johnson, Councilmember John Koerselman, and Councilmember Dave Fenelon. Others present included: Brenton Holper, Jim Dahlman, Barrett Voigt, and Lukas Croaker.

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

The pledge of allegiance was recited.

Agenda Item #3: Approve Regular Agenda

Motion: Approve Regular Agenda.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

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. Water, Sewer, Storm and Street ID No. 2020-1 Southdale Farms First Addition)
 - i. Progressive Estimate No. 3
- e. Street Improvement District No. 2005-2 (Rud's Addition Final Pavement Lift) and Miscellaneous Street Patching.
 - i. Progressive Estimate No. 1
- f. Sanitary Sewer Improvement District No. 2017-2 (Connection to Fargo at Deer Creek)
 - i. Progressive Estimate No. 10
- g. Water, Sewer, Storm and Street ID No. 2020-4 (Lost River Fifth Addition)
 - i. Progressive Estimate No. 5
- h. Water, Sanitary Sewer, and Street ID No. 2019-6 (Cub Creek First Addition)
 - i. Progressive Estimate No. 11
- i. Sanitary, Storm Sewer and Street ID No. 2019-01 (Lakeview Drive & 79th Ave.) & Storm Sewer and Street ID No. 2019-3 (63rd Street)
 - i. Progressive Estimate No. 12
- j. Water, Sewer, Storm and Street ID No. 2019-7 (Maple Lake Estates)
 - i. Progressive Estimate No. 5

Motion: Approve Consent Agenda.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Johnson

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



Agenda Item #5: Approval of City Council Meeting Minutes from October 19, 2020

Motion: Approve City Council Meeting Minutes from October 19, 2020.

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Schmidt

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

Agenda Item #6: Public Comment

Resident Martin Hochhalter asked when residents can pay off the special assessment amounts without penalty (interest rate) and if staff could make that information public? Mr. Croaker responded that state law says that residents have ten days to pay the special assessment amount before interest will be applied. He added that he will work with the City's Finance Director to get that message out. Mr. Holper said that he spoke to Mr. Hochhalter the previous week and explained to him that the City is already working with the County to get the deadline extended until the new year which would give residents even longer. The City is waiting to hear back from the County before they can get back to Mr. Hochhalter.

Agenda Item #7: Sheriff's Update | Ross Krause/Thomas Behm, Cass County Sheriff's Department

Mayor Peterson summarized the Sheriff's report. The Cass County Sheriff's Department received 164 calls for service which included 8 crashes, 1 reckless driving incident, 5 animal calls, 4 alcohol related calls, 19 citations, 46 warnings, no parking tickets, 1 parking warning, and 1 drug related offense. 24 of the service calls were deputies attempting to serve warrants or civil papers.

Agenda Item #8: Annexation of Fradet's, Westbrook, and Lazy A Subdivisions by Resolution | Lukas Croaker, City Attorney

Mr. Croaker presented the Annexation of Fradet's, Westbrook, and Lazy A Subdivisions by Resolution. The City Council approved the Annexation Resolution on September 21, 2020 and a notice was published in the local newspaper twice (one notice per week for two consecutive weeks on September 30, 2020 and on October 7, 2020 to inform the public about the November 2, 2020 public hearing). The City of Horace received 41 written protests objecting the annexation. Under North Dakota law, if 25% of the annexation area protests the annexation, the City Council can either stop the pursuit of annexation or submit the matter to mediation (where the Governor appoints a mediator who presides over the mediation proceedings).

