

**City of Moorhead  
City Council Meeting  
Meeting Minutes  
April 26, 2010 at 5:30 PM  
City Hall Council Chambers**

Pursuant to due call and notice thereof, a regular meeting of the City Council Meeting was held in the City Hall Council Chambers, on April 26, 2010, at 5:30 PM.

**Roll call of the members was made as follows:**

1st Ward Council Member:	Luther Stueland	Present
1st Ward Council Member:	Nancy Otto	Present
2nd Ward Council Member:	Diane Wray Williams	Present
2nd Ward Council Member:	Mark Altenburg	Present
3rd Ward Council Member:	Dan Hunt	Present
3rd Ward Council Member:	Brenda Elmer	Present
4th Ward Council Member:	Mark Hintermeyer	Present
4th Ward Council Member:	Greg Lemke	Present
Mayor:	Mark Voxland	Present

**City Council Meeting**

1. [Call to Order and Roll Call](#)

2. Recognitions - Presentations

A. [National Music Week](#)

Minutes: Mayor Voxland presented the National Federation of Music Clubs with a proclamation recognizing National Music Week (May 2 – 9, 2010).

3. [Approve Minutes](#)

Motion by Altenburg, seconded by Elmer to **Approve Minutes of April 12, 2010 and April 19, 2010 (Adjourned Meeting)**

Motion Passed:

*For: 8 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke*

A. [April 12, 2010](#)

**Resolution 2010-0426-1**

B. [April 19, 2010 \(Adjourned Meeting\)](#)

**Resolution 2010-0426-2**

4. [Citizens Addressing the Council \(Time Reserved: 15 Minutes\)](#)

Minutes: Joe Bennett, Moorhead resident, introduced Joan Bachman stating that she will be working as a Community/Parish Nurse in the Bennett Park area beginning May 4th, 2010.

Mayor Voxland shared a statement from John Moen, a Moorhead resident, which described a "blizzard" of garbage along 11<sup>th</sup> Street South following completion of City mowing.

5. [Agenda Amendments](#)

Minutes: The following item was removed from the agenda:

- Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for the 34th St/I-94 Interchange Project, Phase 2 (Intersection & Traffic Signal Improvements) Eng. No. 04-2-1B

The following item was added to the agenda:

- Authorize Lease Agreement between the City of Moorhead and Rourke Art Museum

Motion by Wray Williams, seconded by Otto to **Approve Agenda as Amended**  
*Motion passed by unanimous vote*

6. [Consent Agenda](#)

All items listed with an asterisk ( \* ) are enacted by one motion.

Motion by Stueland, seconded by Otto to **Approve Consent Agenda**  
*Motion Passed by unanimous vote*

7. [\\*Approve Licenses - Permits](#)

- A. [\\*License Renewals](#)  
**Resolution 2010-0426-A**
- B. [\\*Fire Prevention Licenses](#)  
**Resolution 2010-0426-B**
- C. [\\*Permits](#)  
**Resolution 2010-0426-C**

8. [Mayor and Council Reports - Appointments](#)

Minutes: Council Member Hintermeyer updated the Mayor and Council on 1<sup>st</sup> Avenue North redevelopment plans recently discussed by the Economic Development Authority.

Council Member Wray Williams encouraged citizens to visit the Moorhead Public Library and added that the library's budget will allow for added security lighting.

A. [Domestic Partnership Registry Discussion](#)

Minutes: Redlinger opened the discussion by directing the Mayor and Council to a memo and accompanying attachments detailing staff research on the creation of a Domestic Partnership Ordinance in the City of Moorhead. The handout compared costs, fees, and the text of Domestic Partnership Ordinances from Duluth, Minneapolis, and St. Paul.

The following individuals addressed the Mayor and Council regarding their support for a Domestic Partnership Ordinance:

- Dane Jenson, representing MSUM Gay Straight Alliance
- Wayne Danielson, representing Pride Collective & Community Center
- Lenny Tweeden, Fargo resident
- Octavio Gomez, representing Human Rights Commission
- Kristen Benson, representing Pride Collective & Community Center
- Charles Smit, representing a small group of students and alumni
- Christopher McEwen, Moorhead resident
- Michael Carbone, representing Human Rights Commission.

The Mayor and Council directed City staff to draft a Domestic Partnership Ordinance for consideration by the Mayor and Council at a future Council meeting.

