

CITY OF KENMARE
Council Proceedings
Minutes Pending Approval
May 10, 2023

Call to Order: Mayor Arlen Gartner called the regular meeting of the Kenmare City Council to order at 7:00pm.

The meeting began with the Pledge of Allegiance.

Council Members present: Jim Burud, Justin Patterson, Terese Schmidt, Miles Mibeck, Tammy Knutson. Duane Dockter arrived at 7:14pm.

Also Present: Mark Staskywicz, Michelle Stark, Allen Hall, Doug Diedrichsen, Josh Reiner, Dylan Williams, Taylor Stanley, and members of the public.

Mayor Report: Airforce is scheduled to attend next month. Mayor's other items will be addressed within separate agenda topics.

Mowing Bids: Mowing Bids were opened for the Lakeview Cemetery. **MOTION** by Mibeck to accept the low mowing bid from Darrel Ramsdell and Kyle Mehrer for \$6,850.00 for the season of May 2023 to September 30, 2023. Seconded by Patterson. **Roll call:** Burud-Yes, Patterson-Yes, Schmidt-No, Mibeck-Yes, Knutson-Yes. Dockter not present; **Motion carried.**

Council Minutes - MOTION by Schmidt to approve the minutes from the April 12, 2023, Council Meeting. Seconded by Burud. All in favor, motion carried.

Engineer Report:

Reiner informed the council that the **Sewer Scoping** will probably be commencing the week of the 15th and will be in town for an extended period.

The **inert landfill** expansion has been reviewed and the full current parcel is already permitted for the landfill. No additional permitting is required, and the City will work on proceeding with the cell opening process.

Reiner and Gartner updated the council on the **Grade School Site**. The property will potentially be available next year and the Fire Department, Ambulance, Park Board, etc. are all interested in looking at the property for a future community building site but would like a cohesive plan in place.

Reiner asked the City if they would like Moore to present the **Capital Improvement Plan** process and benefits to the City during the June Council. The Council agreed they would like to find out more about the process to better plan for the general maintenance and improvements needed throughout the City, especially in regard to sewer, water and streets.

The City asked Reiner about Kenmare applying for **Renaissance Zones** again, Reiner offered to help with mapping but, after discussion, the project will be completed by Zoning Administrator Diedrichsen.

Official Newspaper – MOTION by Mibeck to designate the “The Kenmare News” as the official newspaper of the City of Kenmare as per NDCC 40-01-09. Seconded by Dockter. All in favor. Motion passed.

Gaming Site Authorizations - MOTION by Burud to accept applications by Vets Gaming for Locations at Beer Bobs, City Limits Bar & Bottle Shop, Emilios-M-SOB 2.0, and Kenmare Memorial Hall. Seconded by Mibeck. All in favor, motion carried.

Liquor License Transfer - MOTION by Schmidt to accept application by Beer Bob's for the Kenmare Association of Commerce's Street Dance at the square on July 8th, 2023. Chief Hall signed off on the License Transfer. Seconded by Mibeck. All in favor, motion carried.

Raffle Permit Application – MOTION by Burud to accept the application for Raffle Permit by St. Agnes Catholic Church – Ladies Altar Society from November 1st through 30th, 2023. Seconded by Knutson. All in favor, motion carried.

Financials: Amy Ones explained that she will not be able to complete the financial reconstruction of the 2022 records for the City of Kenmare with her current responsibilities and workload. However, Ones has reviewed the ClerkBooks' new setup of the new accounting system and recommended that the City also utilize ClerkBooks to assist Stark with reconstructing the 2022 records, so the records are entered in accordance with proper government accounting. She recommended the change occur immediately to prepare for the 2024 Budget process. Council discussed the potential cost of the project, and the previous companies and programs utilized in 2021 and 2022 which had not resulted in an updated and clear financial record. Ones expressed confidence in Stark and ClerkBooks getting the City results that will be a solid base for the future finances of the City.

MOTION by Burud to allocate up to \$12,000.00 towards ClerkBooks reconstruction the City of Kenmare's 2022 financial records. Seconded by Dockter. All in favor, motion carried.