Todd Ellig, the Stanley Township Chair, explained that the road supervising team has been dealing with Wall Avenue for many years and has received countless complaints. Mr. Ellig said that he does not understand why people are protesting. The Township does not have the budget, the authorization, or the manpower to give the road with these types of problems the attention that it requires. The dust during the summer was bad and people were driving way too fast. The dust was very dangerous for children who were riding their bikes because they might have not been seen by oncoming traffic especially if a child fell off his bike. The road remains a safety hazard, and it is a liability for the Township. The Township applied dust control which was ruined by the early snowfall. The snow turned the road into a muddy washboard and the Township received even more complaints. If the residents



protest this annexation, Wall Avenue's condition will remain the same. The only solution will come from the City of Horace because the Township does not have the resources. For the proposed annexation area, Wall Avenue is the primary ingress and egress for residents. Mr. Ellig encouraged everyone to support the annexation. He added that it will probably cost the residents money, but someone will have to pay for the improvement. It should get done soon before somebody gets hurt, because the Township will not be able to help.

A resident in the audience asked if there is no mechanism in place for the Township to just give that section of Wall Avenue to the City of Horace which would forgo the annexation need? Mr. Ellig responded that the Township's legal counsel advised that the Township cannot give the legal responsibility away and that the only way the City can take over the road is when they are part of the City. The resident then asked why the City cannot annex the road? Mayor Peterson said that the residents of Lazy-A and West Brook use the road and should have to pay the same as Horace residents. Everyone should pay their fair share.

Orchard resident Jamie Pfeifer said that the comments made it crystal clear, that the annexation was about the gravel road. Orchard residents have no need for the road because they do not drive on it. He said that the City can force specials on the residents once they are annexed. He explained that the residents would be more than happy to pay for some of the improvements. Councilmember Johnson said that people might be worried about the City sewer hook-up and that it might cost each resident tens of thousands of dollars. Mayor Peterson said that the City will not force the residents to hook-up to City water as long as the well works. The same goes for the sewer system. Mr. Croaker added that the water and sewer connection terms could be added into an agreement during the mediation process.

Resident John Colvin said that he is upset that the Lost River development was not taking the responsibility for building the infrastructure from the City to Lost River. He asked if there was a way to go back to the developer because without Lost River the road would not be an issue. Mr. Croaker clarified that the City has been in talks with the Township over the road for years and that this is not something new. The reason the City has not done the needed improvements is because the City would be using the taxpayer funds from Horace residents to then benefit the Township residents who are using that road. The City did try to partner with the Township, but as Mr. Ellig explained, the Township was just not able to do so. If the improvement district will be created, the Lost River development will be part of the district. The actual costs have not yet been determined. Mr. Colvin said that numbers of how much each homeowner will owe, should be presented.

Orchard Park resident Anne Pfeifer explained how their homeowner's association and water company works. She added that they should not pay for the road because the City of Horace should have paid for it in conjunction with the Township and the developers. 100% of the Orchard residents are against the annexation because of the way the City of Horace is going about it. She said that it was not fair and that Orchard residents do not use the road (Wall Avenue).

Resident Stephanie Landstrom explained the uniqueness of the Orchard Park neighborhood. In her opinion, Orchard Park residents do not get any benefit from the annexation into the City of Horace. Orchard Park residents take care of its own health, safety, and welfare and they do not have any need or



desire for City services. Ms. Landstrom stated that she does not understand why the City would force annex them for the sake of the growth of others. Residents do not wish to be an open checkbook to the City of Horace. Orchard Park has been a good neighbor to Horace since the 1970s, and they would like to remain that way. An annexation would be an unreasonable financial punishment to Orchard Park residents.

West Brook Drive resident Drew Rutherford asked how services would be managed if the residents were to be annexed, because they already receive Cass Rural water, pay for their own electric, and garbage pick-up. Mr. Holper explained that there would be no changes except that residents would receive garbage service under the City's contract. Mr. Rutherford said that he would like that in writing during mediation. He said that he does not understand why the City cannot legally get the road from the Township without having to annex the residents. Each property could contribute to the improvements to the road, but not have to be involved with the other special assessments (for example the Meadowlark Park that they do not want).

Mr. Rutherford explained that if the residents were annexed, they would be included in a tax juror's diction, they would also have to pay for a park (Meadowlark Park) they do not want. Mr. Dahlman said that the residents are not in the district boundary map, only Lost River is. Mr. Croaker added that this is a separate issue because the Park Board is a separate entity.

