

**City of Moorhead
City Council Meeting
Meeting Minutes
September 12, 2011 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 September 12, 2011, 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 until 10:32 p.m.
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. [Proclamation for "Forget-Me-Not Week"](#)
3. [Approve Minutes](#)
 - A. [August 8, 2011 \(City Council Meeting\)](#)
 - B. [August 22, 2011 \(City Council Meeting\)](#)
 - C. [August 29, 2011 \(Committee of the Whole\)](#)

Motion to Approve made by Diane Wray Williams and seconded by Mark Altenburg
Approve Minutes of August 8, 2011 (City Council Meeting), August 22, 2011 (City Council Meeting), and August 29, 2011 (Committee of the Whole)

Motion Passed

For: 8

4. [Citizens Addressing the Council](#)

Minutes: No citizens addressed the Mayor and Council.

5. [Agenda Amendments](#)

Minutes: The following item was added to the agenda:

- #9.A – Resolution to Authorize Entry onto Property to Perform

Investigations Related to the Fargo-Moorhead Metropolitan Flood Risk Management Project

The following agenda item was reordered and considered after item #25 – Adopt Proposed 2011 Tax Levy Payable 2012 and Proposed 2012 Budget.

- #12 – Resolution to Approve Purchase of 2301 25th Street S (former Tire Depot)

Motion to Approve made by Luther Stueland and seconded by Brenda Elmer

Approve Agenda Amendments

Motion Passed

For: 8

6. [Consent Agenda](#)

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

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

- #11 – Resolution to Approve Expanded and Modified Property Tax Exemption Policies for Multi-Family Residential and Commercial-Industrial Property
- #12 – Resolution to Approve Purchase of 2301 25th Street S (former Tire Depot)
- #14 – Authorize Public Hearing/Comment Period to Consider an Amendment to the 2011 Community Development Block Grant Action Plan for Request for Construction Assistance to F-M Emergency Food Pantry

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

Approve Consent Agenda as amended

Motion Passed

For: 8

7. Mayor and Council Appointments

Minutes: No appointments were presented by the Mayor and Council.

8. [Mayor and Council Reports](#)

Minutes: Council Member Hintermeyer expressed concerns regarding the Interstate 94 and SE Main Avenue interchange ramp issue.

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

Minutes: Michael Redlinger, City Manager, provided a brief report on the latest meeting of the F-M Flood Diversion Authority Board.

A. [Resolution to Authorize Entry onto Property to Perform Investigations Related to the Fargo-Moorhead Metropolitan Flood Risk Management Project](#)

Minutes: Michael Redlinger, City Manager, stated that the agreement allows right-of-way entry onto private property in order to conduct environmental work related to the Fargo-Moorhead Metropolitan Flood Risk Management Project. It was noted there are provisions for property owners who refuse consent.

Motion to Approve made by Brenda Elmer and seconded by Nancy Otto
Resolution to Authorize Entry onto Property to Perform Investigations Related to the Fargo-Moorhead Metropolitan Flood Risk Management Project
Motion Passed: **Resolution 2011-0912-1**
For: 8

Community Services Department

10. [Consider Actions Related to Ordinance No. 2011-8](#)

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

- Local higher education institutions support a liquor license location restriction of 300 feet along primary campus boundaries as defined by parcel ID number.
- Parcel ID's were utilized instead of street names for increased specificity in ordinance interpretation.
- Any location restrictions surrounding schools or churches are at the Council's discretion.

The Mayor and Council Members stated the following:

- The Economic Development Authority (EDA) previously recommended no liquor license location restrictions.
- The MSUM Student Senate has recommended some type of location restriction.
- It is preferred that the parking lots on the western edge of campus be included as part of the primary campus boundary.

The following individuals addressed the Mayor and Council regarding the proposed liquor location restriction:

- John Sherman, Moorhead resident
- Susanne Williams, Moorhead resident
- Donna McMaster, Moorhead resident
- David Wintersteen, Moorhead resident
- Deb White, Moorhead resident

A. [Approve Second Reading of Ordinance No. 2011-8: An Ordinance to Amending 2-3-11C Relating to Location Restrictions of a Liquor License](#)

Motion to Amend made by Mark Hintermeyer and seconded by Brenda Elmer
Amend Ordinance 2011-08 to revise campus buffer, delete school and place of worship
buffer

