

**City of Moorhead
City Council Meeting
Meeting Minutes
February 13, 2012 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 13, 2012, at 5:30 PM.

Roll call of the members was made as follows:

1st Ward Council Member:	Luther Stueland	Absent
1st Ward Council Member:	Nancy Otto	Present
2nd Ward Council Member:	Heidi Durand	Present
2nd Ward Council Member:	Mark Altenburg	Present
3rd Ward Council Member:	Mike Hulett	Present
3rd Ward Council Member:	Brenda Elmer	Present
4th Ward Council Member:	Mark Hintermeyer	Present
4th Ward Council Member:	Steve Gehrtz	Present
Mayor:	Mark Voxland	Present

City Council Meeting

1. Call to Order and Roll Call
2. [Approve Minutes](#)
 - A. [January 9, 2012 \(City Council\)](#)
 - B. [January 17, 2012 \(Committee of the Whole\)](#)
 - C. [January 23, 2012 \(City Council\)](#)

Motion to Approve made by Mike Hulett and seconded by Mark Altenburg
Approve Minutes of January 9, 2012 (City Council), January 17, 2012 (Committee of the Whole), and January 23, 2012 (City Council)

Motion Passed

For: 7; Absent: 1 - Luther Stueland

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

Minutes: Dennis Gerlach representing the Bakery Confectionery, Tobacco Workers & Grain Millers (BCTGM) 167G Union requested a letter from the Moorhead City Council encouraging American Crystal Sugar to resume negotiations with the union.

Bruce Bekkerus, Moorhead Business Association, requested regular, monthly updates regarding the SE Main Ave/CSAH 52 ramp reconstruction project at I-94.

4. Agenda Amendments

5. [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 Seasonal Load Restrictions on Interim Pavement in New Subdivisions until Final Overlay
- #14 – Resolution to Authorize an Application for Conveyance of Tax-Forfeited Land for Flood Mitigation Improvements (501 18th Ave. North)
- #15 – Resolutions to Authorize an Application for a TIGER Discretionary Grant for the SE Main Ave/20th St/21st St Railroad Grade Separation Project, Approve an Engineering Services Agreement with SRF Consulting Group, and Approve a Budget Adjustment. Eng. No. 02-2-2

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

Approve Consent Agenda as amended

Motion Passed

For: 7; Absent: 1 - Luther Stueland

6. Mayor and Council Appointments

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

Community Services Department

7. [First Reading of Ordinance No. 2012-1: An Ordinance to Amend Sections of Title 10: Zoning and Title 11: Subdivision of the Moorhead City Code Relating to the Designated FEMA Floodplain](#)

Minutes: Kristie Leshovsky, City Planner, provided a summary of the proposed ordinance which will provide floodplain regulation updates needed in order for the City to continue its participation in the national Flood Insurance Program (NFIP).

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

- If the City does not participate in NFIP, floodplain properties could not receive flood insurance.
- The Federal Emergency Management Agency (FEMA) has revised floodplain maps to a 100-year flood stage of 39.3 feet. This revised height will touch 254 buildings; 16 new structures are impacted.
- The City of Fargo has a substantially higher number of structures impacted by the revised floodplain maps.
- A mailing was distributed to homeowners who requested to receive floodplain elevation certificates. These draft certificates will become final when the new FEMA floodplain maps are brought into effect.
- Information was provided to homeowners related to FEMA

Invalidation of Current Letter of Map Amendment (LOMA) or Letter of Map Revision – Based on Fill (LOMR-F) and how these homeowners may request that their home be removed from the revised FEMA floodplain.

- The City has floodplain information on its website and public meetings will be held in February and March to provide further homeowner education regarding the new FEMA floodplain maps.
- The City of Moorhead participates in the NFIP Community Rating System which recognizes community efforts beyond the minimum standards. Moorhead is currently qualified as a class 7 community, which allows most property owners to receive a 15% discount on flood insurance (whether or not that property is in the floodplain). With the proposed ordinance, the City intends to try to reach a higher classification rating, thereby creating a greater flood insurance discount for property owners.
- Completion of the F-M Flood Diversion Project would result in a remapping of the floodplain throughout both cities. Very few properties would remain in the floodplain following Diversion Project completion.
- The proposed ordinance incorporates some flexibility in applying requirements and minimizes administrative paperwork to simplify the process.
- The elevations outlined in the ordinance are the minimum requirements of FEMA and the State of Minnesota.
- Residential basement structural requirements do not create a burden for builders as these building standards are already typically met and are not cost prohibitive.
- Section 10-18-4 which applies to legally nonconforming lots states, “Any structural improvements to a nonconforming use in any consecutive 5-year period is limited to a cumulative cost of 50% of the market value of the structure before the start of construction of the initial improvement unless the property is brought into full compliance with 10-17-Article B,” which outlines the new floodway and flood fringe overlay district provisions. This regulation is intended to provide the City with authority to require that properties be upgraded to the new zoning guidelines and prevent properties from burdening the flood insurance program.

