

**City of Moorhead
City Council Meeting
Meeting Minutes
July 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 July 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	Absent
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	Absent
4th Ward Council Member:	Greg Lemke	Present
Mayor:	Mark Voxland	Present

City Council Meeting

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

Mayor Voxland called the meeting to order

2. [Approve Minutes](#)

A. [June 28, 2010 Minutes \(City Council Meeting\)](#)

Motion to Approve made by Nancy Otto and seconded by Mark Altenburg

Approve Minutes of June 28, 2010 (City Council Meeting)

Motion Passed by unanimous vote

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

Minutes: Trevor McCollough, Moorhead resident, addressed the Mayor and Council regarding his opposition to the removal of an Oak tree known to be over 100 years. Its removal was due to the construction of the Horn Park Levee extension project. McCollough expressed his frustration with City staff response to his inquiries and disappointment that further consideration was not considered prior to its removal. He requested that in the future the City give additional consideration to the removal of any tree over 100 years.

Robert Zimmerman, City Engineer stated that City staff considered options to realign the levee to preserve the tree; however the integrity of the levee would have been at risk. The City makes every effort to avoid tree removal wherever possible.

It was requested that City staff provide a report to the Mayor and Council regarding the decision for the tree removal.

4. [Agenda Amendments](#)

No amendments were requested.

5. [Consent Agenda](#)

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

Minutes: The following items were removed from the Consent Agenda:

- #22A – Resolution to Approve City Compensation and Benefits Policy 3.01 Revision
- #22B – Resolution to Approve Budget Adjustment - Flood 2010 Employee Overtime Compensation

Motion to Approve made by Dan Hunt and seconded by Nancy Otto

Approve Consent Agenda as amended

Motion Passed by unanimous vote.

6. [Licenses - Permits](#)

A. [*Liquor Licenses](#)
Resolution 2010-0726-A

B. [*Business Licenses](#)
Resolution 2010-0726-B

7. Mayor and Council Reports - Appointments

A. [Appointment to Planning Commission](#)

Motion to Approve made by Greg Lemke and seconded by Nancy Otto

Approve Appointment to Planning Commission

Motion Passed: **Resolution 2010-0726-1**

For: 6; Against: 0; Absent: 2 - Diane Wray Williams, Mark Hintermeyer

B. [Appointment to Moorhead Library Board](#)

Motion to Approve made by Greg Lemke and seconded by Brenda Elmer

Approve Appointment to Moorhead Library Board

Motion Passed: **Resolution 2010-0726-2**

For: 6; Against: 0; Absent: 2 - Diane Wray Williams, Mark Hintermeyer

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

Minutes: No report provided.

Public Hearings

9. [Public Hearing for Miscellaneous Sidewalk & Concrete Improvements. Eng. No. 10-A7-1](#)

Minutes: Public Hearing opened at 5:46 p.m.

James Schultz, Senior Engineer, provided a brief overview of the project.

The following individuals affected by the proposed assessment addressed the Mayor and Council regarding their opposition:

- Mark Rasmussen
- Larry Binford
- Frank Torson

In response to citizen concerns and Mayor and Council questions, City staff clarified the following:

- All property owners in the development would be assessed for sidewalk improvements to the general common area which includes Americans with Disabilities Act (ADA) ramps, sidewalks adjacent to parks or other City-owned property, and sidewalks along parcel side lots. The total cost of these common improvements is divided by the number of parcels in the subdivision.
- Only those parcels that previously installed a side lot are exempt from the common improvement assessment cost.
- Some property owners would be assessed for front sidewalks if one is not already installed.
- Owners would be allowed to install front sidewalks at their own cost if they would like to avoid a City assessment as long as it met City guidelines.
- The current assessment estimates provided to residents of the development are higher than anticipated. The actual cost of the project would be based on the final bid amount. Residents would be provided an additional notice once the final bid amount is received.
- Residents would not be assessed for the project until after the improvements have been made and an assessment hearing is held.
- Restrictive covenants between developers and property owners are private and unenforceable by the City.
- The proposed improvement project was petitioned by the developer and is consistent with City policy.

Public Hearing closed at 6:20 p.m.

A. [Resolution to Order Improvements](#)

Motion to Approve made by Nancy Otto and seconded by Dan Hunt

Resolution to Order Improvements

Motion Passed: **Resolution 2010-0726-3**

For: 6; Against: 0; Absent: 2 - Diane Wray Williams, Mark Hintermeyer

Community Services Department

10. [Moorhead Municipal Airport Hangar/Taxiway Project](#)
 - A. [Resolution to Approve Professional Services Agreement with Ulteig Engineers for Engineering and Design](#)
 - B. [Resolution to Authorize Grant Agreement with the MN Department of Transportation](#)

Minutes: Kristie Leshovsky, City Planner, provided a brief overview of the project.