MOTION by Mibeck to table the financials from August 2022 to April 2023. Seconded by Knutson. All in favor, motion carried.

Sirens – MOTION by Schmidt to accept the quote by Midstates Wireless, for the required upgrade to the State and County radio and alert system, for the four (4) sirens within the City of Kenmare siren system, utilizing the interest free financing through Ward County for the project. Seconded by Mibeck. All in favor, motion carried.

Planning and Zoning: Diedrichsen presented application documents he had developed for the City which had been approved and recommended by the Planning Commission. He also presented a fee schedule with pricing that should sufficiently cover the costs of work by the City office and the Zoning Administrator.

MOTION by Mibeck to approve the Application for "Special Use Permit", and Application for "Variance" as presented. Seconded by Knutson. All in favor, motion carried.

MOTION by Schmidt to approve the "Application Fee Schedule" as presented. Seconded by Mibeck. All in favor, motion carried.

FUND ITT – MOTION by Burud to approve the FUND ITT minutes and matching grant for Encounter Church of the Nazarene for \$640.00. Seconded by Dockter. All in favor, motion carried.

Library: Gartner and Knutson reported on their meeting with the Ward County Library Board and the discussion of the Agreement between Kenmare and the Ward County Library. Kenmare appreciates having a library here in town and will continue to work with the board and the

librarian to maintain communication. The Agreement will likely be ready for June Council for approval.

Committee Reports

Health and Beautification: Committee reported on the discussion about the Boulevard trees and will be checking with Diedrichsen and Attorney Maxon about precedence for the ownership. No motion at this time.

Personnel-Ways-Means-Finance:

Alisha Britton: MOTION by Burud to pay Alisha Britton for any Kenmare court appearances, at her previous rate, plus two hours of driving time. The total time paid will be less one 1/2 hour, which will be covered by the Ward County one time \$25 payment for court. Seconded by Schmidt. All in favor, motion carried.

Ordinances: Motion by Burud that the Council accept the first reading of the proposed changes to the Ordinances of the City of Kenmare, as presented:

11.0102 Dangerous Animals

A. Dangerous animals prohibited.

1. Any person who owns or keeps an animal within the city is in violation of this section if the animal:
 - a. When unprovoked, bites, claws, or otherwise harms a human or domestic animal on public or private property;
 - b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the owner's property, in an apparent attitude of attack (for example, but not limited to, snarling, lunging, charging, chasing, or growling);
 - c. When unprovoked, kills a domestic animal while off the owner's property; or
 - d. Has been designated as a dangerous animal by another jurisdiction.
2. Any person who brings into the corporate limits of the City of Kenmare an animal that has been designated as potentially dangerous by another jurisdiction shall notify the Kenmare Police Department within twenty-four (24) hours of that animal being brought into the city of the location where the animal will be kept, owner contact information, length of stay in the city and proof of rabies inoculation.
 - a. Owners in violation of notification requirements may have the animal impounded immediately by the police department and held until brought into compliance with this division. The owner of said animal is responsible for boarding and expenses associated with this process.
3. No person may own or keep an animal in the City of Kenmare if the person has been convicted of a violation of this section, or of an equivalent ordinance or statute of another state or political subdivision. If any member of a household is prohibited from owning or keeping an animal pursuant to this section, unless specifically approved with or without restrictions by the Kenmare Police Department or court, no person in the household is permitted to own an animal.

B. Citation to animal owner; disposition.

1. Instead of making a formal arrest for a violation of this chapter committed in his presence, an officer may issue to the person charged a citation containing a notice to answer to the violation or charge in the municipal court at a time no later than thirty (30) days after the alleged violation. Upon promising to appear at the time specified in the citation, the person charged shall be released by the charging officer. If the person so charged refuses to sign the promise to appear he may be arrested or summoned to appear in municipal court.