9. [Permanent Flood Protection Discussion/Update](#)

Minutes: Redlinger stated that the Metro Flood Study Work Group met on April 25, 2010 with the Assistant Secretary of the Army for Civil Works, Jo-Ellen Darcy, along with other state and local elected officials.

**Public Hearings**

10. [Public Hearing for the Approval of Tax Incentives to Innovis Health, LLC](#)

Motion by Otto, seconded by Hunt to **Open Public Hearing**  
*Motion Passed by unanimous vote*

Minutes: Redlinger explained that Innovis Health, LLC plans to expand their operation in Moorhead and build a new facility. The \$2.1 million building will allow the organization to expand their staff from 8 to 14 full-time staff members.

There were no citizens to be heard.

Motion by Altenburg, seconded by Otto to **Close Public Hearing**  
*Motion Passed by unanimous vote*

A. [Resolution to Approve Innovis Health LLC Property Tax Incentive](#)

Motion by Otto, seconded by Wray Williams to **Approve Resolution to Approve Innovis Health LLC Property Tax Incentive**

Motion Passed: **Resolution 2010-0426-3**

*For: 7 - Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke*

*Against: 1 – Stueland*

Minutes: The Mayor and Council noted the following:

- A tax incentive to expand this business will result in an increased tax burden to existing Moorhead businesses and properties.
- Moorhead is trying to attract this type of business and build a bigger tax base.
- Incentives will attract and keep businesses in Moorhead.
- With the incentive, Innovis will forego taxes on the increased valuation of the property, but they will still be required to pay taxes for their current property valuation.
- This incentive offers cities the opportunity to counteract Minnesota's high income tax rate.

Redlinger added that Minnesota State Statutes guide the incentive program and provide that it is applied consistently for any qualifying business.

11. [Public Hearing for the Final Bituminous Overlay and MPS Trench Repair Project. Eng. No. 10-A2-1](#)

Motion by Otto, seconded by Altenburg to **Open Public Hearing**  
*Motion Passed by unanimous vote*

Minutes: Bob Zimmerman, City Engineer, noted that there was a minor calculation error in the letters announcing the projected assessment costs related to the proposed improvements in agenda items 11-14. The assessment cost is accurate on the letters. The calculation error was related to the cost of the interest. He added that assessment costs will not be determined at this meeting. In several months there will be another hearing to further discuss the assessments to property owners.

Brian Neugebauer, City Attorney, stated that the calculation error in the letters would not affect the ability of the Council to order improvements and award bids for these projects. Property owners will be notified of the corrected assessment costs for future public hearings.

Jody Bertrand, Senior Engineer, provided a brief synopsis of the project.

There were no citizens to be heard.

Motion by Altenburg, seconded by Otto to **Close Public Hearing**  
*Motion Passed by unanimous vote*

Motion by Hintermeyer, seconded by Hunt to **Approve Resolution to Order Improvements and Resolution to Award Bid**

Motion Passed:

For: 8 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

A. [Resolution to Order Improvements](#)  
**Resolution 2010-0426-4**

B. [Resolution to Award Bid](#)  
**Resolution 2010-0426-5**

12. [Public Hearing for the Brookdale Area, Phase 3 Street Rehabilitation Project. Eng. No. 10-A2-3A](#)

Motion by Altenburg, seconded by Wray Williams to **Open Public Hearing**  
*Motion Passed by unanimous vote*

Minutes: Jody Bertrand, Senior Engineer, provided a brief synopsis of the project.

There were no citizens to be heard.

Motion by Stueland, seconded by Wray Williams to **Close Public Hearing**  
*Motion Passed by unanimous vote*

Motion by Stueland, seconded by Otto to **Approve Resolution to Order Improvements and Resolution to Award Bid**

Motion Passed:

For: 8 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

- A. [Resolution to Order Improvements](#)  
**Resolution 2010-0426-6**
- B. [Resolution to Award Bid](#)  
**Resolution 2010-0426-7**

13. [Public Hearing for the Village Green Area, Phase 1 Street Mill & Overlay and Rehabilitation Project. Eng. No. 10-A2-8](#)

Motion by Altenburg, seconded by Wray Williams to **Open Public Hearing**  
*Motion Passed by unanimous vote*

Minutes: James Schultz, Senior Engineer provided a brief synopsis of the project. Schultz stated that this project has garnered some citizen inquiry related to how the "front foot" assessment cost is calculated.

