

**City of Moorhead
City Council Meeting
Meeting Minutes
July 12, 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 12, 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](#)

Minutes: Mayor Voxland called the meeting to order.

2. Recognitions - Presentations

A. [West Central Initiative Foundation Presentation: Tom McSparron, Donor Services Officer](#)

Minutes: Tom McSparron, Donor Services Officer, explained West Central Initiative Foundation's services and the opportunities they have provided for residents of Moorhead and the area. He thanked the City for its past support.

B. [Midcontinent Communications Presentation: Dan Nelson, Director of Government Affairs and Erin Hayes, Construction Engineer](#)

Minutes: Dan Nelson, Director of Government Affairs, and Erin Hayes, Construction Manager, provided a brief update of the activities of Midcontinent Communications.

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

- Construction is 52% complete and will be finished in September.
- Pedestals have been placed along boulevards where Midcontinent was unable to obtain backyard easements. Residents who signed an easement received a gift certificate. If there was an existing utility easement in the area, no further easements were obtained and no payments were made.

- Many residents assumed that if they did not sign an easement, there would not be any construction near their property; however, some construction was often necessary to continue connectivity.
- Any damage to pedestals would be the financial responsibility of the individual who committed the damage.
- Midcontinent is willing to work with any residents who are concerned with the cable installation process. There is a dedicated 800 telephone number and website for customer complaints.

The Mayor and Council Members stated the following:

- Concern was noted regarding the lack of communication regarding construction activities to residents.

3. [Approve Minutes](#)

A. [June 21, 2010 Draft Minutes \(Adjourned Council Meeting\)](#)

Motion to Approve made by Diane Wray Williams and seconded by Nancy Otto
Approve Minutes of June 21, 2010 (Adjourned Council Meeting)

4. [Citizens Addressing the Council](#)

Minutes: No citizens addressed the Mayor and Council Members.

5. [Agenda Amendments](#)

Minutes: No agenda amendments were noted.

6. [Consent Agenda](#)

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

Motion to Approve made by Nancy Otto and seconded by Diane Wray Williams
Approve Consent Agenda
Motion Passed by unanimous vote

Minutes: Brian Neugebauer, City Attorney, noted corrections to item #15 – Resolution to Approve 2010 Tax Increment Interfund Loan.

Under “Recommendation” the year should read “2010” and the last sentence under “Background” should read ”2009.”

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

A. [*Resolution to Approve Issuance of a 3.2% On-Sale / Wine On-Sale / Sunday Liquor License - Thai Orchid LLC \(420 Center Avenue, Moorhead\)](#)
Resolution 2010-0712-A

B. [*Business Licenses](#)

Resolution 2010-0712-B

- C. [*Liquor Special Event - Community Festival](#)
Resolution 2010-0712-C

- D. [*Permits](#)
Resolution 2010-0712-D

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

Minutes: Council Member Lemke highlighted the National League of Cities prescription drug program, which provides a 20% discount for prescription drugs. He encouraged Council Members to advertise the program. There is no cost to the City to provide this service.

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

Minutes: Michael Redlinger, City Manager, stated there will be a sponsorship signing ceremony at 2:30 pm on Thursday, July 15th at Fargo City Hall. A regular Metro Flood Study Work Group meeting will follow the ceremony.

The sponsorship resolution being considered will allow Moorhead to be the non-federal sponsor for the Fargo-Moorhead Metropolitan Flood Risk Management Project representing Minnesota interests. It will also give authority to the Mayor and City Manager to execute a Self-Certification of Financial Capability document.

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

- The federal government requires two non-federal sponsors for this project. Moorhead will be the Minnesota sponsor and Fargo will be the North Dakota sponsor.
- The Self-Certification of Financial Capability document makes assurances that Moorhead will pledge resources to implement the project.
- Meetings with the Congressional Delegations in Washington D.C. were valuable. The U.S. Army Corps of Engineers (USACE) and Washington officials have been impressed with the commitment and foresight of local, state, and federal representatives working toward permanent flood protection in the Red River Valley.
- The allocation of federal funds is determined by evaluating the priority level of submitted projects. The proposed Fargo-Moorhead project has several positive factors, including the cost/benefit ratio, return on investment, strength of two Congressional Delegations, and local commitment to the non-federal cost share.

The Mayor and Council Members stated the following:

- It will be important to clarify the duties between the City of Moorhead and Clay County.