C. Penalties and enforcement.

1. Violation of this Section is a B Misdemeanor, the fine or penalty for the violation of any ordinance, resolution, or regulation shall not exceed one thousand five hundred dollars (\$1,500.00), and the imprisonment shall not exceed thirty (30) days for one (1) offense.
2. This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences.
3. In addition to the penalties outlined specifically above, the court shall be specifically authorized to order compliance by the owner of the animal with the provisions of this section and any other conditions which are necessary to ensure the health and safety of others. Such conditions may include, but are not limited to:
 - a. That the owner remove the animal from the city;
 - b. That the animal be euthanized;
 - c. That the owner provide proof to the court that the animal has been sterilized;
 - d. That the owner provide proof to the court that the animal has been properly licensed;
 - e. That the owner of the animal shall keep the animal, while on the owner's property, in an effective enclosure. If the animal is outside the enclosure, it must be securely muzzled and restrained by a chain or leash no longer than six (6) feet under the physical restraint of a competent adult;
 - f. That the owner not sell or transfer ownership of the animal to any other person residing in the corporate limits of the City of Kenmare;
 - g. That the owner advise the court if the animal bites anyone else;
 - h. That the owner advise the court if the animal dies or becomes injured;
 - i. That the animal undergo obedience training and proof of successful completion of training is provided to the court;
 - j. That the owner post the property with warnings about a dangerous animal;
 - k. That the animal not be allowed outdoors during certain times, such as between 7:30 a.m. and 9:30 a.m. and 2:00 p.m. and 4:00 p.m. (i.e., times when school age children may be present), or the time when it is known that the post office employee delivers the mail every day;
 - l. That the owner provide proof to the Kenmare Police Department of continuing liability insurance in a single incident of five hundred thousand dollars (\$500,000.00) for bodily injury to or death of any person or persons or for damage to property owned by the persons which may result from ownership, keeping, or maintenance of dangerous animals; and/or
 - m. That the owner has a microchip implanted in the animal at his or her own cost. The chip number and owner's address and home, work and cell telephone

numbers shall be provided and updated as needed to the Kenmare Police Department.

Chapter Thirteen: ARTICLE 1 - In General

13.0105 Movement Control Order

Disobeying a movement control order issued by a peace officer.

1. No person shall willfully fail to obey a movement control order given by a peace officer.
2. A movement control order is given to a person when that person perceives it or the circumstances are such that the person should perceive it.
3. A movement control order is an order or signal given by hand, voice, emergency light, or siren which to a person of ordinary intelligence and experience indicates a desire or command by the peace officer issuing the order that the recipient of the order should:
 - a. Cease any ongoing movement;
 - b. Remain stationary;
 - c. Approach the peace officer; or
 - d. Remove himself from a given location (as when a crime or accident scene must be secured).
4. It is an element of the offense established by this section that the person charged knew or should have known that the person issuing a movement control order to him was a peace officer. However, a rebuttable presumption of such knowledge shall arise upon proof that the person who issued the order at the time of its issuance:
 - a. Was within a vehicle marked prominently as an official law enforcement vehicle; or
 - b. Was in uniform with a badge prominently affixed thereto, and, as thus attired, was plainly visible to the recipient of the movement control order.
5. Violation of this Section is a B Misdemeanor, the fine or penalty for the violation of any ordinance, resolution, or regulation shall not exceed one thousand five hundred dollars (\$1,500.00), and the imprisonment shall not exceed thirty (30) days for one (1) offense.
6. This section does not prohibit the use of sentencing alternatives, other than a fine or imprisonment, for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences.

ARTICLE 4 - Offenses Against Public Order, Health, Safety and Sensibilities

13.0417 Marijuana Possession

1. **Possession of marijuana.**
 - a. It shall be unlawful to possess marijuana within the corporate limits of the City of Kenmare, unless the marijuana was obtained in accordance with Chapter 19-24.1, N.D.C.C. A person violating this section by possessing marijuana in an amount of less than one-half ($\frac{1}{2}$) ounce [14.175 grams] is guilty of an infraction.
 - b. A person violating this section by possessing at least one-half ($\frac{1}{2}$) ounce [14.175 grams] but not more than five hundred (500) grams of marijuana is guilty of a class B misdemeanor.
 - c. If an individual under the age of twenty-one (21) pleads guilty or is found guilty of a first offense regarding possession of one-half ($\frac{1}{2}$) ounce [14.175 grams] or less of