By recommendation of the Council, the Engineering Department is encouraged to provide information and rationale in future notices related to the "front foot" assessment calculation policy and on the City's website.

There were no citizens to be heard.

Motion by Elmer, seconded by Wray Williams to **Close Public Hearing**  
*Motion Passed by unanimous vote*

Motion by Hunt, seconded by Stueland to **Approve Resolution to Order Improvements and Resolution to Award Bid**

Motion Passed:

For: 8 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

- A. [Resolution to Order Improvements](#)  
**Resolution 2010-0426-8**
- B. [Resolution to Award Bid](#)  
**Resolution 2010-0426-9**

14. [Public Hearing for the 13th Ave N & 20th St N Street Rehabilitation Project. Eng. No. 10-A2-4](#)

Motion by Wray Williams, seconded by Hintermeyer to **Open Public Hearing**  
*Motion Passed by unanimous vote*

Motion by Otto, seconded by Wray Williams to **Close Public Hearing**  
*Motion Passed by unanimous vote*

Minutes: Jody Bertrand, Senior Engineer, provided a brief synopsis of the project. This project has garnered some citizen concerns related to the inclusion of new sidewalks. Sidewalks were added into the project to provide an overall network of continuity and better access to area parks. Sidewalk installment for this project is discretionary. The American Disabilities Act (ADA) regulates sidewalk requirements which can change year by year. This street project allows the City to install sidewalks without a special assessment.

The following individuals addressed the Mayor and Council regarding their

opposition to new sidewalk installation:

- Beverly Swenson, Moorhead resident
- Norma Erickson, Moorhead resident

The following individual addressed the Mayor and Council regarding his support for new sidewalk installation:

- Jason Pratt, Moorhead resident

A petition titled, ““People Who Oppose the Construction of a Sidewalk” was presented to the Mayor and Council with the signature of thirteen residents who live on 20<sup>th</sup> Street and 13<sup>th</sup> Avenue North and oppose the construction of a sidewalk in front of their properties.

Motion by Hintermeyer, seconded by Otto to **Accept Petition**

*Motion Passed by unanimous vote*

A. [Resolution to Order Improvements](#)

Minutes: The Mayor and Council noted the following:

- Sidewalks add value to a neighborhood and overall community.
- Improvements should follow ADA regulation, but consider the condition of the home at the time of construction/purchase.

Motion by Stueland, seconded by Otto to **Amend resolution to eliminate new sidewalk installation**

Amendment Passed:

For: 7 - Stueland, Otto, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

Against: 1 – Wray Williams

Motion by Wray Williams, seconded by Altenburg to **Amend resolution to include new sidewalk only if requested by the abutting property owner, and only if the new sidewalk is contiguous to existing sidewalk or logically connects to or extends the existing sidewalk system**

Amendment Passed:

For: 7 - Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

Against: 1 – Stueland

Motion by Lemke, seconded by Wray Williams to **Approve Resolution to Order Improvements as amended**

Motion Passed: **Resolution 2010-0426-10**

For: 8 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke

## Community Services Department

15. [Resolution to Approve House Moving Permit \(3835 15th St. S.\) - Unanimous Planning Commission Recommendation](#)

Minutes: Brian Nugebauer, City Attorney, stated that approval of this permit should consider whether:

- The application meets the criteria for Conditional Use Permits under the Zoning Ordinance.
- The home is structurally sound and can be moved without endangering persons or property; and
- The home is capable of meeting Building Code requirements after the move.

Conditional Use Permits consider:

- Compatibility with current zoning
- Possible adverse effects on the area
- Accommodation of public services without overburden

Nugebauer added that the City is not involved in the developer's covenant with existing property owners. These agreements are private and the City of Moorhead does not have the authority to enforce private agreements.

Kristie Leshovsky, City Planner, provided a brief synopsis of the permit application process. Per City Code, the Planning Commission held a public hearing on April 14, 2010. At this hearing, neighbors raised concerns related to private covenants in the subdivision and property values of existing homes. An appraisal of the property's value appears to match that of the current homes in the development. City staff believes all requirements of this permit have been met. The Planning Commission unanimously recommended approval of the house moving permit.

City staff noted that Clay County is the responsible entity required to input new property data. Delayed data entry and data conversion affected the City's ability to notice at least one property owner of this permit. The City maintained a good faith effort to notice all property owners with all available data. Clay County has been asked to provide the City with a timeline to conduct required data entry so future notices will be complete and accurate.