Several residents requested that the City comes up with a plan and exact numbers. That the developer is responsible for the condition of the road and that the developer should pay for it. Another resident stated that she was concerned about future costs that will come with the City's growth.

Councilmember Johnson explained that she grew up in the Orchard and that her parents still live there. She now lives on Micky Mouse Avenue and has to pay everything that needs to be paid, just like everyone else has to pay. She agreed with the area being able to keep their well and water system until it breaks down, but she said that it is not fair that Horace residents have to pay for everything, but that residents who are entirely surrounded by Horace do not. Councilmember Schmidt added that the Council does not intend to force the Orchard resident on City water or sewer services.

Councilmember Koerselman said the City could come up with a plan and everyone could take a second look instead of going to mediation. Mr. Dahlman explained that during the public input meeting, options and estimates were already given but that the City does only have preliminary cost estimates for the Wall Avenue improvement project. A resident objected that the developer should pay for the Wall Avenue improvement costs, not the residents and that they should have agreed to these costs before they started developing.

The resident responded that they should not have to clean up the City's mess. A resident suggested that everyone pays their share for the road improvement without getting annexed. Mr. Croaker said that the City has tried to come to an agreement for years but was not successful. Mr. Croaker advised that the City Council could direct staff to do some more calculations to present numbers to the residents and that the motion could be tabled.



Motion: Approve a Meeting between Horace Elected Officials and Resident Representatives to Identify Key Issues in Order to Avoid Possible Mediation and Table Motion until November 16, 2020.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

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

Agenda Item #9: Water Purchase Ordinance | Brenton Holper, City Administrator

Mr. Holper presented the 2nd reading of the Water Purchase Ordinance.

Motion: Approve the Water Purchase Ordinance.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

Action taken: All in favor, none opposed.

Mr. Holper added that the next step will be the water purchase agreement which will be presented to Council soon.

Agenda Item #9a: Sheriff's Update | Thomas Behm, Cass County Sheriff's Department

Deputy Sheriff Behm updated the Council. Mayor Peterson asked if there were updates on the recent burglaries? Deputy Sheriff Behm responded that there were no new updates yet. Mayor Peterson requested a year-end summary of all service calls, preferably in a spreadsheet. Deputy Sheriff Behm replied that they the department will work on gathering that information. Councilmember Schmidt asked if the Sheriffs could enforce the overnight parking, especially when the snowplowing will start.

Agenda Item #10: Parking Lot Buffer | Barrett Voigt, Community Development Director

Mr. Voigt presented the 2nd Reading of the Parking Lot Buffer Ordinance Amendment. No changes were made since the first reading and staff did not receive any comments.

Motion: Approve the Parking Lot Buffer.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Johnson

Action taken: All in favor, none opposed.

Agenda Item #11: Lakeview Heights 3rd Addition – Rezone Lots 1, 2, and 4 on Block 1 | Barrett Voigt, Community Development Director

Mr. Voigt presented the Lakeview Heights 3rd Addition – Rezone Lots 1, 2, and 4 on Block 1. Staff did not receive any comments from the public. Staff highly recommended approval as stated in the staff report.

Mayor Peterson opened the public hearing at 7:53 pm. No comments from the public were received.

Mayor Peterson closed the public meeting at 7:54 pm.

Motion: Approve the Lakeview Heights 3rd Addition Rezone.

1st Motion: Councilmember Koerselman

2nd Motion: Councilmember Fenelon

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



Agenda Item #12: Unmetered, Bulk, Commercial/Industrial Water Rates | Brenton Holper, City Administrator

Mr. Holper presented the Unmetered, Bulk, Commercial/Industrial Water Rates. After the City's water meter replacement project, there are still businesses that do not have water meters. For those businesses, staff proposed a fixed water rate of an average water use of 6,000 gallons of water per month. The fixed rate was based on the average water usage of metered properties in Horace, which was 7,500 gallons per month. If the businesses do not want to the fixed monthly rate, they can hire a licensed plumber to install a water meter. The City will provide the water meters.