Amendment Passed

For: 8

Motion to amend made by Diane Wray Williams and seconded by Mark Altenburg
Amend Ordinance to extend MSUM primary campus property boundary to include
parking lots on the western edge of campus up to 10 Street S

Amendment Passed

For: 8

Motion to Approve made by Diane Wray Williams and seconded by Mark Altenburg

Approve Second Reading of Ordinance No. 2011-8: An Ordinance to Amending 2-3-11C Relating to Location Restrictions of a Liquor License as amended

Motion Passed: **Ordinance 2011-08**

For: 8

B. [Approve Title and Summary of Ordinance No. 2011-8](#)

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams

Approve Title and Summary of Ordinance No. 2011-8

Motion Passed: **Resolution 2011-0912-2**

For: 8

11. [Resolution to Approve Expanded and Modified Property Tax Exemption Policies for Multi-Family Residential and Commercial-Industrial Property](#)

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

Resolution to Approve Expanded and Modified Property Tax Exemption Policies for Multi-Family Residential and Commercial-Industrial Property

Motion Passed: **Resolution 2011-0912-3**

For: 7; Against: 1 - Luther Stueland

12. [Resolution to Approve Purchase of 2301 25th Street S \(former Tire Depot\)](#)

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

- The EDA recommends the purchase and preparing of the Tire Depot property for private sale. When later marketed for sale, the expense is expected to be recovered.

The Mayor and Council Members stated the following:

- Concern was noted on the use of taxpayer dollars for this purpose. It is preferred that the property remains private and enters into a tax forfeiture sale.

Motion to Approve made by Mark Altenburg and seconded by Mark Hintermeyer

Resolution to Approve Purchase of 2301 25th Street S (former Tire Depot)

Motion Passed: **Resolution 2011-0912-11**

For: 6; Against: 2 - Luther Stueland, Greg Lemke

13. [*Authorize Transfer of Environmental Health License Revenue to Clay Wilkin Public Health Board](#)

Resolution 2011-0912-A

14. [Authorize Public Hearing/Comment Period to Consider an Amendment to the 2011 Community Development Block Grant Action Plan for Request for Construction Assistance to F-M Emergency Food Pantry](#)

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

- Any amendment to the 2011 Community Development Block Grant (CDBG) action plan requires public notification and hearing. Notice of the hearing must be project specific.
- Funding of this project does not preclude funds for other Moorhead projects or organizations.
- Staff will begin 2012 CDBG Action Plan development this fall which will involve opportunities for further public involvement.
- Due to limited funding, priority has been given to the housing education program; however, capital improvements can be considered.
- Approximately 27% of F-M Emergency Food Pantry clients are Moorhead residents.
- The City of Fargo could assist in a future funding request of the Dorothy Day House, as they have done in the past.
- The Dorothy Day House plans to conduct strategic planning in the fall and winter months.

The Mayor and Council Members stated the following:

- It was noted that there are institutions in Moorhead who could utilize CDBG funds.
- It was suggested that staff begin a process to identify needs in Moorhead prior to consideration of any allocation to the FM Emergency Food Pantry.
- It was noted that local cities and counties should work together to prevent duplication of services.

City staff was directed to provide a report detailing the local organizations and funding amounts allocated by the City of Moorhead and City of Fargo through CDBG funding.

Motion to Approve made by Diane Wray Williams and seconded by Greg Lemke
Authorize Public Hearing/Comment Period to Consider an Amendment to the 2011 Community Development Block Grant Action Plan for Request for Construction Assistance to F-M Emergency Food Pantry

Motion Passed: **Resolution 2011-0912-4**

For: 5 - Diane Wray Williams, Dan Hunt, Mark Hintermeyer, Greg Lemke, Mayor Voxland

Against: 4 - Luther Stueland, Nancy Otto, Mark Altenburg, Brenda Elmer

15. [Resolution to Approve a Conditional Use Permit to Locate a Water Control Structure](#)

[within the Floodway Overlay District at 118 37th Avenue South](#)

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

- City staff recommends that the conditional use permit be contingent on certification from a MN licensed professional engineer that the water control structure will not adversely impact slope stability in the proposed lot and adjacent lots.
- Current data indicates there could be a concern at the proposed site. Site specific geotechnical data is necessary to evaluate the request. This data was not available in previous requests for flood control structures.
- Accepting waivers from the adjoining property owners as an alternative to certification could open up the possibility of future City liability.
- City staff supports backyard flood mitigation projects as long as it is feasible and does not cause a negative impact to slope stability.
- The Council could consider a cost-share agreement with the applicant.
- Staff will propose a comprehensive backyard flood mitigation program to Council at the September 26 City Council meeting.