The following individuals addressed the Mayor and Council regarding their support of the house moving permit:

- Steve Iverson, Johnson Farms of Moorhead, LLC
- Brendan Muldoon, Moorhead resident

The following individuals addressed the Mayor and Council regarding their opposition to the house moving permit:

- Ryan McCamy, representing Johnson Farms Homeowners
- Bruce Ugelstad, Moorhead resident
- Kerry Taylor, Moorhead resident

The Mayor and Council noted the following:

- Covenant agreements are private and unenforceable by the City.

Motion by Elmer, seconded by Wray Williams to **Approve Resolution to Approve House Moving Permit (3835 15th St. S.) - Unanimous Planning Commission Recommendation**

Motion Passed: **Resolution 2010-0426-11**

For: 6 - Stueland, Otto, Wray Williams, Altenburg, Hunt, Elmer

Against: 2 - Hintermeyer, Lemke

16. [\\*Resolution to Approve Minor Subdivision Request for 804 30th Avenue South \(parcel 58.161.0010\)](#)  
**Resolution 2010-0426-D**

17. [\\*Resolution to Approve Contamination Cleanup Grant Application, Committing Local Match, and Authorizing Signatures for a Cleanup Grant to be Submitted to DEED on May 1, 2010 and Local Share Agreement](#)  
**Resolution 2010-0426-E**
  
18. [\\*Request of Moorhead Center Mall Condominium Association \(MCM\) that City Issue a Permit for a Non-Temporary Use of a MCM Walkway](#)  
**Resolution 2010-0426-F**

### **Engineering - Wastewater Treatment**

19. [\\*Resolution to Award Bid for the 2010 No-Dig Sanitary Sewer Lining Project. Eng. No. 10-6-1](#)  
**Resolution 2010-0426-G**
  
20. THIS ITEM REMOVED FROM THE AGENDA
  
21. [\\*Resolution to Call for a Public Hearing to Review the 2009 Annual Report and Conduct the 2010 Annual Meeting for the Stormwater Pollution Prevention Program](#)  
**Resolution 2010-0426-I**
  
22. [Discussion of City Practices for Project Plan & Specification Distribution and Bidding Procedures](#)

Minutes: Bob Zimmerman, City Engineer, provided an overview of City practices related to distributing notices for project bids. The City has made an effort to streamline the process and cut costs in distributing, tracking, and producing plans by utilizing a web-based service, Quest Construction Data Network. Quest maintains the Plan Holders list and distributes and tracks addenda. City staff would like to ensure prime contractors receive notice and addendums are quickly received and acknowledged. By utilizing Quest, all bidders are aware of other bidding parties. Current practices comply with all legal requirements. Alternative processes could be considered by the Mayor and Council.

David Ystebo, Executive Director of the Fargo Moorhead Builder's Exchange (FMBX), provided an overview of their member organization. Basic members can access the FMBX Plan Room to view projects on file. Upgraded members can additionally view specifications, blueprints, and addenda online. FMBX houses a library of documents and provides access and printing assistance to members. Local students receive use of online services and access to the Plan Room free of charge.

Ystebo stated that the City of Moorhead no longer utilizes FMBX for distribution of bids and that they were not notified when the City made this procedural change. FMBX would like to receive the same benefit in distributing bids to its members and would like the City to reconsider the current distribution practice.

The Mayor and Council noted the following:

- There is a financial advantage to the City for more contractors to bid on City projects.
- There is an advantage for the City to receive receipt of addenda from bidding contractors so that bids are not later rejected.
- A complete, public Plan Holder list is desirable for a fair bidding



process.

- The City must follow Municipal State Aid requirements.
- Distribution should possibly consider equity to other builder's exchange organizations throughout the region.

Motion by Hintermeyer, seconded by Elmer to **Approve a policy change to allow FMBX members to bid on plans obtained through FMBX and requires FMBX to distribute/track addenda.**

Motion by Hintermeyer, seconded by Lemke to **Table**

*Motion Passed by unanimous vote*

## Police Department

### 23. [Rental Registration Suspension - 1137 37th Avenue South](#)

Minutes: Redlinger stated that the rental registration suspension before the Council is related to a new disorderly behavior. The owner has appealed the City's recommendation. City staff would like to see the Council uphold a suspension of six months.