In response to Mayor and Council questions, City staff clarified the following:

- It is anticipated that this improvement, along with other factors, would further decrease the City's share for airport maintenance costs and will create a new revenue source for the airport.
- A new, larger, insulated hangar will be attractive to renters willing to pay a higher cost.
- City staff and the Airport Committee will be re-evaluating the rental fee rates.
- The capital improvement funds proposed for this project were originally intended for a cross-wind runway. City staff believes utilizing these funds to leverage additional grant dollars is a better investment.
- These capital improvement funds have already been earmarked for airport. The Council has the ability to re-assign these funds at any time.

It was requested that City staff provide the following additional information to the Mayor and Council:

- Residency of those individuals who rent a hangar.
- Analysis of the airport's economic impact on local businesses.

Motion to Table made by Mark Altenburg and seconded by Nancy Otto
Table Resolutions related to the Moorhead Municipal Airport Hangar/Taxiway Project

Motion Passed by unanimous vote

Engineering - Wastewater Treatment

11. [Resolution to Authorize Proceeding with Bidding Process - Renovation of Gooseberry Park Shelter](#)

Minutes: Robert Zimmerman, City Engineer, provided a brief overview of the project. Zimmerman stated that City staff re-evaluated the project as originally proposed based on Council concerns expressed at the March 22, 2010 City

Council meeting regarding the most appropriate use of flood mitigation funds. By retaining the current bathrooms the cost of the project would be lowered.

In response to Mayor and Council questions, City staff clarified the following:

- A fireplace was removed from the project for safety reasons.
- The current proposal would include catering facilities.
- The split roof design allows for more natural light and does not pose any long-term maintenance issues.
- The proposed project has a slightly larger footprint.
- The structure is ADA code compliant.
- The height of the roof is significantly elevated.
- Picnic tables would be reused.
- Construction of new bathrooms is preferred by City staff, but would incur additional costs. For this reason the Park Advisory Board recommended that the current bathrooms be retained.
- It is anticipated that the shelter will have increased use and would continue to be a funding stream for the City as a rental fee.
- The City is able to accept a variety of bid alternatives, if the Council directed staff to do so.
- The Council previously authorized the full original project, including new bathrooms. If affirmed, the original project could receive bids immediately following proper notice. If the Council would like to authorize bids for the lower cost option, a re-design fee of \$8,000 would be incurred.

The Mayor and Council Members noted the following:

- By raising the roof a public investment will be protected.
- The quality and ongoing maintenance of the retained bathrooms may be a concern if they are not improved at the same time as the shelter.
- Capital improvement funds are acquired through the City's public utility and use of these funds should be carefully considered.

Motion to Table made by Dan Hunt and seconded by Brenda Elmer

Table Resolution to Authorize Proceeding with Bidding Process - Renovation of Gooseberry Park Shelter

Motion Passed by unanimous vote

Resolution 2010-0726-C

13. [*Resolution to Award Bid for the Levee & Sluice Gates, Phase 3 Flood Mitigation Improvements. Eng. No. 09-A5-2B](#)

Resolution 2010-0726-D

14. [*Resolution to Award Bid for the River Haven Road, Phase 2 Flood Mitigation Improvements. Eng. No. 09-A13-2B](#)

Resolution 2010-0726-E

15. [*Resolution to Approve Engineering Services Agreement for Storm Lift Station #4 Improvements. Eng. No. 10-5-2](#)

Resolution 2010-0726-F

16. [*Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for Street & Underground Utility Improvements in Southfield 2nd Addition. Eng. No. 10-A6-3](#)

Resolution 2010-0726-G

Operations Department

17. [Resolution to Award Bid for Rourke Art Gallery Museum Roof Replacement](#)

Minutes: Chad Martin, Operations Director, provided a brief overview of the project.

In response to Mayor and Council questions, City staff clarified the following:

- The current lease requires the City to make any major repairs. The tenant is expected to make a “good faith effort” to raise funds for the project.
- The definition of “good faith” is difficult to prove in Court.
- The tenant is expected to pay a minimum of \$52,000. This calculation is based on the current lease agreement.
- The Council may consider adding an additional year onto the lease agreement due to the delay in the project.
- For non-payment the City would be able to evict and take legal action against the tenant for breach of lease. The City could also lease the building to a new tenant to mitigate damages.

Richard Moorhead, The IMAGE Group, reported the following:

- One of the roof replacement alternatives includes a 30 year warranty although the anticipated life expectancy would be much longer if correctly installed.
- The State Historical Society sent a letter to the City with recommendations for the roof replacement. The organization recognizes that they do not have authority over the project but sends recommendations for consideration based on the building’s historical status.

- The recommendation does not favor a copper roof. The concern is that it would be “too shiny.” Moorhead indicated his dismay at this recommendation due to his knowledge of how the copper roof would dull over a short period of time.
- Another recommendation was regarding the installation of flashings. Moorhead indicated that this well-intentioned recommendation is unwise based on his knowledge and experience.