The Mayor and Council Members stated the following:

- Concern was noted that this certification has become a new requirement of the City.
- It is preferred that individuals be provided the opportunity to implement flood control structures in order to remain in their homes.
- Concern was noted regarding setting a precedent if the City were to pay for all costs associated with the geotechnical analysis.

Jim and Lisa Mercil, Conditional Use Permit applicants, addressed the Mayor and Council regarding their preference to have the City pay for all required geotechnical work.

Motion to Amend made by Nancy Otto and seconded by Brenda Elmer
Amend Resolution to oblige the City of Moorhead to pay for the cost of geotechnical work up to \$10K.

Amendment Passed

For: 8

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

Resolution to Approve a Conditional Use Permit to Locate a Water Control Structure within the Floodway Overlay District at 118 37th Avenue South as amended

Motion Passed: **Resolution 2011-0912-5**

For: 8

Engineering - Wastewater Treatment

16. [Resolution to Order the Engineer's Report for Future Flood Mitigation Projects. Eng. No. 11-A13-1 & 11-A13-2](#)

Minutes: City staff provided a brief report on future flood mitigation projects and clarified the following in response to Mayor and Council questions:

- Projects include backyard mitigation projects, property acquisitions, and City infrastructure construction. A range of projects is proposed for Council consideration with various financing options.
- At the September 26 City Council Meeting, staff will provide cost-share recommendations for backyard flood mitigation projects.
- A minimum of 20% of the cost must be assessed to the benefitting property owners in order to fund improvements through a G.O. Improvement Bond. A bond sale is tentatively slated for December. The proposed assessment area would be those properties west of 20th Street.
- To complete the full range of projects the assessed amount would be \$412 per property. This would be a one-time assessment. Property owners could instead elect to pay \$62 annually over a period of 10 years. The assessed amount for the Base Project only would be \$135 per property.
- Overmatching dedicated Department of Natural Resources (DNR) Flood Damage Reduction grant funding to complete all projects would allow the City to acquire property and install projects that would significantly reduce its flooding potential. The City's financial risk would also be greatly reduced as there would no longer be the need to construct temporary flood control measures in a flood event up to 42.5 feet.
- The benefitting area of a special assessment must be very descriptive to satisfy Minnesota Statute Chapter 429 which governs local improvements, special assessments.
- Property acquisition purchase offers of 108% of the 2010 estimated market value will be used in all property acquisitions. It would not be possible to conduct appraisals on each individual home and acquire property prior to a potential 2012 flood event. Utilizing the 2010 value will also protect the homeowner from lower values that may be reflected in the City's 2011 estimated market value due to downward pressure in the market.
- Property owners may be able to request a review of value for property improvements made after the establishment of the 2010 assessment value but did not require a building permit (e.g. kitchen remodel). Information will be provided to property owners for self-assessment.
- The City will continue to work with property owners and provide an adequate amount of time for them to consider all alternatives, including acquisition or backyard mitigation projects.
- The City remains open to preserving homes and supporting their relocation in the community if desired by a homeowner. House moving contractors would be required to adhere to City requirements.

- A challenge of assessing only those properties west of 8th Street is that there is no legally defensible data to define the benefiting area. All properties west of 20th Street fall under the same sanitary sewer system.
- For any project or group of projects beyond the Base Project, staff proposes that one year of annual street projects (to be constructed in 2013) be deferred to future years.
- The City has identified properties for acquisition that require sandbag protection at a river stage of 39 feet or lower. Property owners can contact the City if they feel a significant portion of their property meets this criterion but they are not listed.

The Mayor and Council Members stated the following:

- Concern was noted that the decision is being conducted before a clear cost-share plan for backyard mitigation projects is determined.
- It would be very beneficial to construct all projects to reduce the City's reliance on temporary flood control measures.
- It is important to continue to strive toward a Fargo-Moorhead Diversion as the City still needs to protect to a potential 500-year flood event, or 46.7 feet.
- Concern was noted on any decision to assess properties east of 8th Street.
- A phased approach to flood mitigation projects is preferred due to the cost and likelihood of assessment.
- Many residents would continue to experience stress and uncertainty in a phased approach since they would not know when property acquisition or backyard mitigation projects would be considered in their area.
- Flood mitigation is viewed as a City-wide responsibility.
- It is recognized within the community that there should be different levels of responsibility and participation in flood mitigation projects. Those properties along the river require the most participation.

