

CITY OF KENMARE
Council Proceedings
Minutes Pending Approval
June 14, 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 as follows:

Roll Call: Justin Patterson, Jim Burud, Tammy Knutson, Miles Mibeck, Duane Dockter.

Not present: Terese Schmidt

Also Present: Allen Hall, Doug Diedrichsen, Rob Shelton, Michelle Stark, Dylan Williams, Taylor Stanley, Laura Mibeck, Josh Reiner.

Mayor's Report:

RDO approached the City about obtaining a bank loan that would take the place of the current Grader lease. Previously the lease had been financed through a different bank, but the agreed upon interest rate was not going to be honored. Mayor Gartner discussed a replacement loan with State Bank and State Bank provided a quote to finance the project, at a better rate than the original quote. Other conditions of the agreement will remain the same - RDO is guaranteeing the original conditions.

MOTION by Burud to approve loan financing through State Bank and Trust of Kenmare in the amount of \$261,000 with a rate of 3.25% fixed for 7 years. Authorized signers on the City's behalf, on the loan agreement and security agreement, would be Arlen Gartner, Jim Burud, and Michelle Stark. Seconded by Knutson. **All in favor, motion carried.**

Minutes:

City Council Meeting - **MOTION** by Patterson to approve the minutes from the May 10, 2023 meeting. Seconded by Mibeck. **All in favor, motion carried.**

Special Meeting - **MOTION** by Burud to approve the minutes from May 30, 2023 Meeting. Seconded by Dockter. **All in favor, motion carried.**

Ordinances: Council reviewed the proposed changes to the Ordinances of the City of Kenmare, as presented:

Chapter Eleven

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 (½) ounce [14.175 grams] is guilty of an infraction.
 - b. A person violating this section by possessing at least one-half (½) 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 (½) 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.

MOTION by Burud to approve the **Second Reading** of the proposed Ordinances. Seconded by Dockter. **All in favor, motion carried.**

Permit Applications:

- **Fireworks: MOTION** by Mibeck to approve the Application for Fireworks Display by the Kenmare Association of Commerce. Seconded by Patterson. **All in favor, motion carried.**
- **Raffle: MOTION** by Mibeck to approve two Raffle Permit Applications by the Kenmare Fire Department. Seconded by Patterson. **All in favor, motion carried.**

Engineer Report: Reiner presented updates to the council regarding the sanitary sewer scoping and cleaning project. The majority of the project is done and there does not appear to be any major problems with the City sewer lines. Un-found manholes were discussed, Shelton plans to

locate the manholes first thing Thursday morning, if possible, though digging may be necessary to locate and clean the essential trunk line going to the lift station.

MOTION by Burud to allow Shelton to take the necessary steps to assisting in locating and clearing manholes and lines to allow CC Steel to complete the sewer scoping project, including contacting Farden Construction. Seconded by Dockter. **All in favor, motion carried.**

Presentation by Moore Engineering for a capital improvement plan which would establish the current conditions of the city infrastructure and plan for ways to move forward with these projects in a timely and financially sound manner.

Planning and Zoning: Diedrichsen presented two Application Forms for the Council to approve for use in Kenmare. **MOTION** by Knutson to approve the “Application for Outlot Plat” and “Application for Subdivision Plat” forms as presented. Seconded by Mibeck. **All in favor, motion carried.**

Diedrichsen also presented information regarding the Renaissance Zone Reapplication. Diedrichsen explained that the City will need to complete certain steps, including establish an economic development committee specifically for the Zone, and also revise the strategic plan for attraction and retention of businesses. Currently our Zone includes the Square, Central Avenue and some of the highway. Diedrichsen asked the council if they would like him to maintain the current area or apply to have additional property added. The council agreed that they would like him to work on adding as much property in town as possible in the application. The council also agreed that it would be best to allow people to reapply who are within the zone, for incentive on additional improvements to their properties.