- marijuana, the court also may sentence the individual to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- d. For a second or subsequent offense regarding possession of one-half (½) ounce [14.175 grams] or less of marijuana, the court also shall sentence the individual to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
2. **Possession of marijuana paraphernalia.**
 - a. It shall be unlawful to use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana into the human body, or possess with the intent to use drug paraphernalia to store or contain marijuana, within the corporate limits of the city. A person violating this section is guilty of an infraction and fine of \$150.
 3. **Marijuana paraphernalia guidelines.**
 - a. In determining whether an object is marijuana paraphernalia the court or other authority shall consider, in addition to all other logically relevant factors, the factors listed in Section 19-03.4-02, N.D.C.C., as may be amended from time to time.
 4. **Ingestion of marijuana.**
 - a. It shall be unlawful for a person who is under twenty-one (21) years of age to intentionally ingest, inhale, inject, or otherwise take into the body a controlled substance that is marijuana, unless the substance was medical marijuana obtained in accordance with Chapter 19-24.1, N.D.C.C. A person violating this section is guilty of a class B misdemeanor.

Seconded by Knutson. All in favor. Motion passed. (First Reading)

Streets- Walks-Alleys-Lights:

Gravel: Staskywicz presented a cost quote from Farden for gravel for various streets in town. **MOTION** by Schmidt to approve the purchase of \$11,000.00 worth of gravel for re-graveling as many gravel roads in Kenmare as possible. Seconded by Mibeck. All in favor, motion carried.

MOTION by Schmidt to allow Staskywicz to repair trouble spots throughout the City up to the amount of \$5,500.00 for the summer season, including the supplies for hole patch and the rental of the DuraSealer from Swanston's. Seconded by Docktor. All in favor, motion carried.

Water-Sewer:

Lead and Copper Rule: The State Lead and Copper Rule will require Kenmare to verify the material of every residential water line coming into City homes. The committee would like to reach out to the City Attorney, Maxon, to assist with a letter to the residents regarding the Lead and Copper Rule, and also assist with determining the legality of entering a resident's home.

Delinquent Water Accounts: Council reviewed the Committee notes on the Auditor's office policy for payment plans and delinquent accounts.

MOTION by Schmidt to adopt the following policy:

Payment Requirements for Delinquent Accounts:

Your account is delinquent. If you are NOT able to pay in full to get your account current, we ask that you pay the current amount due PLUS a payment on the past due amount. Please continue to pay on your past-due balance until you have paid your bill in full.

Seconded by Patterson. All in favor, motion carried.

Public Works Department: Staskywicz completed his 1A Water Distribution and 1A Wastewater Collection testing successfully. Citywide cleanup is in full force and City will make some changes next year to keep things clearer and easier for residents and public works. RV park is up and running again for the summer. Broken manhole on 2nd and 8th has been fixed. The new blade for the city has been in Minot for some time, we are now first in line to get our specifications completed by their technicians, and the blade delivered. The newly leased skid steer is here and being used.

Auditors Office: Auditor’s office has been working hard on the change over into the ClerkBooks accounting system and has seen significant improvement already in the time it takes to accomplish the monthly tasks within bills, account changes, invoicing for monthly city bills, deposits etc. There are still hurdles ahead with learning the rest of the system and smoothing out 2023 information for clear meter reads and billing, but it is on track with steady improvement.

Police Department: 58 Calls for service. Traffic Violations count: 50. Chief Hall is working hard to maintain a great level of policing and preparing to interview another candidate for the Deputy position in the near future.

Clerk of Court: Deposits for April: \$1,128.00.

Bills: MOTION by Schmidt to approve bills. Second by Mibeck. All in favor, motion carried.

Adjourn: MOTION by Burud to adjourn. Seconded by Schmidt. All in favor, motion carried.

Council Meeting adjourned at 8:47 pm.

The next regular City Council Meeting is scheduled for June 14, 2023, at 7:00 pm at Kenmare City Hall.

Minutes are subject to approval & revision of the City Council.

Auditor

Mayor