The following individuals addressed the Mayor and Council regarding their support for future flood mitigation projects:

- John Brummer, Moorhead resident
- Keith Miller, Moorhead resident
- Clay Dietrich, Moorhead resident

Motion to Amend made by Dan Hunt and seconded by Diane Wray Williams
Amend Resolution to include the Base Project plus Projects A-C

Amendment Failed

For: 3 – Diane Wray Williams, Dan Hunt, Brenda Elmer; Against: 5 – Luther Stueland, Nancy Otto, Mark Altenburg, Mark Hintermeyer, Greg Lemke

Motion to approve made by Brenda Elmer and seconded by Mark Altenburg
**Resolution to Order the Engineer's Report for Future Flood Mitigation Projects.
Eng. No. 11-A13-1 & 11-A13-2 for the Base Project plus Project A**

Motion Passed: **Resolution 2011-0912-6**

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

17. [*Resolution to Approve Engineering Services Agreement with Houston Engineering for the Rivershore Dr Flood Closure Structure. Eng. No. 11-A13-2A](#)
Resolution 2011-0912-B
18. [*Resolution to Approve Change Orders #1-3 for the Brookdale North Levee Flood Mitigation Project, Phase 2. Eng. No. 09-A13-2I](#)
Resolution 2011-0912-C

Fire Department

19. [*Consider Actions Related to Ordinance 2011-13](#)
 - A. [*Approve Second Reading of Ordinance No. 2011-13: An Ordinance Amending Section 9-5-3 to Allow Larger Amounts of Class II Liquids to be Stored in the City of Moorhead Light Industrial Zone](#)
Ordinance 2011-13
 - B. [*Approve Title and Summary of Ordinance 2011-13](#)
Resolution 2011-0912-D

Police Department

20. [*First Reading of Ordinance 2011-14: An Ordinance to Repeal Section 5-1-4 of the Moorhead Municipal Code Relating to U-Turns](#)
Ordinance 2011-14
21. [*Resolution to Authorize Minnesota Department of Public Safety Grants](#)
Resolution 2011-0912-E
22. [*Resolution to Authorize the Purchase of Firearms Ammunition with Remaining Funds Budgeted for Glock Handgun Replacements](#)
Resolution 2011-0912-F
23. [*Resolution to Approve Additional Funding for Security System for New Impound Lot](#)
Resolution 2011-0912-G

Moorhead Public Service

24. [*Approve Amended Member Renewable Resource Agreement with Missouri River Energy Services](#)
Resolution 2011-0912-H

Administration

25. [Adopt Proposed 2011 Tax Levy Payable 2012 and Proposed 2012 Budget](#)

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

- By statute the EDA tax levy is not to exceed 0.0185% of the taxable value of the City, or a total of \$400K. The proposed tax levy is \$245K.
- Funding designated to the Moorhead Business Association is expected to end in 2012.

The Mayor and Council Members stated the following:

- The proposed EDA budget and levy shows a \$0 increase from 2010.

A. [Resolution to Approve Proposed 2011 EDA Tax Levy Payable 2012](#)

Motion to Amend made by Luther Stueland and seconded by Greg Lemke
Amend resolution to remove \$130K from the EDA budget for the purpose of purchasing 2301 25 ST S (former Tire Depot)

Amendment Failed

For: 2 - Luther Stueland, Greg Lemke; Against: 6

Motion to Approve made by Diane Wray Williams and seconded by Mark Altenburg

Resolution to Approve Proposed 2011 EDA Tax Levy Payable 2012

Motion Passed: **Resolution 2011-0912-7**

For: 6; Against: 2 - Luther Stueland, Greg Lemke

B. [Resolution to Adopt Proposed 2012 EDA Budget](#)

Motion to Approve made by Mark Hintermeyer and seconded by Brenda Elmer

Resolution to Adopt Proposed 2012 EDA Budget

Motion Passed: **Resolution 2011-0912-8**

For: 6; Against: 2 - Luther Stueland, Greg Lemke

C. [Resolution to Approve Proposed 2011 City Tax Levy Payable 2012](#)

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

- The result of a 15.4% tax levy increase would incur a \$73 annual property tax increase on a home valued at \$140,000.
- The result of a 0.0% tax levy increase would incur \$1,094,729 in City budget decreases.
- It was noted that action of the City Council this evening is to approve the proposed tax levy and budget. The levy amount, as adopted by the Mayor and Council, may be decreased but not increased at final adoption.
- Once a levy amount is determined, staff will proceed with further budget discussion with the City Council regarding budget decreases and revenue sources.

The Mayor and Council Members stated the following:

- It was requested that the City Council receive more detailed information in upcoming budget discussions regarding budget

changes.

- Residents will likely accept a slight increase to the City's tax levy once the actual dollar amount is clearly explained and not communicated by a percentage increase.
- It is important to provide an adequate budget for City staff to utilize.
- The City Council will need to compromise to reach a final tax levy and budget.
- Residents are not in favor of any tax increases.
- Decisions made by the State of MN have created an environment where cities will be required to raise revenue in some other way.
- The City will need to find creative ways to reduce its budget.

Clay Dietrich, Moorhead resident, addressed the Mayor and Council regarding his support for the proposed 2011 City Tax Levy Payable 2012 and Proposed 2012 City Budget.

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Resolution to Approve Proposed 2011 City Tax Levy Payable 2012

Motion Passed: **Resolution 2011-0912-9**

For: 5 - Diane Wray Williams, Mark Altenburg, Dan Hunt, Greg Lemke, Mayor Voxland

Against: 4 - Luther Stueland, Nancy Otto, Brenda Elmer, Mark Hintermeyer

D. [Resolution to Adopt Proposed 2012 City Budget](#)

Motion to Approve made by Greg Lemke and seconded by Diane Wray Williams

Resolution to Adopt Proposed 2012 City Budget

Motion Passed: **Resolution 2011-0912-10**

For: 5 - Diane Wray Williams, Mark Altenburg, Dan Hunt, Greg Lemke; Mayor Voxland

Against: 4 - Luther Stueland, Nancy Otto, Brenda Elmer, Mark Hintermeyer

26. [Resolution to Approve Request for Proposals & Qualifications - Legal Services](#)

Minutes: Michael Redlinger, City Manager, provided a brief overview of the proposed Request for Proposals & Qualifications (RFP) and clarified the following in response to Mayor and Council questions:

- The RFP was adapted from templates developed by cities across the State and recommendations by the League of Minnesota Cities.
- The City Council retains full discretion over the hiring process, including the evaluation method and schedule.
- The RFP will be widely distributed.

City staff was directed to provide a report on revenue received through City fines.

Motion to Amend made by Mark Hintermeyer and seconded by Brenda Elmer
Amend Request for Qualifications & Proposals to require five, rather than ten, years of municipal law experience.

Amendment Passed

For: 7; Against: 1 – Greg Lemke
Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Resolution to Approve Request for Proposals & Qualifications - Legal Services as amended
Motion Passed: **Resolution 2011-0912-12**
For: 8

27. Approve Licenses - Permits

A. [*Resolution to Approve Licenses – Permits](#)
Resolution 2011-0912-I

28. [City Manager Reports - Updates](#)

Minutes: Michael Redlinger, City Manager, stated that staff will provide ongoing updates to the Mayor and City Council on the status of flood acquisition purchase offers.

29. [Executive Session](#)

A. City Manager Evaluation

B. Labor Negotiations Update

Motion to Approve made by Brenda Elmer and seconded by Diane Wray Williams
Enter into Executive Session to discuss City Manager evaluation and receive labor negotiations update
Motion Passed

For: 6; Against: 2 – Mark Hintermeyer, Nancy Otto

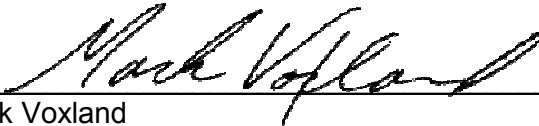
Minutes: The Mayor and Council entered Executive Session at 10:32 p.m.

The Mayor and Council exited Executive Session at 11:23 p.m.

Mayor Voxland reported that a resolution for a proposed City Manager salary increase will be considered by the City Council at the September 26 City Council meeting.

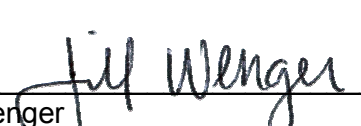
Meeting adjourned at 11:24 p.m.

APPROVED BY:



Mark Voxland
Mayor

ATTEST:



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