

**MINUTES OF THE MEETING OF THE CITY COUNCIL
OF THE CITY OF MOORHEAD, MINNESOTA
May 26, 2009**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Moorhead, Clay County, Minnesota, was duly held in the Council Chambers, City Hall, May 26, 2009, at 5:30 PM.

The following were present for roll call:

1st Ward Council Member:	Nancy Otto	Absent
1st Ward Council Member:	Dan Bohmer	Present
2nd Ward Council Member:	Diane Wray Williams	Present
2nd Ward Council Member:	John Rowell	Present
3rd Ward Council Member:	Dan Hunt	Present
3rd Ward Council Member:	Lauri Winterfeldt	Absent
4th Ward Council Member:	Mark Hintermeyer	Present
4th Ward Council Member:	Greg Lemke	Absent
Mayor:	Mark Voxland	Present

City Council Meeting

1. Call to Order and Roll Call

Minutes: Council Member Otto joined the meeting shortly after roll call. 5:30 PM

2. [Recognitions/Presentations/Introductions](#)
3. [Approve Minutes of May 11, 2009](#)

Motion made to Approve made by John Rowell and seconded by Diane Wray Williams 5:30 PM
Motion to Approve the Minutes of May 11, 2009
Passed For: 6; Against: 0; Abstain: 0; Absent: 2

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

Minutes: No one wished to speak at this time. 5:32 PM

5. [Agenda Amendments](#)

Minutes: There were no amendments to the agenda. 5:33 PM

6. [Consent Agenda](#)

All items listed with an asterisk (*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in accordance with the "Council Rules of Procedure". In such event, the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.

Motion made to Approve made by Diane Wray Williams and 5:30 PM

seconded by Nancy Otto

Motion to Approve Consent Agenda (Resolution numbers 2009-550-A-H).

Passed For: 6; Against: 0; Abstain: 0; Absent: 2

Minutes: The consent agenda was amended by removing item #16. 5:30 PM

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

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

Minutes: The following reports were provided: 5:39 PM

- Bob Bright, FM Metro COG retirement party will be held tomorrow.
- Council Member Hintermeyer reported on a recent meeting with Congressman Peterson, Senator Klobuchar and representatives from the Watershed board regarding flood protection.
- Mayor Voxland announced that tomorrow at 3:30 p.m. a field hearing with Senator Dorgan will be held at the Fargo Dome.
- Council Member Otto commented on the Moorhead Public Service Commission discussion regarding EDA's request for a rate extension. There is no recommendation at this time. Possible options will be forwarded to the EDA board for their discussion.

Minutes: Resolution No. 2009-551 was considered and approved. 5:39 PM

A. [Charter Commission Appointment - 2nd Ward](#)

Motion made to Approve made by Diane Wray Williams and seconded by John Rowell 5:30 PM

Resolution No. 2009-551 - Approve Charter Commission Appointment - 2nd Ward (Ron Hageman)

Passed For: 6; Against: 0; Abstain: 0; Absent: 2

Minutes: Resolution #2009-551 5:30 PM

9. [Public Hearing to Consider the City's Stormwater Pollution Prevention Program \(2008 Annual Report and 2009 Annual Meeting\)](#)

Motion made to Open Public Hearing made by Diane Wray Williams and seconded by Dan Hunt 5:46 PM

Motion to Open the Public Hearing to Consider the City's Stormwater Pollution Prevention Program (2008 Annual Report and 2009 Annual Meeting)

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

Minutes: Andrea Crabtree Naves, Utilities Engineer, explained the purpose of the public hearing, which is to review the 2008 Annual Report, conduct the 2009 Annual Meeting, and review the Storm Water Pollution Prevention Program (SWPPP). She 5:51 PM

conveyed no Council action is required in conjunction with the Public Hearing, Annual Meeting, or SWPPP review.