Building Permits: the City will be getting an e-mail from Ward County for each building permit as it is approved, to have a clear record available to the Council and City whenever needed. These applications will be presented every month at council. Applications presented: Kenmare School remodel and Dollar Tree - commercial property build.

Committees

Buildings: Kenmare Library - The City has been working with the Ward County Library Board on a revised and updated Agreement for the Kenmare Library. Working closely on the project were Mayor Gartner and Councilwoman Knutson. **MOTION** by Burud to accept the proposed Agreement with the Library. Seconded by Knutson. **All in favor, motion passed.**

The Committee has been approached about the lights in the Library that need to be fixed or replaced. The City received a bid from Graveson Electric for \$3,328.00 that would replace all the lights with LED panels instead. Stark summarized the Library expenses and current Budget for 2023. Funds currently set aside will not cover the maintenance expense, as well as general expenses for electric, water, and sewer.

MOTION by Burud to amend 2023 budget for the Library, marking an additional \$3,328.00 of the milled Library Funds for the Library maintenance. Seconded by Mibeck. **All in favor, motion carried.**

MOTION by Burud to accept the Graveson Electric Quote for \$3,328.00 to repair and update the Library lights. Seconded by Dockter. **All in favor, motion carried.**

Garbage: Mibeck reviewed the current situation with funds available for the landfill expansion that will soon be necessary. He has spoken to people regarding a USDA Grant, wetlands water development related, which would cover 45% of our expansion costs. This would require an engineering plan to be submitted to the USDA. The remainder of the costs will likely be covered by the landfill maintenance funds, which come out of regular city utility bills.

Personnel:

Police Cruiser: Funds that were applied for by previous Police Department employees were delivered to the city in the amount of \$25,000 for the purpose of purchasing a police cruiser. These funds, which were presented this week, will be used for a second cruiser. Vets Gaming has also committed to contributing \$25,000 to the purchase of a new police cruiser. **MOTION** by Burud to approve the purchase of a second police cruiser, contingent on the vets gaming contribution. The City will cover the remainder of the cost using the police department budget. Seconded by Patterson. **All in favor, motion carried.**

Retirement Rate - Public Safety: Burud discussed information that was received by the committee regarding the retirement rate that should be in place for all public safety employees. **MOTION** by Burud for the City of Kenmare to affirm to North Dakota Public Employees Retirement System that the City of Kenmare is formed pursuant to the North Dakota Century Code and is neither a non-profit corporation nor a for-profit corporation, to join the NDPERS Public Safety Defined Benefit Retirement Plan and offer the plan to all eligible employees of the City of Kenmare. The motion was seconded by Knutson. **All in favor, motion carried.**

Police: Chief Hall reported that Jeremy Nevers has accepted the position of Deputy with the Kenmare Police Department.

Public Works: Williams reported being busy with curb stops and water maintenance for multiple houses in town. There has also been a lot of mowing and maintenance of properties that have not been maintained by their owners. Discussion of some of the most problematic streets in town. Mayor Gartner requested Shelton look at those streets/roads in town, and also work on getting the radiator back into the sweeper. Shelton said he will also be working on getting the City alleys back to the appropriate width and maintenance, including repairs of washouts and trimming the trees back.

Police Department: Chief Hall had 49 calls for service in the month of May. Traffic Violations count: 61.

Auditor's Office: In addition to the daily accounting and work, the Auditor's office has been working hard to get the 2023 financials to the Council. Now that the 2022 financials are being added to the process, there will be an additional delay. But, with ClerkBooks help, there will now be two complete years of financials.

Financials: **MOTION** by Burud to table 2022 and 2023 Financials. Seconded by Mibeck. **All in favor, motion carried.**

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

Adjourn: **MOTION** by Burud to adjourn, second by Knutson. All in favor, motion carried.

Meeting adjourned at 9:26 pm.

The next regular City Council Meeting is scheduled for July 12, 2023, at 7:00 PM at Kenmare City Hall.

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

Auditor

Mayor