



City Council MEMO

504 River Drive
North Sioux City, SD 57049
Phone (605) 232-4276
Fax (605) 232-0506

To: City of North Sioux City
From: Administration
Date: 09/16/2022
Re: Update on McCook Lake Canal Project

Background: The City is currently pursuing a couple of courses of action related to the McCook Lake Canal Project

- 1) Existing Ordinance 13.24.10 entitled "Erosion and Sediment Control states that *"The purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in North Sioux City. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in North Sioux City."* In order to accomplish these goals, the City requires anyone who is planning to excavate an area larger than 2,000 square feet to submit a plan before a site development permit is issued.

As a part of approving a site development permit, Section 13.24.040(A)(2) allows the city to "Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and issue the permit subject to these conditions". After consulting legal counsel representing the City's insurance pool, we have been advised that requiring the Mike Chicoine to agree in writing to construction standards as a condition of receiving a permit would likely meet the definition of a "reasonable condition".

The City's Engineering firm will be seeking out a set of standards. They also scheduled a meeting with the developer on September 15th with Mike Chicoine, but he pulled out of the meeting at the last minute. It is the City Engineer's intention to inform the Developer of these requirements and that no permit will be issued by the City until such standards are agreed to in writing.

- 2) The City has also reached out to its Washington DC delegation concerning issues found with the US Army Corps of Engineers permit that was issued. The City believes that the incorrect permitting process was used and that the Nationwide #29 permit that was issued was not the correct permit for this project. In addition, discrepancies in the location of the project exist between the engineering drawings and the project's location as shown in Figure 1 of the Memorandum of Record for the Chicoine's permit. Due to the discrepancies and the possible incorrect permitting process, the City has asked for help in having the original permit rescinded and a new permit process initiated which would include public input.

Financial Consideration: none

Recommendation: Informational Only