The Mayor and Council Members stated the following:

- Concern was noted regarding section 10-18-4 related to structural improvements. Flood mitigation projects have been installed in many areas of the City. Properties in these areas may not necessarily require this general standard.

City staff will further research section 10-18-4 related to structural improvements and provide an update to the Mayor and Council at the second reading of the proposed ordinance.

Motion to Approve made by Brenda Elmer and seconded by Nancy Otto
First Reading of Ordinance No. 2012-1: An Ordinance to Amend Sections of Title 10: Zoning and Title 11: Subdivision of the Moorhead City Code Relating to the Designated FEMA Floodplain
Motion Passed: **Ordinance 2012-1**
For: 7; Absent: 1 - Luther Stueland

8. [Consider Actions Related to Mixed Use - 3: Commercial Mixed Use Zoning District](#)

Minutes: Kristie Leshovsky, City Planner, provided a report on the development of the ordinance, discussions of the Moorhead Planning Commission, and public input opportunities related to the proposed zoning change.

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

- Two amendments were approved by the Planning Commission and have been incorporated into the ordinance. The changes limit building height in order to allow citizen input if buildings are over three stories and revises the building materials standard to provide greater flexibility.
- The new zoning district would allow multi-family residential options.
- City staff recommends that the building materials standard remain in the ordinance or allow the Planning Commission to approve plans for buildings that do not meet this requirement but that incorporate materials and design elements in unique ways.
- The ordinance language related to election signs is consistent with MN State Statutes.

The Mayor and Council Members stated the following:

- Concern was noted regarding amendments to the zoning change related to building height and building materials standard.
- It is preferred that a building height standard be adopted that does not utilize a Conditional Use Permit process.
- It is preferred that building material standards be put in place to encourage aesthetics and uniformity along 1st Avenue.
- It was recommended that the ordinance provide language that identifies minimum standards in the posting of election signs.

City staff was directed to provide a memorandum to the Mayor and City Council outlining election sign posting requirements outlined in Minnesota State Statutes.

A. [First Reading of Ordinance No. 2012-2: an Ordinance to amend sections of Title 10: Zoning of the Moorhead City Code relating to mixed use zoning, use standards, signs and site development standards](#)

Motion to Approve made by Brenda Elmer and seconded by Mark Hintermeyer
First Reading of Ordinance No. 2012-2: an Ordinance to amend sections of Title

10: Zoning of the Moorhead City Code relating to mixed use zoning, use standards, signs and site development standards

Motion Passed: **Ordinance 2012-2**

For: 7; Absent: 1 - Luther Stueland

B. [First Reading of Ordinance No. 2012-3: an Ordinance to amend the Official Zoning Map](#)

Motion to Approve made by Mike Hulett and seconded by Nancy Otto

Motion to Amend made by Nancy Otto and seconded by Heidi Durand

Amend Ordinance section 10-15B-9 to incorporate the following language: "The exterior front entrance wall of the building facing the public right of way shall be comprised of at least thirty percent (30%) building materials other than steel, vinyl and fiberglass. In lieu of this requirement, the planning commission may approve plans for buildings that utilize materials and design elements in unique ways and that do not incorporate thirty percent (30%) building materials requirement.

Building elevations shall be submitted for planning commission review.

Amendment Approved

For: 7; Absent: 1 - Luther Stueland

Motion to Amend made by Mark Hintermeyer and seconded by Nancy Otto

Amend Ordinance section 10-15B-8 to allow development adjacent to residential zoning districts be no more than four (4) stories and strike language related to the Conditional Use Permit process.

Amendment Approved

For: 6; Against: 1 - Mark Altenburg; Absent: 1 - Luther Stueland

First Reading of Ordinance No. 2012-3: an Ordinance to amend the Official Zoning Map as amended

Motion Passed: **Ordinance 2012-3**

For: 7; Absent: 1 - Luther Stueland

C. [Resolution to Approve Comprehensive Plan Amendment to amend designations on multiple properties](#)

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

Resolution to Approve Comprehensive Plan Amendment to amend designations on multiple properties

Motion Passed: **2012-0213-1**

For: 7; Absent: 1 - Luther Stueland

9. [*Moorhead Municipal Airport - Transfer of FAA Entitlement Grant Funds](#)
2012-0213-A

10. [*Resolution to Consent to "Alterations and Improvements" to The Chamber Offices at the Hjemkomst Center](#)
2012-0213-B

Engineering - Wastewater Treatment

11. [Resolution to Approve Seasonal Load Restrictions on Interim Pavement in New Subdivisions until Final Overlay](#)

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

- Currently MN State Statutes provide that all paved roads allow up to

ten tons at all times of the year unless cities sign them otherwise based on climatic conditions or other deterioration.