The proposed fixed water rate for unmetered properties will be based on 6,000 gallons usage plus all other applicable services starting January 1, 2021. The fixed rate will include sewer fees, garbage, vector, forestry, and a surcharge of \$7.60.

Staff also recommended to increase the unmetered bulk rate from \$6.00 per gallon to \$6.50 per gallon. The commercial and industrial water rate would stay the same as residential service.

Motion: Motion: Approve the Unmetered, Bulk, Commercial/Industrial Water Rates as Presented by Staff.

1st Motion: Councilmember Schmidt

2nd Motion: Councilmember Fenelon

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

Agenda Item #13: Online Utility Bill Payment Options | Brenton Holper, City Administrator

Mr. Holper presented the Online Utility Bill Payment Options. About a year and a half ago, the City introduced online utility bill pay which is provided by a company called Clover. Clover charges a 3.5% fee for every payment. The League of Cities recommended using a service called GovCard. When a utility bill is under \$60.00, GovCard will only charge \$1.75 for the payment by credit card. When a bill is over \$60.00, the charge will be 3.00% of the total bill which is a cheaper than Clover. GovCard also offers a one-time ACH payment option which will cost \$1.75 for each payment. Automatic monthly ACH payments will remain free.

Motion: Approve the Online Utility Bill Payment Options as Presented by Staff.

1st Motion: Councilmember Koerselman

2nd Motion: Councilmember Fenelon

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

Agenda Item #14: Damaged Water Meter Replacement Costs | Brenton Holper, City Administrator

Mr. Holper presented the Damaged Water Replacement Costs. When a water meter breaks, the City will provide a new meter at cost plus 20% administrative cost. Currently, most new meters cost \$160.00. The administrative costs will cover staff time (Public Works and Utility Billing).

Motion: Approve the Damaged Water Meter Replacement Costs as Presented by Staff.

1st Motion: Councilmember Fenelon

2nd Motion: Councilmember Schmidt

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



Agenda Item #15: Engineering/Public Works | Jim Dahlman, City Engineer

- a. The Maple Lakes Estate project will continue. They are currently working on a storm sewer. The project will not be completed this year.
- b. Work on the Horace Water project continues. Staff is waiting from comments from federal agencies.
- c. Lost River was completed. Private utilities are being installed.
- d. The Southdale Farms completion date was November 2, 2020. Topsoiling and sidewalks still need to be completed. The anticipated completion date is November 6, 2020.
- e. Staff has been working on a capital improvement list and possible funding options for the next two years.
- f. 1st Avenue's easement was completed on November 2, 2020.
- g. Lakeview and 63rd and 79th is slowly progressing. The amount in liquidated damages is up to \$262,500.00. The City is currently retaining almost \$900,000.
- h. A meeting for the Maple Lakes Estates 2nd Addition was scheduled for November 3, 2020.

Agenda Item #16: City Administrator | Brenton Holper, City Administrator

- a. A total of 179 building permits were granted so far this year. The building inspectors are working on a permit summary for the last 4 years.

Agenda Item #17: Portfolio Reports

- a. Mayor Peterson said that the kids had fun during Halloween, and that they were all masked up.
- b. Councilmember Fenelon reported that the City Engineer interviews will be postponed for 2 weeks due to COVID-19.
- c. Councilmember Johnson – no updates.
- d. Councilmember Schmidt – no updates.
- e. Councilmember Koerselman – no updates.

Agenda Item #18: Adjourn

Motion: Approve Meeting Adjourn at 8:30 pm.

1st Motion: Councilmember Johnson

2nd Motion: Councilmember Koerselman

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

The Next City Council Meeting is November 16, 2020 at 6:00 pm