Motion made to Close Public Hearing made by Diane Wray Williams and seconded by Nancy Otto 5:30 PM

Motion to close the public hearing made by Diane Wray Williams and seconded by Nancy Otto.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

10. [Public Hearing to Consider Miscellaneous Final Bituminous Overlays and Watermain Trench Repairs. Eng. No. 09-A2-1](#)

Minutes: Jody Bertrand, Senior Engineer, explained the purpose of the public hearing, which is to consider improvements consisting of miscellaneous final bituminous overlays and watermain trench repairs (Eng. No. 09-A2-1). The final bituminous overlay portion of the proposed project represents the last paving layer in newer subdivisions. These improvements were previously petitioned by the developer of each subdivision and are in compliance with applicable Developer's Agreements for each subdivision, that state "the City will establish a date" for the final bituminous overlay construction, and that such is "anticipated to occur within five years of the original street construction". Bertrand discussed the timeline for the project and explained the economies of scale for doing the project at certain times. 6:25 PM

Jeff Schaumann, PROffutt, LP, appeared before the Mayor and Council regarding the proposed assessments in Horizon Shores. He requested the final overlay be delayed to accommodate continued development of the subdivision(s) as construction traffic "will beat up the road". Schaumann estimates one addition is approximately 66% developed and another only 16%. He urged the Mayor and Council to delay the final overlay.

Discussion ensued regarding this request. Staff expressed concern that to delay the final overlay could potentially cause result in drainage problems. Suggested was the deferment of assessments for this project should it move forward. However, it would be uncertain as to whether the deferred interest would be disclosed to any individual interested in purchasing a property.

Jay Sandt, 3728 13th Street South, expressed concern regarding the quality of the roads in his area. He inquired as to the City's 'quality checks'.

Bertrand replied the City follows the Minnesota Department of Transportation's specifications for road construction. He added the final overlay will address the concerns raised regarding roadway quality.

Motion made to Open Public Hearing made by Nancy Otto and 5:30 PM
seconded by Diane Wray Williams

Motion to open public hearing to consider miscellaneous final bituminous overlays and watermain trench repairs made by Nancy Otto and seconded by Diane Wray Williams.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

Motion made to Close Public Hearing made by Dan Hunt and 5:30 PM
seconded by Diane Wray Williams

Motion to close public hearing made by Dan Hunt and seconded by Diane Wray Williams.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

- A. [Resolution to Order Improvements for Miscellaneous Final Bituminous Overlays & Watermain Trench Repairs. Eng. No. 09-A2-1](#)

Minutes: The motion was to approve both items (10-A and B). 6:32 PM

Council Member Wray Williams moved, seconded by Council Member Hunt, to amend the resolutions by removing the Horizon Shores improvements.

City Manager Redlinger encouraged Council to take no action or to 'vote down' the main motion, as the amendment approves the bid award at the specified amount for the total project. Council Members Wray Williams and Hunt withdrew their motion to amend.

The Council voted on the main motion (Resolutions 2009-552-A and 2009-552-B), which resolutions failed.

Motion made to Approve made by John Rowell and seconded 5:30 PM
by Lauri Winterfeldt

Resolution Nos. 2009-552-A & B: Approve Ordering Improvements for Miscellaneous Final Bituminous Overlays & Watermain Trench Repairs. Eng. No. 09-A2-1

Failed For: 2; Against: 5; Abstain: 0; Absent: 1

Minutes: Resolution No. 2009-552-A - FAILED 5:30 PM

- B. [Resolution to Award Bid for Miscellaneous Final Bituminous Overlays &](#)

[Watermain Trench Repairs. Eng. No. 09-A2-1](#)

Minutes: Resolution No. 2009-552-B - FAILED 5:30 PM

11. [Public Hearing to Consider American Recovery and Reinvestment Funds Allocated to the CDBG Program](#)

Minutes: Kristie Leshovsky, Community Services Planner, 6:45 PM

explained the purpose of the public hearing, which is to receive public comments regarding the American Recovery and Reinvestment Act of 2009 (ARRA) allocation of funds to the City of Moorhead Community Development Block Grant (CDBG) program. The City of Moorhead has been awarded \$76,374 through the American Recovery and Reinvestment Act of 2009 signed into law by President Obama on February 17, 2009. The funds have been allocated to the City of Moorhead CDBG program through the U.S Department of Housing and Urban Development (HUD). To expedite the use of the ARRA funds, HUD has provided for an abbreviated 7-day public comment period for the CDBG Recovery Act funds.

