



COMMITTEE OF THE WHOLE AGENDA
February 17, 2015 - 5:30 PM
City Hall Council Chambers

Committee of the Whole Meeting

1. Lake Agassiz Regional Library (LARL) Long Range Planning Presentation _____
2. Metro COG Food Systems Advisory Commission Presentation _____
3. Discuss Proposed Changes to Massage Therapy Ordinance _____
4. City Manager Reports _____
 - A. Review City Council *Draft* Short- to Mid-Range Plan Framework _____

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Mayor and Council Communication

February 17, 2015

Page 1 of 1

SUBJECT: Lake Agassiz Regional Library (LARL) Long Range Planning Presentation

RECOMMENDATION: The Mayor and City Council are asked to receive a presentation from the Lake Agassiz Regional Library (LARL) staff regarding long-range operational and capital planning for the Moorhead Public Library.

BACKGROUND / KEY POINTS: A 10-year history of City of Moorhead investment in the Moorhead Public Library is enclosed for background. The City of Moorhead, through its partnership with LARL and participation in the regional system, provides a comprehensive array of library services to a growing community. LARL and City staff works collaboratively to improve the Library building through annual capital projects and facility enhancements. These improvements have improved patron accessibility and the overall experience for citizens at the Moorhead Public Library.

LARL staff will provide a presentation and answer Mayor & Council questions following the presentation.

FINANCIAL CONSIDERATIONS: The 10-year summary (enclosed) includes State-mandated levels of financial participation for the City of Moorhead as well as the actual levels of operational and capital support in the 2006 – 2015 timeframe.

VOTING REQUIREMENTS: Not Applicable

Disclaimer: Voting requirements may be subject to changes in the law, parliamentary procedural matters, or other unforeseen issues. The City Attorney provides opinion on questions of voting requirements in accordance with the Moorhead City Code, Minnesota State Statutes, and parliamentary procedure.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Michael J. Redlinger".

Michael J. Redlinger
City Manager

Department: Administration
Prepared by: Michael Redlinger, City Manager

Attachments: 10-Year History of Moorhead Public Library Support

MOORHEAD PUBLIC LIBRARY SUPPORT ⁽¹⁾
10-YEAR HISTORY

Fiscal Year	Payment to LARL	Building Mtce Costs ⁽³⁾	Total Support
2015	688,160	146,270	834,430
2014	675,730 ⁽²⁾	146,270	822,000
2013	675,701	146,299	822,000
2012	625,730	146,070	771,800
2011	625,730	146,070	771,800
2010	625,730	146,070	771,800
2009	625,730	147,070	772,800
2008	616,296	156,503	772,799
2007	602,358	147,129	749,487
2006	592,381	135,277	727,658

(1) The 2015 Certification of Minimum Local Support as certified by the State Department of Education is \$554,666, which is the same level as 2014

(2) The 2014 request from LARL was \$716,535

(3) Building maintenance costs include custodial services, utilities, insurance, lawn care, snow removal, elevator maintenance, etc.

CAPITAL PROJECTS

Year	Description	Amount
2007	Wireless Laptop Lab	103,850
2008	Roof Repair	35,100
2010	Carpet Replacement	80,960
2010	Upgrade Security Camera System	11,760
2010	Repair Basement Wall	9,030
2011	Reupholster / Replace Chairs	6,670
2013	Disconnect Old Boiler Piping	5,000
2014	Replace Fire Alarm System	12,000
		264,370



Fargo-Moorhead Metropolitan Council of Governments

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To: Moorhead City Council
From: Gina Nolte – Project Director, PartnerSHIP 4 Health
Noelle Harden – Health & Nutrition Extension Educator, University of Minnesota
Megan Myrdal – Project Coordinator, Cass-Clay Food Systems Advisory Commission
Adam Altenburg – Metro COG
Date: January 12, 2015
Re: Member Appointment to the Cass-Clay Food Systems Advisory Commission

Background. In October 2013, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) completed the Metropolitan Food Systems Plan. This plan establishes a framework for understanding the local food system and lists issues, objectives, and desired outcomes as they relate to food access, community health indicators, food security, and urban agriculture. The Metropolitan Food Systems Plan was approved by the City of Fargo, Clay County, and Fargo Cass Public Health, entities responsible for public health in the FM Metropolitan area.