- Ten tons is the highest load allowance in recent history. The City has proposed this load restriction in order to prevent street damage exposure, particularly on streets in new development areas that have not received the final overlay to sustain ten ton loads.
- Road deterioration begins at the bottom, making it difficult to detect until substantial damage has occurred. Load restrictions are the best technical recommendation to avoid street damage.
- The proposed load restriction is consistent with Fargo and West Fargo.

The Mayor and Council Members stated the following:

- Concern was noted regarding increased costs of building a home in the spring due to the proposed load restriction.
- A load restriction may inhibit development in Moorhead.
- Concern was noted regarding the cost and responsibility of street repairs caused by the lack of a load restriction.

Motion to Approve made by Mark Altenburg and seconded by Nancy Otto
Resolution to Approve Seasonal Load Restrictions on Interim Pavement in New Subdivisions until Final Overlay

Motion Failed

For: 3 - Nancy Otto, Heidi Durand, Mark Altenburg

Against: 4 - Mike Hulett, Brenda Elmer, Mark Hintermeyer, Steve Gehrtz

Absent: 1 - Luther Stueland

12. [*Resolution to Award Bid for Storm Lift Station No. 3 Improvements. Eng. No. 11-5-1](#)
2012-0213-C

13. [*Resolution to Award Bid for Wastewater Treatment Facility Outfall Flood Mitigation Project. Eng. No. 11-A13-2C](#)
2012-0213-D

14. [Resolution to Authorize an Application for Conveyance of Tax-Forfeited Land for Flood Mitigation Improvements \(501 18th Ave. North\)](#)

Minutes: The City will be working closely with the Moorhead Country Club in order to develop this flood control project.

Motion to Approve made by Mark Altenburg and seconded by Mark Hintermeyer
Resolution to Authorize an Application for Conveyance of Tax-Forfeited Land for Flood Mitigation Improvements (501 18th Ave. North)

Motion Passed: **2012-0213-2**

For: 7; Absent: 1 - Luther Stueland

15. [Resolution to Authorize an Application for a TIGER Discretionary Grant for the SE Main Ave/20th St/21st St Railroad Grade Separation Project, Approve an Engineering Services Agreement with SRF Consulting Group, and Approve a Budget Adjustment.](#)

[Eng. No. 02-2-2](#)

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

- City staff participated in a debriefing process with a US Department of Transportation grant reviewer following denial of the City's previous TIGER Discretionary Grant submission. The City was informed that it met the grant criteria and was strongly encouraged to reapply, however the City may want to consider reducing the amount of the funding request in future grant applications.
- The City would like to work with SRF Consulting Group to develop strategies for a new grant application for this project that would encompass the reviewer's suggestions.
- The City has been instructed that TIGER Grants are the only way to receive federal funding for these types of projects. The City's Congressional Delegation previously provided a letter of support for the project.

The Mayor and Council Members stated the following:

- Concern was noted regarding the probability of successfully obtaining a TIGER Discretionary Grant.
- City staff was directed to monitor costs associated with consultant services so as not to exceed the \$17,000 allocated for this purpose.

A report will be provided to the Mayor and Council regarding the application strategies developed by City staff and SRF Consulting Group at an upcoming City Council meeting.

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

Motion to Amend made by Brenda Elmer and seconded by Mike Hulett

Amend Resolution to direct staff to engage in discussions with the Federal Congressional offices to request legislation to parallel the TIGER Discretionary Grant process or request their assistance in any way they see fit

Amendment Passed

For: 7; Absent: 1 - Luther Stueland

Resolution to Authorize an Application for a TIGER Discretionary Grant for the SE Main Ave/20th St/21st St Railroad Grade Separation Project, Approve an Engineering Services Agreement with SRF Consulting Group, and Approve a Budget Adjustment. Eng. No. 02-2-2 as amended

Motion Passed: **2012-0213-3**

For: 7; Absent: 1 - Luther Stueland

Moorhead Public Service

16. [*Award Bid\(s\) for 2012 Electrical Materials](#)
2012-0213-E

Administration

17. [Resolution to Find the Petition for Referendum of 2011-11 as Insufficient](#)

Minutes: John Shockley, City Attorney, provided a report outlining the specific procedures for the referendum process. Jill Wenger, City Clerk, provided a report related to the sufficiency of the petition. The report finds that the petition is insufficient as it does not meet all of the requirements as prescribed in the Moorhead City Charter.