The project identified for use of the CDBG ARRA funds is the acquisition by Clay County HRA of the property located at 1817 1st Avenue North. The building located at the site which will be razed formerly housed the Habitat for Humanity ReStore and is now vacant. The HRA will be developing and operating 24 one-bedroom units of affordable rental housing. \$70,000 for this project is currently included within the City of Moorhead 2009 CDBG Action Plan and, if approved for ARRA funding, will necessitate an amendment to the 2009 Action Plan.

No one else wished to speak regarding this hearing.

Council Member Rowell introduced a resolution #2009-553, seconded by Council Member Wray Williams, to approve the American Recovery and Reinvestment Act CDBG funds for acquisition related to the Gateway Gardens project at 1817 1st Avenue North.

In response to inquiry, Dara Lee, Clay County HRA, reported this is a shovel-ready project. They hope to close on the land June 15. She added they are desirous of contractors starting now, otherwise the project will have to wait until next year.

Ms. Lee, also assured Council, in response to inquiry, that the Clay County HRA will not come back and ask for more money later.

Resolution No. 2009-553 passed with Council Member Bohmer voting no.

Motion made to Open Public Hearing made by Lauri Winterfeldt and seconded by Diane Wray Williams 5:30 PM

Motion to open public hearing made by Lauri Winterfeldt and seconded by Diane Wray Williams.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

Motion made to Close Public Hearing made by Diane Wray Williams and seconded by Nancy Otto 5:30 PM

Motion to close public hearing made by Diane Wray Williams and seconded by Nancy Otto.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

- A. [Resolution to Approve American Recovery and Reinvestment Act CDBG funds for Acquisition related to the Gateway Gardens Project - 1817 1st Ave N](#)

Motion made to Approve made by John Rowell and seconded by Diane Wray Williams 5:30 PM

Resolution No. 2009-553 to Approve American Recovery and Reinvestment Act CDBG funds for Acquisition related to the Gateway Gardens Project - 1817 1st Ave N

Passed For: 6; Against: 1; Abstain: 0; Absent: 1

Community Services Department

12. [*Resolution to Authorize Contract with GFI Genfare for Purchase of an Electronic Fare Collection System](#)

Minutes: Resolution No. 2009-550-A 5:30 PM

13. [*Resolution to Authorize Lease Agreement for Utilization of Right-of-Way](#)

Minutes: Resolution No. 2009-550-B 5:30 PM

14. [*Resolution to Authorize Advertisement for Bids for Asbestos, Lead-Based Paint and Hazardous Materials Abatement at 1026 1st Avenue North](#)

Minutes: Resolution No. 2009-550-C 5:30 PM

Engineering - Wastewater Treatment

15. [*Resolution to Approve an Easement Agreement with BNSF and Construction & Maintenance Agreement with OTVR for the 34th St/I-94 Interchange Project. Eng. No. 04-2-1](#)

- A. [*Resolution to Approve an Easement Agreement with BNSF for the 34th](#)

[St/I-94 Interchange Project. Eng. No. 04-2-1](#)

Minutes: Resolution No. 2009-550-D 5:30 PM

- B. [*Resolution to Approve Construction & Maintenance Agreement \(Reconstruction of Existing Crossing\) with OTVR for the 34th St/I-94 Interchange Project. Eng. No. 04-2-1](#)

Minutes: Resolution No. 2009-550-E 5:30 PM

- C. [*Resolution to Approve a Construction & Maintenance Agreement \(24th Avenue South Crossing\) with OTVR for the 34th St/I-94 Interchange Project. Eng. No. 04-2-1](#)

Minutes: Resolution No. 2009-550-F 5:30 PM

16. [*Resolutions to Order the Preparation of Reports and Approve Engineering Services Agreements for Various Flood Mitigation Projects](#)

Motion made to Approve made by John Rowell and seconded by Nancy Otto 5:45 PM

Resolution agenda item Nos. 16-A -B-C and D.