Motion to Approve made by Dan Hunt and seconded by Nancy Otto
Resolution to Approve Intent to be the Non-Federal Sponsor for the Fargo-Moorhead Metropolitan Flood Risk management Project Representing Minnesota Interests

Motion Passed: **Resolution 2010-0712-1**

For: 8 – Luther Stueland, Nancy Otto, Diane Wray Williams, Mark Altenburg, Dan Hunt, Brenda Elmer, Mark Hintermeyer, Greg Lemke

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

- When the flood buyout process began, residents were informed that buyouts would be contingent on whether there were enough sellers to construct a substantial levy within a neighborhood. Since that time the City has changed its strategy and is now buying homes based primarily on elevation alone.

The Mayor and Council Members stated the following:

- There has been a mixture of emotions with how the flood buyout process has been conducted. City staff are encouraged to relay lessons learned from the flood buyout process, along with information on “adoption” of City property through no-cost lease agreements in an upcoming *City Insights* publication.
- Resident feedback is an important tool to improve City services.

Community Services Department

10. [*Request of Dan Hokanson for a Hearing to Request Approval for a House Moving Permit to raise and move a home from 80th Ave/Hwy 75 S. Moorhead to 513/505 Tessa Drive \(Note: house was originally located at 701 Harwood Drive, Fargo\) - Unanimous Planning Commission Recommendation](#)
Resolution 2010-0712-E
11. [*Request of Ellen Huston and Duane Peterson for a Hearing to Request Approval for a House Moving Permit to raise and move a home from 2102 3rd Street South to 211 6th Avenue South - Unanimous Planning Commission Recommendation](#)
Resolution 2010-0712-F
12. [*Accept Bid and Authorize Contract for Hazardous Materials Survey at 211 6th Avenue South](#)
Resolution 2010-0712-G
13. [*Consider Actions Relative to a Minor Subdivision of 39.9 Acres of Property at 3rd Street and 60th Avenue South \(Parcel 21.031.4400\) - No Planning Commission Action Required](#)
 - A. [*Resolution to Approve Minor Subdivision](#) of 39.9 Acres of Property at 3rd Street and 60th Avenue South (Parcel 21.031.4400)
Resolution 2010-0712-H
 - B. [*Resolution to Approve Developer's Agreement](#) of 39.9 Acres of Property at 3rd

Street and 60th Avenue South (Parcel 21.031.4400)
Resolution 2010-0712-I

14. [*Resolution Approving a Memorandum of Understanding with the F-M Metropolitan Council of Governments, State of North Dakota, State of Minnesota, and City of Fargo for Transit Planning](#)
Resolution 2010-0712-J
15. [*Resolution to Approve 2010 Tax Increment Interfund Loan](#)
Resolution 2010-0712-K
16. [1st Avenue North Gateway Corridor Redevelopment - Aggregate Industries](#)

Minutes: Redlinger provided a brief overview of the project.

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

- Contamination on the site is known. Steps for environmental remediation will be conducted at a later time.

The Mayor and Council Members stated the following:

- This project was recommended by the Economic Development Authority (EDA) Board based on a number of factors regarding the timing and available resources.
- The 1st Avenue corridor has been a long-standing area of opportunity in the City. As a primary “gateway” into Moorhead, its redevelopment is warranted.
- Concern was noted regarding the risk related to financing this project.

Motion to Approve made by Mark Hintermeyer and seconded by Nancy Otto
Approve Resolutions related to 1st Avenue North Gateway Corridor Redevelopment - Aggregate Industries

Motion Passed: (Resolution numbers referenced below)

For: 7; Against: 1 – Luther Stueland

- A. [Resolution to Authorize Purchase Agreement](#) for the 1st Avenue North Gateway Corridor Redevelopment - Aggregate Industries
Resolution 2010-0712-2
- B. [Resolution to Authorize Environmental Testing, Oversight, and Geotechnical Evaluation](#) for the 1st Avenue North Gateway Corridor Redevelopment - Aggregate Industries
Resolution 2010-0712-3
- C. [Resolution to Authorize Demolition and Oversight](#) for the 1st Avenue North Gateway Corridor Redevelopment - Aggregate Industries
Resolution 2010-0712-4

Engineering - Wastewater Treatment

17. [*Resolution to Award Bid for the I-94 South Right-of-Way & 3rd St Floodwall Flood Mitigation Project. Eng. No. 09-A3-2I](#)
Resolution 2010-0712-L
18. [*Resolution to Receive Petitions, Order the Preparation of the Preliminary Engineering Report, Receive the Report and Order the Preparation of Plans and Specifications, and Approve an Engineering Service Agreement for Street & Underground Utility Improvements in Southfield 2nd Addition. Eng. No. 10-A6-3](#)
Resolution 2010-0712-M, 2010-0712-N, and 2010-0712-O
19. [*Resolution to Approve Engineering Department Budget Adjustment](#)
Resolution 2010-0712-P

Operations Department

20. [Overview of Mosquito Spraying Program](#)

Minutes: Chad Martin, Operations Director, provided a brief overview of the history of the mosquito abatement program. A memorandum was provided to the Mayor and Council Members regarding mosquito spraying program questions previously submitted by Council Member Hintermeyer and Council Member Otto.

