

**City of Moorhead
City Council Meeting
Meeting Minutes
February 28, 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 February 28, 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
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 Recognizing "Peace Corps Day"](#)

Minutes: Mayor Voxland presented a proclamation recognizing "Peace Corps Day."

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

Minutes: Cindy Forester, Moorhead resident, addressed the Mayor and Council Members regarding dissatisfaction with maintenance of a home owned by MLA Properties.

Ken Lucier, Moorhead resident, addressed the Mayor and Council regarding special assessment interest rate charges. City staff stated that the interest rate charge is legally permissible but the rate is adjustable. The Mayor and City Council requested a report on special assessment interest rates and practices in other cities. Staff will prepare this report in consultation with the City's financial advisor and distribute to the Mayor and Council.

4. [Agenda Amendments](#)

Minutes: No agenda amendments were noted.

5. [Consent Agenda](#)

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

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

Approve Consent Agenda

Motion Passed by unanimous vote

6. [Mayor and Council Appointments](#)

Motion to Approve made by Brenda Elmer and seconded by Diane Wray Williams

Mayor and Council Appointments

Motion Passed: Resolution #'s noted below

For: 8

A. [Appointment to Public Housing Board \(Mayor\)](#)

Resolution 2011-0228-1

B. [Appointment to Charter Commission \(Ward 3\)](#)

Resolution 2011-0228-2

7. [Mayor and Council Reports](#)

Minutes: Council Member Hintermeyer provided a brief report on the Economic Development Authority (EDA) and City staff recommendations to revise the EDA Bylaws.

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

Minutes: City staff clarified the following in response to Mayor and Council questions related to the 2011 Flood Fight:

- There was significant community participation at the Neighborhood Flood Zone meetings scheduled February 22 and 24.
- The latest round of flood buyout properties will close by February 28, 2011. Environmental testing and abatement will be completed in early March. Homes will be moved or demolished following a potential spring 2011 flood event.
- All occupied properties in Flood Zone areas will receive city-filled sandbags, plastic, technical assistance, and volunteer coordination through the City.
- Vacant buyout properties will be allowed to flood; however, they will not impact occupied properties.
- Zone Leaders will instruct neighbors of buyout properties on how to tie into the line of protection for their homes and provide technical assistance and necessary resources to complete this task.
- There has been very positive response from representatives of local higher education institutions and area residents regarding the City's decision to hire laborers to complete sandbag production in coordination with other City contractors and volunteers.
- The City's primary focus is to win the flood fight in the most efficient, safe, and effective manner.
- Volunteers will be needed beginning March 1 to palletize sandbags at Moorhead's Sandbag Operations Center and at the time when

sandbags dikes will be constructed to protect private property. All sandbags created in 2011 will be used to protect private property.

The Mayor and Council Members stated the following:

- Concern was noted regarding the City's new policy to hire paid laborers for sandbag production. Additional consultation with the City Council is welcomed when there are significant City policy changes.
- The automated sandbag production equipment being utilized at the Sandbag Factory is sophisticated and requires training to provide the most efficient use of equipment. Retraining groups of volunteers to develop skills will cause timing difficulties and delays in the production of pre-event sandbags.

City staff clarified the following in response to Mayor and Council questions related to permanent flood protection:

- The Council has already approved Moorhead's 10% cost share and budget for a proposed study to consider alternatives of downstream and upstream impacts. Data from this study will be available in approximately one month.
- The City will not need to commit to any significant amount of funding for the diversion until the later part of 2012.
- Upcoming decisions of the Metro Flood Study Work Group will include the design and cost share of the diversion.
- A bill was introduced in the Minnesota Legislature on February 28. It requests \$12 million for flood mitigation infrastructure and property acquisitions in Moorhead and \$5 million for the Fargo-Moorhead metropolitan diversion project proposed by the US Army Corps of Engineers.

The Mayor and Council Members stated the following:

- At the recent Metro Flood Study Work Group meeting, concerns were noted from representatives of the Oxbow area and West Fargo regarding current plans for the diversion and impacts on their communities.
- There are no immediate plans to dissolve the Metro Flood Study Work Group as there are too many outstanding decisions yet to be made.

A. [Resolution to Provide Temporary Protective Measures in a Spring 2011 Flood Event](#)

Motion to Approve made by Nancy Otto and seconded by Brenda Elmer
Resolution to Provide Temporary Protective Measures in a Spring 2011 Flood Event

Motion Passed: **Resolution 2011-0228-3**

For: 8

B. [Resolution to Approve USACE Flood Emergency Assistance and Cooperation Agreement](#)

Motion to Approve made by Nancy Otto and seconded by Mark Altenburg
Resolution to Approve USACE Flood Emergency Assistance and Cooperation Agreement

Motion Passed: **Resolution 2011-0228-4**

For: 8

Public Hearings

9. [Public Hearing to Consider the Adoption of Special Assessments for Allyson 4th Boulevard Trees](#)

Minutes: Public Hearing opened at 6:37 p.m.