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

Minutes: Council Member Winterfeldt joined the meeting at 5:44 p.m. 5:45 PM

Minutes: The motion was to approve all four agenda items (16-A-B-C and D). 5:45 PM

- A. [*Resolution to Order the Report for the 40th Ave S Flood Mitigation Project. Eng. No. 09-A5-1.](#)

Minutes: Resolution No. 2009-554-A 5:30 PM

- B. [*Resolution to Order the Report and Approve Engineering Services Agreement with AE2S. Eng. Nos. 09-A5-2 & 09-A5-3.](#)

Minutes: Resolution No. 2009-554-B 5:30 PM

- C. [*Resolution to Order the Report and Approve Engineering Services Agreement with Bonestroo. Eng. Nos. 09-A5-4, 09-A5-5, 09-A5-6 & 09-A6-2.](#)

Minutes: Resolution No. 2009-554-C 5:30 PM

- D. [*Resolution to Order the Report and Approve Engineering Services Agreement with Ulteig Engineers. Eng. No. 09-A13-2.](#)

Minutes: Resolution No. 2009-554-D 5:30 PM

Fire Department

17. No Items Scheduled

Operations Department

18. No Items Scheduled

Police Department

19. No Items Scheduled

Moorhead Public Service

20. [*Resolution to Authorize Advertisement for Bids for 115kV Transmission Line Relocation Along 32nd Avenue So in Fargo](#)

Minutes: Resolution No. 2009-550-G 5:30 PM

City Attorney Reports

21. No Items Scheduled

City Manager Reports

22. [*Resolution to Approve Employee Request for an Unpaid Leave of Absence](#)

Minutes: Resolution No. 2009-550-H 5:30 PM

23. [Good News - Good People](#)

24. [Reports - Updates](#)

Minutes: Leigh Wilson-Mattson, Assistant to the City Manager, related the recent 'Good News • Good People' announcements. 6:48 PM

- A. [Federal - State Legislative - Budgetary Issues: Updates-Action](#)

Minutes: Michael Redlinger, City Manager, provided the following reports/updates: 6:58 PM

- The U.S. Army Corps of Engineers has completed the removal of the clay dikes and sandbag cleanup.
- The City has been asked to testify before the Senate subcommittee regarding flood protection.
- The Red River Basin Board will make a presentation on temporary flood protection measures at a future committee of the whole meeting.
- \$17.6M dollars in Minnesota have been allocated for flood control measures. Moorhead will make case for some of these dollars. Staff is working with the Minn. DNR.
- No additional information to report regarding

LGA

- Requested executive session, after which the Council will need to reconvene to consider one item (ordinance).

B. Other

25. [Executive Session \(Recess Meeting to Discuss Litigation and Labor Negotiations\)](#)

**Motion made to Approve made by Nancy Otto and seconded 6:59 PM
by Diane Wray Williams**

Motion to Recess to Executive Session (Discuss Litigation and Labor Negotiations)

Passed For: 7; Against: 0; Abstain: 0; Absent: 1

**Minutes: The meeting reconvened at 7:31p.m.; however, due 7:31 PM
to a lack of quorum, immediately adjourned.**

- A. [Ordinance No. 2009-5 - An Ordinance to Amend and Reenact Section 10-23-5 of the Moorhead City Code Relating to Hours of Operation of Adult Establishments - 1st Consideration](#)

26. Other Reports

27. New Business

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

The proceedings of this meeting are digitally recorded and said electronic file is available for public review.

APPROVED:

MARK VOXLAND, Mayor

ATTEST:

KAYE BUCHHOLZ, City Clerk