Harlyn Ault, Finance Director, provided a brief explanation of pest control/mosquito abatement fees.

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

- Ground spraying costs approximately \$20,000. The cost of aerial spraying, if done in conjunction with the City of Fargo, is about \$16,000.
- Fargo has a spray count threshold of 35 females per trap. Moorhead's threshold is currently 85 females per trap.
- The City of Moorhead does not currently larvicide standing water on private property due to liability reasons. It is only conducted on right-of-way areas and City-owned property.
- The City of Moorhead has 6 traps to track mosquito counts.
- In both aerial and ground spraying applications, the chemical needs to make contact with the mosquito to be effective.
- Golf courses are sprayed at the same time as any Citywide spraying. Gooseberry Park is done daily, and other park areas are sprayed as needed, or with Citywide spraying.
- Revenue and expenditures for mosquito control is tracked separately from other pest control accounts. Funding is available in reserves dedicated to provide for more mosquito control efforts.

The Mayor and Council Members noted the following:

- It is the perception of many residents that the City is not doing an adequate job of controlling mosquitoes.
- The count threshold for spraying between Moorhead and Fargo should be consistent as well as the scheduling of mosquito control efforts.
- Larvicide provides the most effective and best cost/benefit for mosquito control. The City should consider ways to gain access onto private property to larvicide if possible.
- Concern was noted regarding the liability risks of entering onto residential property.
- More mosquito traps need to be added within the City and located in residential areas to provide more realistic mosquito counts.
- Concern was noted regarding the risk of mosquito-borne diseases and the issue as a public health matter.
- Aerial spraying should be a priority.
- City staff should use their judgment to determine the most effective method of mosquito control and adequate spray count thresholds.
- Citizen public awareness efforts could assist the city in decreasing the opportunity for mosquitoes to hatch from standing water on private property.
- All mosquito control efforts consume a significant amount of funding. Consistent budgeting for mosquito control is needed.

Redlinger stated that City staff will research the legal issues related to private property easements to conduct mosquito control.

Motion to Approve made by Mark Altenburg and seconded by Dan Hunt
Resolution to approve a budget adjustment to transfer \$75,000 from the Pest Control Fund (Mosquito) reserves to the Mosquito Control Fund to conduct additional mosquito control efforts

Motion Passed: **Resolution 2010-0712-6**

For: 8

Motion to Amend made by Mark Hintermeyer and seconded by Nancy Otto
Amend the Resolution to lower the count threshold to 35 females per trap and provide aerial spraying as a priority to control for mosquitoes
Amendment Failed

For: 4 – Brenda Elmer, Mark Hintermeyer, Luther Stueland, Nancy Otto; Against: 5 – Dan Hunt, Greg Lemke, Diane Wray Williams, Mark Altenburg, Mayor Mark Voxland

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Resolution to remove the requirement for City staff to bring forward a resolution to the City Council each time aerial spraying is being considered

Motion Passed: **Resolution 2010-0712-7**

For: 8

Police Department

21. [Resolution to Approve First 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](#)

Minutes: Police Chief David Ebinger and City Attorney Brian Neugebauer briefly explained the intent of the ordinance.

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

- The ordinance will provide the ability to prosecute those who host a party and reasonably know alcohol will be consumed by minors.
- Landlords in a typical landlords/tenant situation would not be considered a “host” under the intent of this ordinance.
- Criminal law requires that the act and the intent are established beyond a reasonable doubt.
- Many cities throughout Minnesota have adopted similar ordinances.
- Misdemeanor offenses are generally under the authority of Municipalities to enforce and prosecute. The City of Moorhead retains the Clay County Attorney’s Office to prosecute City Ordinances as well as Petty Misdemeanor and Misdemeanor cases. The proposed ordinance was reviewed and is supported by the County Attorney.
- Current state statute addresses situations where alcohol is provided to minors, but prosecution requires that enforcement establish the person who purchased the liquor. This ordinance would allow individuals to be prosecuted who provided a venue where it is reasonably known alcohol will be consumed by minors.
- Other state statutes address situations where an underage person becomes intoxicated while under parental supervision.
- The Ordinance does not apply to liquor establishments.