Following the completion of the Metropolitan Food Systems Plan, the Cass-Clay Food Systems Initiative (CCFSI) requested assistance from Metro COG regarding the development and implementation of a Food Systems Advisory Commission. This commission would support community wellness activities, provide guidance on policies, and propose recommendations on ways to improve the food system in the FM Metropolitan area. Members of the commission would advise the coordination and direction of local food systems efforts on issues such as economic development, food infrastructure, urban agriculture, and public outreach.

Throughout the fall of 2014, Metro COG and the CCFSI developed a Joint Powers Agreement (JPA) to establish the Cass-Clay Food Systems Advisory Commission. This agreement has been approved by the City of Fargo on behalf of Fargo Cass Public Health and Clay County on behalf of Clay County Public Health.

Intent. The purpose of the Cass-Clay Food Systems Advisory Commission is to establish a public entity to advise policy makers and elected officials in the FM Metropolitan area on how to assure that residents have access to safe, nutritious, and affordable foods. Among other activities, this Commission would:

1. Assess the food system in the FM Metropolitan area with consideration of state and national trends and issues;
2. Educate policy makers in all local jurisdictions on food systems issues;
3. Provide language for policies and codes based on research;
4. Support community wellness through various activities related to healthy food consumption;
5. Cultivate partnerships and foster collaborative communication between local jurisdictions and other public and private partners;
6. Encourage inquiries from local jurisdictions on food systems issues;
7. Propose recommendations on ways to improve the food system in the FM Metropolitan area; and
8. Oversee the implementation of the Metropolitan Food Systems Plan.

A PLANNING ORGANIZATION SERVING

FARGO, WEST FARGO, CASS COUNTY, NORTH DAKOTA AND MOORHEAD, DILWORTH, CLAY COUNTY, MINNESOTA

Following the terms of the JPA, the Cass-Clay Food Systems Advisory Commission would consist of members appointed by each of the following governing bodies:

1. City of Fargo – one member of the City Commission
2. City of Moorhead – one member of the City Council
3. City of West Fargo – one member of the City Commission
4. City of Dilworth – one member of the City Council
5. Cass County – one member of the County Commission
6. Clay County – one member of the County Commission

In addition to six appointed member from the area governing bodies, five at-large members would be recommended by the CCFSI and agreed upon by a majority of appointed members at the first meeting.

Once all appointed members have been selected, Metro COG and the Project Coordinator for the Cass-Clay Food Systems Advisory Commission will coordinate with members to determine a time and date for the first commission meeting. It is anticipated that the first meeting of the Cass-Clay Food Systems Advisory Commission will be held the third or fourth week of January in the Fargo City Commission Chamber. It is expected that most meetings would be held bi-monthly after that, with six to seven meetings per year.

We would ask that the Moorhead City Council take the time to discuss the Cass-Clay Food Systems Advisory Commission and consider the appointment of one member who may serve on this commission.



Mayor and Council Communication

February 17, 2015

Page 1 of 2

SUBJECT: Discuss Proposed Changes to Massage Therapy Ordinance

RECOMMENDATION: The Mayor and City Council are asked to consider an ordinance amendment to regulate and license massage enterprises and massage therapists in the City of Moorhead.

BACKGROUND / KEY POINTS: This amended ordinance would add licensing of Massage Home Occupation to our current ordinance. This license would allow the practice of massage by a licensed therapist to be conducted in a designated private home or residence.

This amendment would also make changes to the application process necessary to address concerns of human trafficking, sex trade, and prostitution that are associated with transient and unregulated therapists and on-site managers. The current application process does not provide adequate information to confirm citizenship, alien resident status, and to allow for a thorough background investigation of applicants.

Amended provisions have been added requiring applicants for massage enterprise license, massage therapist license, or massage home occupation license to apply in person, submit a copy of a valid state or federal photo identification, and provide evidence of U.S. citizenship or resident alien status. It also requires any applicant or on-site managers living within a 100-mile radius of the massage enterprise or where the massage services are performed.

FINANCIAL CONSIDERATIONS: No expense is anticipated as a result of this ordinance.

VOTING REQUIREMENTS: N/A

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Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Michael J. Redlinger". The signature is fluid and cursive, with a prominent initial "M" and "J".