It was requested that City staff research the following:

- Availability of grant funding to assist with the roof replacement costs.
- State Historical Society recommendations and impact.

Motion to Table made by Dan Hunt and seconded by Mark Altenburg

Table Resolution to Award Bid for Rourke Art Gallery Museum Roof Replacement

Motion Passed by unanimous vote

Police Department

18. [Resolution to Approve Second Reading of Ordinance 2010-07, An Ordinance to Create and Enact Section 4-4-19 of the Moorhead Municipal Code Relating to Social Host Liability and Approve Title and Summary](#)

Motion to Approve made by Mark Altenburg and seconded by Dan Hunt

Resolution to Approve Second Reading of Ordinance 2010-07, An Ordinance to Create and Enact Section 4-4-19 of the Moorhead Municipal Code Relating to Social Host Liability and Approve Title and Summary

Minutes: David Ebinger, Moorhead Chief of Police, provided a brief overview of the social host ordinance.

City staff clarified the following in response to Mayor and Council questions:

- The ordinance would affect underage drinking only.
- The ordinance has an exception for parents of minor children; however charges would apply in situations of child endangerment.
- Rental property owners would not be held liable by this ordinance unless they were known to be the “person hosting or allowing the event.”
- The Moorhead Police Department will continue to work collaboratively with area campuses and would provide information to students regarding the ordinance if approved.
- Minnesota State Statute does not currently offer options to charge an adult who facilitates an event where minors have reasonable access to alcohol. A number of municipalities in Minnesota have enacted social host ordinances to address the issue.

- The “reasonably knowing” standard has been developed in case law over many years and it is a very common standard in state law.
- The Moorhead Police Department stands to lose grant funding opportunities without adoption of a social host ordinance.
- Minnesota state law forbids quotas. The Moorhead Police Department does not participate in “party patrols” or other saturation enforcement methods.
- A misdemeanor crime invokes a fine of up to \$700 or 90 days in jail.

Motion Passed: **Resolution 2010-0726-4**

For: 6; Against: 0; Absent: 2 - Diane Wray Williams, Mark Hintermeyer

19. [*Resolution to Approve Budget Adjustment to Transfer Funds for Patrol Overtime](#)
Resolution 2010-0726-H

Moorhead Public Service

20. [*Authorize Local Government Renewable Energy Grant Program Application](#)
Resolution 2010-0726-I

City Manager Reports

21. [*Resolution to Approve Slate of Election Judges for the 2010 Primary and General Election](#)
Resolution 2010-0726-J
22. [*Resolutions to Approve City Employee Compensation and Benefits Policy Revision and Budget Adjustment for Flood 2010 Employee Overtime](#)
- A. [*Resolution to Approve City Compensation and Benefits Policy 3.01 Revision](#)
- B. [*Resolution to Approve Budget Adjustment - Flood 2010 Employee Overtime Compensation](#)

Minutes: City staff clarified the following in response to Mayor and Council questions:

- Retroactive pay to exempt employees does not violate state law. It would be a discretionary function of the Mayor and Council.

It was requested that City staff provide additional background information to the Mayor and Council regarding policies in other Minnesota Cities related to overtime compensation for exempt employees in an emergency declaration.

Motion to Table made by Dan Hunt and seconded by Mark Altenburg
Table Resolutions to Approve City Employee Compensation and Benefits Policy Revision and Budget Adjustment for Flood 2010 Employee Overtime to the August 9, 2010 City Council Meeting

Motion Passed by unanimous vote

23. [Reports - Updates](#)

Minutes: Scott Hutchins, Acting City Manger, reported the following:

- Information regarding a donation request from the Lakes & Prairies Community Action Partnership will be provided to the Mayor and Council for consideration at a future City Council meeting.
- An Open House for the Halliday Motel site will take place on Thursday, July 29th from 5:00 to 7:00 p.m. in the Comstock memorial Union.

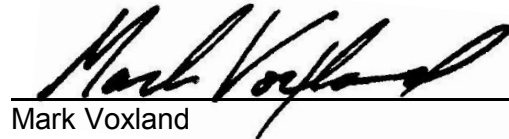
The Mayor and Council Members stated the following:

- It would be valuable for Lakes & Prairies Community Action Partnership to provide information regarding previous funded projects as part of their presentation and request.
- City staff is encouraged to develop a communication tool to disseminate information to Moorhead businesses and receive feedback.

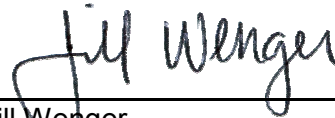
This meeting was adjourned to August 9, 2010.
Meeting Adjourned at 7:58 p.m.

APPROVED BY:

ATTEST:



Mark Voxland
Mayor



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