Nancy Taralson, Community Policing Coordinator, stated that a previous rental registration suspension was considered by the Council at the January 13, 2010 Council meeting. As directed by the Council, the Moorhead Police Department verified that the owner retained professional property management services. This management company had previously attended the Crime-Free Multi-Housing class. The Department believed the spirit of the Council request was met and the incident was closed.

Since that time there was a new noise violation. Between the previous violation and the current one, the owner did nothing to remove problem tenants who created both disturbances. This new incident of disorderly events is in clear violation of City Code. If adequate action to abate the problem is not taken after three incidents of disorderly behavior within one year, City staff can elect to bring the matter before the council for recommendation of a six month suspension. This City Code is intended to address poor property management. Incidents are attached to the property.

Bill Nystrom, representing Dave Brown Developers, stated that he would like the Mayor and Council to reconsider the six month suspension. He currently has 100% interest in the corporation. After the most recent violation, Nystrom instructed Prairie Property Management to notice the tenants to vacate by April 30, 2010. He added that he is working to eliminate poor tenant behavior in the future.

The Mayor and Council noted the following:

- The City appears to be applying a penalty to property owners in situations where there is not an official citation written.
- Disorderly tenant issues in rental units can seriously affect neighbors, particularly in densely populated areas of the City.
- A "good faith" effort of the landlord should have been to evict the tenants prior to the latest violation.
- Landlords can discover the rental history of prospective tenants, whereas renters do not have access to the rental history of the property and/or owner.

Motion by Lemke, seconded by Hunt to **Approve Rental Registration Suspension -**

**1137 37th Avenue South as recommended by City staff**

**Motion Failed**

*For: 3 - Altenburg, Hunt, Lemke*

*Against: 5 - Stueland, Otto, Wray Williams, Elmer, Hintermeyer*

Motion by Otto, seconded by Wray Williams to **Approve Rental Registration Suspension of 1137 37th Avenue South for a period of three months with proof by affidavit from Prairie Property Management that the current tenants have vacated the premises by 12:00 AM on May 1, 2010 and if proof by affidavit is not provided, the rental registration will be suspended for a period of six months.**

Motion Passed: **Resolution 2010-0426-12**

*For: 7 - Otto, Wray Williams, Altenburg, Hunt, Elmer, Hintermeyer, Lemke*

*Against: 1 - Stueland*

**City Manager Reports**

24. [\\* Resolution to Approve Budget Adjustment - 2009 Flood Reimbursement](#)  
**Resolution 2010-0426-J**

25. [Reports - Updates](#)

Minutes: Redlinger announced that there will be a retirement party for Nancy Taralson on April 30<sup>th</sup> from 2:30 pm - 4:30 pm at the Moorhead Police Department.

26. Executive Session (If needed)

27. [New Business](#)

Minutes: Redlinger stated that City staff has been working with representatives of the Rourke Art Museum to develop a framework for a long-term lease agreement. Redlinger outlined the proposed terms of the lease. He added that a visual inspection of the building was conducted to observe any structural deficiencies or maintenance issues.

Peter Schultz and John Clemedtson, representatives of the Rourke Art Museum, stated their support for the proposed agreement. They added that the Rourke will be able to meet all financial obligations.

The Mayor and Council noted the following:

- This lease agreement addresses previous Council concerns regarding the City's financial support of the building.

Due to the short timeframe to review the documents related to the lease agreement, this item was tabled until May 10, 2010 Council meeting.

- A. [Authorize Lease Agreement between the City of Moorhead and Rourke Art Gallery Museum](#)

Motion by Hunt, seconded by Wray Williams to **Authorize Lease Agreement between the City of Moorhead and Rourke Art Gallery Museum**

Motion by Stueland, seconded by Hintermeyer to **Table until May 10, 2010 Council Meeting**

*For: 7 – Stueland, Otto, Wray Williams, Altenburg, Elmer, Hintermeyer, Lemke*

*Against: 1 - Hunt*


28. Citizens Addressing the Council (continued, if necessary)

### Handouts Provided at Meeting

29. [Summary of Public Information Meeting Regarding Proposed Assessments](#)
30. [People Who Oppose the Construction of a Sidewalk](#)

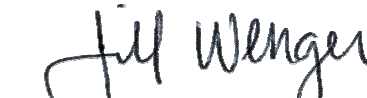
APPROVED BY:

ATTEST:



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Mark Voxland, Mayor



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Jill Wenger, City Clerk

The proceedings of this meeting are digitally recorded and are available for public review.

*Respectfully submitted by:*  
*Jill Wenger, City Clerk*