Michael J. Redlinger
City Manager

Department: Police
Prepared by: David Ebinger, Chief of Police
Attachments: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REENACT TITLE 2, CHAPTER 6, ARTICLE C, OF THE MOORHEAD MUNICIPAL CODE RELATING TO MASSAGE THERAPY.

BE IT ORDAINED by the City Council of the City of Moorhead as follows:

SECTION 1. Title 2, Chapter 6, Article C, of the Moorhead Municipal Code is hereby amended and reenacted to read as follows:

TITLE 2

CHAPTER 6

ARTICLE C. MASSAGE THERAPY

SECTIONS:

- 2-6C-1: Definitions.
- 2-6C-2: Licenses Required.
- 2-6C-2-1: Application for License.
- 2-6C-3: Investigation of License Applicants.
- 2-6C-4: Approval, Denial, Suspension or Revocation of License.
- 2-6C-5: License Terms and Fees.
- 2-6C-6: Conditions of License.
- 2-6C-7: Exemptions to License Provisions.
- 2-6C-8: Insurance Required.
- 2-6C-9: Violations and Penalties.

2-6C-1: DEFINITIONS.

MASSAGE: Any method of pressure on or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating or rolling of the body with the hands, or with the aid of any mechanical or electrical apparatus, or other appliances or devices, for a fee or for compensation, direct or indirect.

MASSAGE ENTERPRISE: A business where the practice of massage is carried out by licensed massage therapists to members of the public, but does not include the giving of a massage to a person at that person's residence or place of business by a licensed massage therapist.

MASSAGE HOME OCCUPATION: An occupation where the practice of massage is carried out by a licensed massage therapist in a private home or residence.

MASSAGE THERAPIST: An individual or a person over the age of eighteen (18) who practices or administers "massage" as defined herein, and who has made a study of the underlying

principles of anatomy and physiology as they are generally included in a regular course of study by a recognized and approved school of massage. The individual shall have a diploma or credentials issued by a state recognized school of massage or like institution demonstrating satisfactory completion of not less than five hundred (500) hours of study; said course of study shall be accredited or approved by the American Massage Therapy Association (AMTA) or Associated Body Work And Massage Profession (ABMP) (or similar organization meeting the standards equivalent to the AMTA or ABMP), or in addition to the study requirement, the individual shall maintain a professional class membership in the American Massage Therapy Association or Associated Body Work And Massage Profession (or membership in an organization similar to AMTA or ABMP), or, in addition to the study requirement, the individual shall have passed the certification examination by the National Certification Board For Therapeutic Massage And Bodywork.

PERSON: An individual, a partnership, or a corporation which may operate the business of a massage enterprise or a massage home occupation, or an individual who engages in the practice of massage.

2-6C-2: LICENSES REQUIRED.

A. No person shall operate a massage enterprise within the city without first obtaining a license from the city and paying the fee therefor as hereinafter established.

B. No person shall give a massage within the city without first obtaining a license from the city and paying the fee therefor as hereinafter established.

C. No person shall operate a massage home occupation within the city without first obtaining a license from the city and paying the fee therefor as hereinafter established.

2-6C-2-1: APPLICATION FOR LICENSE.

A. A massage license application must be completed before a person may obtain a massage enterprise license, massage therapist license, massage home occupation license, or any other massage license authorized by this article. Massage license application forms may be obtained from the city clerk and must include, but are not limited to, the following pieces of information:

1. The name, address, birthdate, and contact information of the applicant and, where applicable, any on-site managers designated pursuant to section 2-6C-6(A) of this article.
2. Certification that the applicant and any on-site managers live within a one-hundred (100) mile radius of the location of the massage enterprise or the location where the massage will be performed, in accordance with section 2-6C-6(J) of this article.
3. Evidence of the applicant's U.S. citizenship or resident alien status.
4. A copy of the applicant's valid state or federal photo identification.

5. A list of the applicant's previous places of employment for the past five (5) years.
6. A list of the applicant's previous residences for the past five (5) years.
7. An official transcript showing the applicant's receipt of a massage therapy degree or similar professional certification, as required by this article, sent directly from the issuer of the degree or certification to the city clerk.
8. The hours of operation of the massage enterprise or massage home occupation, or the hours within which the massage therapist will perform massages, along with certification that these hours will not violate the license terms set forth in Section 2-6C-6(K).