The Mayor and Council Members stated the following:

- Concern was noted regarding the possibility that the ordinance could negatively affect individuals who show no overt action to provide alcohol to minors.
- Frustration was noted that the State of Minnesota requires that cities enact this ordinance to receive some grant funding appropriations, but has not adopted this law under State Statutes.
- If passed, this Ordinance should be made public to local residents

and students.

Motion to Approve made by Greg Lemke and seconded by Dan Hunt
Resolution to Approve First 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

Motion Passed: **Resolution 2010-0712-5**

For: 7; Against: 1 – Luther Stueland

22. [Resolution to Approve First Reading of Ordinance 2010-08, An Ordinance to Amend and Reenact Section 4-4-12 of the Moorhead Municipal Code Relating to Weapons](#)

Minutes: Police Chief David Ebinger and City Attorney Brian Neugebauer briefly explained the intent of the ordinance.

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

- This Ordinance does not impinge on a person's right to carry a weapon with a proper permit.
- The Ordinance would carry a misdemeanor charge.
- Squirt guns and paint guns would not be considered a facsimile weapon under this Ordinance. Facsimile weapons are designed in a manner that is intended to look like a real gun.
- Moorhead Police Officers do not want to be placed into the position of defending themselves against a person carrying a weapon that may not be real.
- This Ordinance prohibits individuals from carrying specifically identified weapons on their person in a public place, except as allowed in other parts of the Ordinance, such as to transport weapons.
- There are approximately 50 separate State Statutes that govern weapons.

The Mayor and Council Members noted the following:

- Concern was noted that current State Statute may already address this issue.
- A side-by-side comparison of the Ordinance and current state law would be helpful as the Council considers this Ordinance.
- Concern was noted regarding the restrictions this Ordinance would pose for individuals to take reasonable precautions to protect themselves.
- This ordinance is necessary to help educate the public and dissuade stores from selling look-alike weapons.

- Trauma incurred by police officers involved in a work-related shooting could be minimized by this City Ordinance.
- Further information and discussion is needed prior to consideration of a first reading of this Ordinance.

The following individuals addressed the Mayor and Council regarding their opposition to the Ordinance:

- Vince Proulx, Moorhead resident
- Ken Lucier, Moorhead resident

Motion to Approve made by Diane Wray Williams and seconded by Dan Hunt

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

Resolution to Table for further discussion at a future Committee of the Whole Meeting.

Motion Approved:

For: 8

City Attorney Reports

23. [*Resolution Providing for the Sale of Approximately \\$9,405,000 Public Utility Revenue and Refunding Bonds](#)
Resolution 2010-0712-Q
24. [*Resolution Providing for Competitive Negotiated Sale of \\$12,135,000 Taxable G.O. Improvement Bonds, Series 2010A \(Build America Bonds\) and \\$1,410,000 G.O. Tax Increment Refunding Bonds 2010B](#)
Resolution 2010-0712-R

City Manager Reports

25. [*Resolution to Approve Budget Adjustment - Microsoft Software Licenses](#)
Resolution 2010-0712-S
26. Reports - Updates

Minutes: Redlinger reported the following:

- Very favorable bids were received for the Rourke Art Gallery roof repair project. Further information will be provided to the Council on the contract as well as discussion of a long-term lease agreement.
- Congress has set aside \$450,000 for the 20th/21st/Main Avenue underpass project. Assembling the full project will likely take several years.
- Letters have been sent to community partners. Information received will be compiled and presented the Council in the near future.
- Information was provided to the Council on the history of the Public Service transfer.

Redlinger suggested the Executive Session be moved to the following week due to the lateness of the hour.

Concern was noted on the length of Council meetings. It was suggested that the number of topics addressed at Committee of the Whole meetings be limited or that the City Council schedule four meetings per month.

27. Executive Session - Labor Negotiations

Minutes: No Executive Session was conducted.

28. New Business

Minutes: No New Business was reported.

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

Minutes: No citizens addressed the Mayor and Council Members.

Meeting adjourned at 9:51 p.m.

APPROVED BY:

ATTEST:



Mark Voxland
Mayor

/s/ Becky Jahnke

Becky Jahnke
Deputy City Clerk

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

Respectfully submitted by:
Becky Jahnke, Deputy City Clerk