No citizens addressed the Council.

Public Hearing closed at 6:38 p.m.

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Public Hearing to Consider the Adoption of Special Assessments for Allyson 4th Boulevard Trees

Motion Passed: **Resolution 2011-0228-5**

For: 8

Community Services Department

10. [Reconsideration of Resolution to Approve Amendment to the Tax Incentive Agreement between the City of Moorhead and A-1 Automotive Transmission Service](#)

Minutes: Bruce Bekkerus, A-1 Automotive, addressed the Mayor and City Council regarding the property tax incentive. Bekkerus stated that the amount received for sale of his property included moving costs and costs for reestablishment of the business. He stated that he does not believe proper notice was provided when the City was aware of changes to the contract and at the time the Mayoral veto was issued. Bekkerus urged the Council to uphold the resolution passed on January 24, 2011 without amendment.

Mayor Voxland provided the following rationale concerning the veto of the tax incentive agreement approved at the January 24, 2011 City Council Meeting. Reasons included: minimal Council discussion, potential for other signed incentive agreements to be renegotiated in front of the Council, and the precedent established by the new economic package the amended resolution provides. Voxland added that a concern regarding the manner in which the building was assessed is unwarranted. Once the Assessor learned that the building was complete and a Certificate of Occupancy was issued, State law requires that a property value be assigned.

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

- The current contract outlines that the tax incentive agreement be comprised of a four-year time period beginning in 2012.

- Due to the fact that the building's construction was completed earlier than expected and the property was properly assessed, Bekkerus is currently responsible to pay property taxes valued in 2010 and payable 2011.
- Bekkerus was provided the option to adjust the contract to begin the four-year tax incentive period in 2011.
- Bekkerus would need to provide consent to change the contract.

The Mayor and Council Members stated the following:

- It is recommended that future tax incentive contracts further clarify the date in which taxes will be levied if construction is completed earlier than anticipated.
- Concern was noted regarding City staff communication to Bekkerus regarding the veto.

Motion to Approve made by Brenda Elmer and seconded by Greg Lemke
Reconsideration of Resolution to Approve Amendment to the Tax Incentive Agreement between the City of Moorhead and A-1 Automotive Transmission Service

Motion Failed

For: 5 – Nancy Otto, Dan Hunt, Brenda Elmer, Mark Hintermeyer, Greg Lemke;

Against: 3 - Luther Stueland, Diane Wray Williams, Mark Altenburg

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

Resolution to amend the tax incentive time period dates from 2012-2015 to 2011-2014.

Motion Passed: **Resolution 2011-0228-6**

For: 5 – Nancy Otto, Dan Hunt, Brenda Elmer, Mark Hintermeyer, Greg Lemke;

Against: 3 - Luther Stueland, Diane Wray Williams, Mark Altenburg

11. [Consider Actions Related to Archland Addition](#)

Minutes: Kristie Leshovsky, City Planner, clarified the following in response to Mayor and Council questions:

- Two modifications were made to the site plan based on comments received at the February 14, 2011 City Council Meeting.
- The Comprehensive Plan was adopted in 2004. Updates were made in 2009 to be more consistent with Zoning Ordinances.

The following individuals addressed the Mayor and Council regarding their opposition to actions related to Archland Addition:

- David Wintersteen, Moorhead resident
- Lyle Landstrom, Moorhead resident
- Kathryn Larson Carlson, Moorhead resident
- John Sherman, Moorhead resident

Motion to Approve made by Mark Altenburg and seconded by Luther Stueland
Resolution to Approve Actions Related to Archland Addition

Motion Passed: Resolution #'s noted below

For: 8

- A. [Resolution to Approve Preliminary and Final Plat](#)
Resolution 2011-0228-7
- B. [Resolution to Approve Developer's Agreement](#)
Resolution 2011-0228-8
- C. [Approve First Reading of Ordinance 2011-2 - An Ordinance to Rezone Lot 1, Block 1 of Archland Addition from MU-1 - Downtown Mixed Use and RLD-3 - Residential Low Density-3 to CC - Community Commercial](#)
Resolution 2011-0228-9
- D. [Resolution to Approve Comprehensive Plan Amendment for Lot 1, Block 1, Archland Addition, from Downtown and Moderate Density Mixed Residential to Community Commercial](#)
Resolution 2011-0228-10
12. [Roers Construction LLC Request to Reduce Non-Permitted Work Investigation Penalty Fee](#)

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

- The proposed resolution will direct City staff to amend the City's fee schedule to reduce the non-permitted work investigation penalty fee.
- The fee rate was set at the judgment of staff and affirmed by the current request by Roers Construction to reduce the rate to a more appropriate level.
- The principal objective of the penalty fee is to provide incentive for contractors to obtain the appropriate permit.
- A homeowner would not be liable for the penalty fee, only the contractor.

The Mayor and Council Members stated the following:

- A lower rate than the staff recommendation is preferred.
- The fee should not be too lenient.
- Permits ultimately provide protection to homeowners.

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

Resolution to Amend Fee Schedule to Reduce Non-Permitted Work Investigation Penalty Fee

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

Amend resolution to set the maximum penalty at \$4,000

Amendment Passed

For: 6; Against: Diane Wray Williams, Greg Lemke

Motion to Amend made by Luther Stueland and seconded by Mark Hintermeyer

Amend resolution to charge a penalty up to one-half of the original permit fee and set a maximum penalty at \$4,000

Amendment Pending

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

Motion to Table Passed

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

13. [*Authorize Budget Adjustment #11-005 - Environmental Health/Neighborhood Services Division](#)
Resolution 2011-0228-A

Engineering - Wastewater Treatment

14. [Resolution to Approve Easement Agreements for the 20th St & 40th Ave S Pedestrian Underpass Project. Eng. No. 11-2-1](#)

Minutes: Upon request at the February 14, 2011 City Council meeting, information related to the allocation and use of Municipal State Aid (MSA) funds was provided to the Mayor and City Council.

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

- The pedestrian underpass project was initiated several years ago and is incorporated in the City's 2010-2014 Pavement Management and Transportation Improvement Plan.
- The City can accumulate up to three times the annual allotment of MSA funds; however the State could lower the City's apportionment if this balance is not spent. There is a disincentive to accumulating these funds in advance for large projects.

The Mayor and Council Members stated the following:

- Concerns were noted regarding the necessity of this project in relation to other community needs.

Motion to Approve made by Mark Hintermeyer and seconded by Mark Altenburg
Resolution to Approve Easement Agreements for the 20th St & 40th Ave S Pedestrian Underpass Project. Eng. No. 11-2-1

Motion Passed: Resolution #'s noted below

For: 7; Against: 1 - Luther Stueland

- A. [Resolution to Approve Easement Agreement with BNSF for the 20th St & 40th Ave S Pedestrian Underpass Project. Eng. No. 11-2-1](#)
Resolution 2011-0228-11
- B. [Resolution to Approve Easement Agreements with Paces Lodging Corp. for the 20th St & 40th Ave S Pedestrian Underpass Project. Eng. No. 11-2-1](#)
Resolution 2011-0228-12
15. [*Resolution to Approve an Easement Acquisition from the Crookston Diocese for the Levees and Sluice Gates - Phase 4 Flood Mitigation Project. Eng. No. 09-A5-2B](#)
Resolution 2011-0228-B

Operations Department

16. [*Order and Receive Engineer's Report and Call for Hearing for Installation of Prairie Meadows 1st Addition Boulevard Trees \(Project #11-A13-1\)](#)

Resolution 2011-0228-C

Police Department

17. [Resolution to Approve First Reading of Ordinance 2011-3, An Ordinance to Create and Enact Section 4-4-19 of the Moorhead Municipal Code Relating to Protection of Permanent and Temporary Flood Control Measures](#)

Motion to Approve made by Nancy Otto and seconded by Brenda Elmer
Resolution to Approve First Reading of Ordinance 2011-3, An Ordinance to Create and Enact Section 4-4-19 of the Moorhead Municipal Code Relating to Protection of Permanent and Temporary Flood Control Measures

Motion Passed: **Resolution 2011-0228-13**

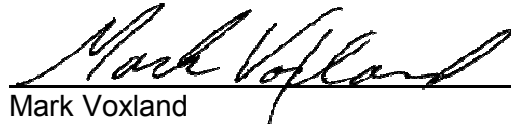
For: 8

Moorhead Public Service

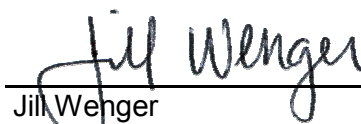
18. [*Award Bid for 2011 Water Treatment and Wastewater Treatment Chemicals](#)
Resolution 2011-0228-D

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