B. All massage license applications must be signed by the applicant and submitted to the city clerk in the manner described on the massage license application. Failure to provide any of the information required by subsection 2-6C-2-1(A) of this chapter, or any other information required by the application, will result in an automatic denial of the application.

2-6C-3: INVESTIGATION OF LICENSE APPLICANTS.

The police department shall investigate all applications for a license to operate a massage enterprise or massage home occupation, or to practice massage within the city. The police shall conduct a criminal background check as part of the investigation. In the event a national criminal background investigation is required, the applicant shall be responsible for all additional fees incurred for such and, upon request, provide additional information required to complete this process. All applicants are required to complete an informed consent authorizing the disclosure of all criminal history record information. Upon completion of said investigation, the police department shall report to the council in writing its findings and recommendations. The investigation should determine if there are any grounds to deny a license as set forth in subsection 2-6C-4B of this article.

2-6C-4: APPROVAL, DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

After the investigation required under section 2-6C-3 of this article, the council shall act and either approve or deny the issuance of said license on the basis of said investigation and report and the application submitted by the applicant.

A. Approval And Issuance: The city clerk shall be empowered upon council approval to issue licenses to a person to engage in the practice of massage, or to operate a massage enterprise or massage home occupation, upon application being made therefor to the office of the city clerk; the licenses issued by the city clerk shall be displayed in a prominent place within a licensed massage enterprise or massage home occupation for each such person licensed to engage in the practice of massage.

B. Deny License: No person shall be issued a license under the terms of this article if the applicant:

1. Is under the age of eighteen (18) years.
2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota statutes section 364.03, subdivision 2 (including, but not limited to, Minnesota statutes sections 609.321 through 609.3451), and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensee as prescribed by Minnesota statutes section 364.03, subdivision 3.
3. Is not a citizen of the United States or resident alien.
4. Has misrepresented or falsified information on a license application or additional information requested by the city.
5. Cannot meet the definition of "massage therapist" in section 2-6C-1 of this article.

C. Suspend or Revoke License: The council may suspend or revoke any license to operate a massage enterprise or massage home occupation, or a license to practice massage, as defined in this article in accordance with the provisions of subsection 2-1-10A of this title.

2-6C-5: LICENSE TERMS AND FEES.

A. Massage Enterprise License: A license issued for the operation of a massage enterprise shall be issued for a period of one year and expire on December 31, and the applicant shall pay in advance the fee as established by the city's fee schedule. Such license may thereafter be renewed annually by resolution of the council upon payment in advance of an annual fee as established by the city's fee schedule.

B. Massage Therapist License: A license issued to an individual to engage in the practice of massage shall be issued for a period of one year and expire on December 31, and the applicant shall pay in advance the fee as established by the city's fee schedule. Such license may thereafter be renewed annually by resolution of the council upon payment in advance of an annual fee.

C. Massage Home Occupation License: A license issued for the operation of a massage home occupation shall be issued for a period of one year and expire on December 31, and the applicant shall pay in advance the fee as established by the city's fee schedule. Such license may thereafter be renewed annually by resolution of the council upon payment in advance of an annual fee.

2-6C-6: CONDITIONS OF LICENSE.

A. Responsible Authority: If a licensee to operate a massage enterprise is a person other than an individual engaged in the active day to day management of the business, such licensee shall designate in writing to the city the name of a manager who shall be actively engaged in the business.

B. Comply With Regulations: It shall be the responsibility of the persons to whom the license to operate a massage enterprise is issued, and such persons' designated managers, to carry out all of the terms and conditions of this article; and any violations of this article, whether committed by the persons holding the license, their manager or an employee of said massage enterprise or massage home occupation, will be grounds for revocation or nonrenewal of the license.

C. Record Of Employees Kept: It shall be the responsibility of the persons holding the license and such persons' manager to file with the city the names of each and every individual who will engage in the practice of massage at the massage enterprise, their birth date, most previous address and current address.

D. Employees Must Be Licensed: It shall be the responsibility of the persons holding the license to operate a massage enterprise or massage home occupation and their designated manager to make certain that any person engaging in the practice of massage within such massage enterprise or massage home occupation obtains a proper license as required under this article prior to commencing employment and engaging in the practice of massage.

E. Location Restrictions, Transferability:

1. Massage Enterprises: The licenses issued by the city to operate a massage enterprise shall be issued for and shall designate a specific location within the city where the massage enterprise shall operate. Such license is nontransferable both as to person and location without the approval of the council.