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

- As outlined in Moorhead City Charter, petitioners are provided 30 days to correct the petition. It is up to the sponsoring committee to determine the methods in which to correct the petition.
- City staff was advised by the Clay County Auditor's Office that all new voter registration applications were processed prior to receipt of the voter registration list to conduct the petition review process.
- Volunteers were utilized during the petition review process in order to save costs to the City.
- Reviewers evaluated petition entries in pairs and were provided with detailed and prescriptive procedures that were very limited in discretion.

The Mayor and Council stated the following:

- Citizen concern was noted regarding the utilization of Moorhead Police volunteers in the petition review process as they may not appear to be impartial reviewers.
- Council support for the integrity and professionalism of the police volunteers was noted.

Motion to Approve made by Mike Hulett and seconded by Brenda Elmer
Resolution to Find the Petition for Referendum of 2011-11 as Insufficient
Motion Passed: **2012-0213-4**
For: 7; Absent: 1 - Luther Stueland

18. [Resolution to Confirm Fire Chief Appointment](#)

Motion to Approve made by Mark Altenburg and seconded by Brenda Elmer
Resolution to Confirm Fire Chief Appointment
Motion Passed: **2012-0213-5**
For: 7; Absent: 1 - Luther Stueland

Minutes: It was noted that all four candidates for the Fire Chief position were highly qualified and represented the department very well.

19. [*Resolution to Approve Moorhead Public Housing Agency Executive Director Appointment](#)
2012-0213-F

20. [*Resolution to Approve Membership Modification to the Moorhead Airport Committee](#)
2012-0213-G

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

A. [*Resolution to Approve Licenses – Permits](#)
2012-0213-H

B. [*Resolution to Approve Issuance of On-Sale / Sunday Intoxicating Liquor License to Paige's Tavern \(DBA: JC Chumley's\)](#)
2012-0213-I

22. [Mayor and Council Reports](#)

Minutes: Council Member Altenburg provided a report on a recent meeting of the Human Rights Commission. Altenburg also reported that there will be a meeting on February 15 at Minnesota State University Moorhead to provide information discovered through the Moorhead Neighborhood Parking Study.

Council Member Durand provided a report on a recent meeting of the Moorhead Public Housing Agency.

Council Member Otto provided a report on a recent meeting of the Flood Diversion Board of Authority.

A. [Liquor License Refund Discussion](#)

Minutes: City staff reported that there is no authority under Moorhead City Code to provide liquor license fee refunds to license holders who plan to close or sell their establishments prior to the end of the licensing period. To do so, the City Council would need to enact or amend city ordinances.

The Mayor and Council stated the following:

- Concern was noted regarding the extent of refunds that may be requested for the various other licenses and permits issued by the City which do not extend for the full term.
- Concern was noted regarding a number of businesses that previously closed prior to the end of the licensing period and were not refunded.

23. [City Manager Reports – Updates](#)

Minutes: Michael Redlinger, City Manager, reported that the President's Budget for Fiscal Year 2013 included \$5M for the Fargo-Moorhead Diversion Project. This allocation is much lower than the initial \$30M requested, however, a designation of \$5M is significant relative to the funds received in other parts of the nation. The State of Minnesota will not designate funds for the Diversion Project until it receives formal authorization by Congress.

John Shockley, City Attorney, reported that the Finance Committee of the Flood Diversion Board of Authority has been discussing how litigation expenses related to the Diversion Project will be handled. A plan has not been developed up to this point. An update will be provided to the Moorhead City Council when more information is available.

Michael Redlinger, City Manager, reported that the Buffalo Red River Watershed District (BRRWD) has submitted a request to expand the geographical boundaries of the watershed district and adjust representation based on the expanded district. The Clay County Commission has requested that the Moorhead City Council approve a resolution to support their request to ensure that Clay County maintains a majority representation on the board.

The Mayor and Council noted that a Clay County majority representation is important. It is preferred that a City of Moorhead representative also maintain an appointment to the BRRWD board.

Motion to Approve made by Steve Gehrtz and seconded by Brenda Elmer
Resolution to direct staff to draft a letter of support to the Clay County Commission to request that Clay County maintain a majority representation on the Buffalo Red River Watershed District

Motion Passed: **2012-0213-6**

For: 7; Absent: 1 - Luther Stueland

24. Executive Session

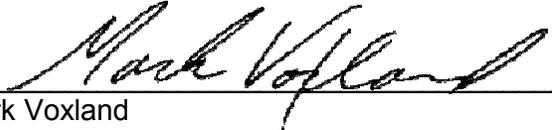
Minutes: No executive session was held.

25. [New Business](#)

Minutes: The Mayor and Council requested that the Federal Legislative Services Agreement Discussion be placed February 27 City Council meeting agenda.

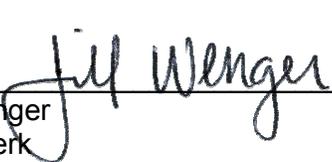
Meeting adjourned at 8:57 p.m.

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