2. Massage Therapists: The licenses issued by the city to a person to engage in the practice of massage shall entitle the licensed massage therapist to perform on site massage at a business, public gathering, private home, or other site not on a massage enterprise premises. The massage therapist must have a license in his/her possession if a massage is given off a licensed massage enterprise. Records must be retained for one year for all massages given off a licensed massage enterprise, and such records shall be made available to the police department upon request.

3. Massage Home Occupations: The licenses issued by the city to operate a massage home occupation shall designate the private home or residence where the massage home occupation shall be conducted. Such license is nontransferable both as to the person and location without the approval of the council.

F. Prohibited Acts:

1. The person who is receiving a massage shall at all times have his or her genitals covered with nontransparent material or clothing.

2. Any massage therapist performing a massage shall at all times have his or her breasts, buttocks, anus and genitals covered with a nontransparent material or clothing.

3. At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva or vaginal area of the person.

G. Doors To Be Open: No licensed massage enterprise shall have its entry door locked at any time during normal business hours.

H. Premises Open For Inspection: Any persons holding a license from the city to operate a massage enterprise or massage home occupation shall agree in their application that their place of business or private home or residence will be open to inspection by the city and any authorized city personnel, including the fire, police, and health departments, upon presentment of proper credentials without notice, at any time during normal business hours.

I. Sanitary Guidelines: The licensed premises must meet the sanitary guidelines set by the city.

J. Residency Requirements: The applicant and, where applicable, any on-site managers designated pursuant to section 2-6C-6(A) of this article shall live within a one-hundred (100) mile radius of the massage enterprise or location where the massage will be performed.

K. Hours Of Operation: No massage enterprise or massage home occupation shall operate outside of the hours of 6:00 a.m. and 10:00 p.m., and no massage shall be performed outside of said hours of operation.

2-6C-7: EXEMPTIONS TO LICENSE PROVISIONS.

A massage enterprise or massage therapist license is not required for the following persons and places:

A. Persons duly licensed by this state to practice medicine, surgery, nursing, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.

B. Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments, and provided the massage by beauty culturists is limited to the head, hands, neck and feet, and the massage by barbers is limited to the head and neck.

C. Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry.

D. Places duly licensed or operating as a hospital, nursing home, hospice, sanatorium, group home or similar licensed facility established for the hospitalization or care of human beings.

E. A person who uses special pressure techniques on the reflexes in the human feet, hands and ears, commonly referred to as reflexology, and limits his/her practice to pressure techniques on the clients' feet, hands and ears.

F. Accredited schools through the ACICS, or similar organization, offering classes on massage, provided all instructors obtain a massage therapist license from the city.

G. Enrolled students in a program of massage offered by an accredited school as long as the massages given by the students are a requirement of their instructional program and no compensation is provided for the massage, or if a massage is given as part of a required internship/externship and the massage is given at an off site licensed facility, or a facility made exempt by this section, and the student is supervised by a licensed massage therapist or other qualified person exempt from the massage therapist license by this section.

2-6C-8: INSURANCE REQUIRED.

A massage therapist must provide city proof that the massage therapist has current insurance coverage of six hundred thousand dollars (\$600,000.00) or more for professional liability in the practice of massage.

2-6C-9: VIOLATIONS AND PENALTIES.

A. A conviction of any persons holding a license to operate a massage enterprise or massage home occupation, their manager, any person holding a license to practice massage or any employee of a licensed massage enterprise or massage home occupation, for a violation of this article or any crime directly related to the occupation licensed as prescribed by Minnesota statutes section 634.03, subd. 2, including, but not limited to, Minnesota statutes sections 609.321 through 609.3451, inclusive, as a result of conduct on the licensed premises or off the premises if initial contact is made on the premises, shall be grounds for immediate revocation of the license issued under the terms and conditions of this article.

B. Any person violating any provisions of this article shall, upon conviction, be penalized in accordance with the provisions of section 1-4-2 of this code.

SECTION 2. This ordinance shall take effect upon publication in accordance with the Moorhead City Charter.

PASSED by the City Council of the City of Moorhead this ____ day of _____,
2015.

APPROVED BY:

DEL RAE WILLIAMS, Mayor

ATTEST:

JILL WENGER, Acting City Clerk

First Consideration:

Second Consideration:

Date of Publication: