

**City of Moorhead
City Council Meeting
Meeting Minutes
December 13, 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 December 13, 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. [Recognition of Vijay Sethi, Clay County Administrator](#)

Minutes: Mayor Voxland presented Vijay Sethi with a gift from the Mayor and City Council in recognition of his dedication and public service as Clay County Administrator.

3. [Approve Minutes](#)

Minutes: It was noted that the December 6, 2010 (Adjourned Council Meeting and Committee of the Whole) meeting minutes were not included in the agenda packet and will not be considered for approval.

A. [October 25, 2010 \(City Council Meeting\)](#)

B. [October 25, 2010 \(Committee of the Whole\)](#)

C. [November 15, 2010 \(Committee of the Whole\)](#)

D. [November 22, 2010 \(City Council Meeting\)](#)

E. December 6, 2010 (Adjourned Council Meeting)

F. December 6, 2010 (Committee of the Whole)

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Approve Minutes of October 25, 2010 (City Council Meeting), October 25, 2010 (Committee of the Whole), November 15, 2010 (Committee of the Whole), November 22, 2010 (City Council Meeting)

Motion Passed by unanimous vote

4. [Citizens Addressing the Council](#)

Minutes: The following individuals addressed the Mayor and Council regarding their opposition to the closure of the SE Main Ave/I-94 interchange ramps:

- Les Stenerson, Moorhead Business Association
- Chuck Chadwick, Moorhead Business Association
- Michael Hardy, Moorhead developer and Fargo resident

City staff clarified the following:

- The Federal Highway Administration (FHWA) has stated that the SE Main Ave/I-94 interchange ramps must be closed when the 34th St/I-94 interchange opens.
- The closure is due to a FHWA policy citing a minimum of one mile spacing between interchanges along the interstate system.
- FHWA has requested that an Environmental Assessment (EA) be conducted to support retention and reconstruction of the ramps. The City is obligated to comply with this directive, as it desires to retain the ramps.
- The technical analysis will review projected future traffic volumes and metropolitan growth.
- City staff is fairly confident that the EA will receive a Finding of No Significant Impact (FONSI) and justification of retention and reconstruction of the ramps.
- The technical corrections bill outlining retention of the ramps provided transportation funding authorization; however, the City cannot neglect other federal regulations related to project construction, including EA requirements.
- City staff recommends moving forward with the EA analysis in order to minimize delaying project construction.

Bruce Bekkerus, Owner of A-1 Automotive, stated his concern over recent correspondence from the City related to a business tax incentive contract and adjusted property tax value. Michael Redlinger, City Manager, stated that City staff will be in contact with Mr. Bekkerus regarding his concerns.

Brian Gramer, The Rourke Art Gallery Board of Directors, encouraged the Mayor and Council to develop a clear policy and procedure to determine funding allocation for community partners.

Barbara Sipson, Moorhead resident, recommended that the Mayor and City Council determine a policy on whether sandbags will be provided to

Moorhead residents in a future flood fight.

5. [Agenda Amendments](#)

Minutes: No agenda amendments were noted.

6. [Consent Agenda](#) – (all items listed with an asterisk (*) are enacted by one motion.)

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

- #14 – Resolution to Authorize Lake Region Arts Council Grant Application with Plains Art Museum
- #24 – Resolution to Approve Federal Legislative Services Agreement

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

Approve Consent Agenda

Motion Passed by unanimous vote

7. [Approve Licenses - Permits](#)

A. [*Approve Business License Renewals](#)
Resolution 2010-1213-A

8. [Mayor and Council Appointments](#)

A. [Appointment to Moorhead Library Board - Ward 3](#)

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

Appointment to Moorhead Library Board - Ward 3

Motion Passed: **Resolution 2010-1213-1**

For: 8

9. [Adopt 2011 Budget, 2010 Tax Levy Payable in 2011, and Enterprise Fund Transfers](#)

A. [Resolution to Adopt the EDA 2011 Budget and 2010 Tax Levy Payable in 2011](#)

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

Resolution to Adopt the EDA 2011 Budget and 2010 Tax Levy Payable in 2011

Motion Passed: **Resolution 2010-1213-2**

For: 7; Against: 1 - Luther Stueland

Minutes: The Mayor and Council Members stated the following:

- Central economic planning is not favored as a budgetary practice.
- Concern was noted that budget funds have been allocated to the West Central Initiative.
- The EDA levy helps the City to establish community development efforts and leverage outside resources.
- The EDA is encouraged to have continuing dialogue with the West Central Initiative to determine if it is necessary to sustain ongoing budget allocation.

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

- The EDA tax levy is set at only half of what is allowable under State Statutes.
- The EDA participates in a broad range of activities, projects, and partnerships for the purpose of economic development.

B. [Resolution to Adopt the City 2011 Budget, 2010 Tax Levy Payable in 2011, and Enterprise Fund Transfers](#)

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

- Funding for the West Central Initiative was relocated to the EDA budget and levy.
- The decrease to community partnership funding (\$37,330), as determined at the October 25, 2010 City Council Meeting, was reduced from the 2011 budget and removed from the tax levy.
- The decrease to Metro Youth Partnership funding (\$10,950), as determined at the December 6, 2010 Adjourned City Council Meeting, was reduced from the 2011 budget and placed in a Council Discretionary Fund.
- There will no longer be a transfer from the General Fund to the Airport Fund. Funds previously designated for this purpose was placed in a Council Discretionary Fund.
- Reduction of \$40,000 to the City's fuel budget would result in a \$2-3/year tax reduction on a house valued at \$140,000.
- The City conservatively budgets \$4/gallon in fuel costs. Any remaining funds in this budget fund at the end of the year would be rolled into the next funding cycle.
- In 2009 and 2010 the City's fuel budget ended in the black. The fuel budget ended in the red in 2007 and 2008.
- Overall, City of Moorhead property tax values have shown a \$0 increase or slight reduction.
- The City did not retain a Council Discretionary Fund in 2010 and had a very modest fund in 2009.
- The Council Discretionary Fund could be utilized to fund study work, pay for unanticipated costs, provide for matching grant funds, or alleviate reductions in the Local Government Aid (LGA) program.
- The voting requirement for any allocation of the Council Discretionary Fund would require 6 votes of the City Council.

The Mayor and Council Members stated the following:

- Concern was noted regarding the amount allocated for the City's fuel budget.
- Concern was noted regarding the unpredictability of fuel prices.

- Concern was noted regarding the City's eight unfilled positions.
- It is preferred that the City retain a Council Discretionary Fund.

Motion to Approve made by Luther Stueland and seconded by Brenda Elmer
Motion to remove the funds currently designated to the Council Discretionary Fund from the City 2011 Budget and 2010 Tax Levy Payable in 2011

Motion Failed

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

Motion to Approve made by Luther Stueland and seconded by Brenda Elmer
Motion to reduce fuel allocation by \$40,090 from the City 2011 Budget and 2010 Tax Levy Payable in 2011

Motion Failed

For: 1 – Luther Stueland; Against: 7

Motion to Approve made by Dan Hunt and seconded by Mark Altenburg
Resolution to Adopt the City 2011 Budget, 2010 Tax Levy Payable in 2011, and Enterprise Fund Transfers

Motion Passed: **Resolution 2010-1213-3**

For: 7; Against: 1 - Luther Stueland

10. Permanent Flood Protection Discussion/Update

A. [FM Metro Feasibility Study Budget Adjustment](#)

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Resolution to Approve FM Metro Feasibility Study Budget Adjustment

Motion Passed: **Resolution 2010-1213-4**

For: 8

Minutes: Bob Zimmerman, City Engineer, provided a handout entitled, "Fargo-Moorhead Metropolitan Feasibility Study Authorized Funding" which summarized financial contributions to date by local entities in Minnesota and North Dakota. City staff recommends a \$170,000 budget adjustment for additional phases of the Fargo-Moorhead Metropolitan Feasibility Study. If approved, the City of Moorhead will have contributed a total of \$185,000.

The Mayor and Council Members stated the following:

- Moorhead Public Service plans to send a letter to the U.S. Army Corps of Engineers in support of the western alignment of the flood diversion channel to protect the Fargo electrical substation.
- It was noted that there was a large turnout for the upstream flood impact discussion last week.
- A policy decision on whether sandbags will be provided to Moorhead residents in a future flood fight should be determined.

Public Hearing

11. [Public Hearing: 2010 Enterprise Zone Program](#)

Minutes: Public Hearing opened at 7:17 p.m.

No citizens addressed the Mayor and Council.

Public Hearing closed at 7:19 p.m.

A. [Resolution to Approve 2010 Enterprise Zone Program](#)

Motion to Approve made by Nancy Otto and seconded by Luther Stueland

Resolution to Approve 2010 Enterprise Zone Program

Motion Passed: **Resolution 2010-1213-5**

For: 8

12. [Public Hearing and Authorize Resolution Consenting to and Approving the Issuance of Recovery Zone Facility Revenue Bonds for an American Crystal Sugar Company Project](#)

Minutes: Public Hearing opened at 7:20 p.m.

Sam Wai, American Crystal Sugar, stated that some additional employment will occur with project construction but will not result in additional jobs beyond that time.

Ken Lucier, Moorhead resident, asked for clarification regarding the impact of this project to the City.

Brian Neugebauer, City Attorney, stated that the City is acting as a conduit for financing in order for the American Crystal Sugar Company to receive a lower interest rate on revenue bonds. There is no cost, risk, or obligation to the City.

Public Hearing closed at 7:23 p.m.

A. [Resolution Approving of the Issuance of Recovery Zone Facility Revenue Bonds \(American Crystal Sugar Company Project\), Series 2010](#)

Minutes: Concern was noted regarding recent litigation between the City of Moorhead and American Crystal Sugar Company regarding property tax value.

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

Resolution Approving of the Issuance of Recovery Zone Facility Revenue Bonds (American Crystal Sugar Company Project), Series 2010

Motion Passed: **Resolution 2010-1213-6**

For: 8

Community Services Department

13. [*Resolution to Approve Amendment to Primary Fixed Based Operator Agreement with Moorhead Aviation](#)
Resolution 2010-1213-B

14. [Resolution to Authorize Lake Region Arts Council Grant Application with Plains Art](#)

Museum

Minutes: The “defiant garden” project has received favorable community support. The City provides a fiduciary function for purposes of grant submission. There is no direct cost to the City of Moorhead to participate in the grant application with the Plains Art Museum.

Motion to Approve made by Mark Altenburg and seconded by Diane Wray Williams
Resolution to Authorize Lake Region Arts Council Grant Application with Plains Art Museum

Motion Passed: **Resolution 2010-1213-7**

For: 8

Engineering - Wastewater Treatment

15. [*Resolution to Approve Change Orders #3 & #4 for the Final Bituminous Overlay Project. Eng. No. 10-A2-1](#)
Resolution 2010-1213-C
16. [*Resolution to Approve Change Orders #1 - #3 for Street Rehabilitation and Mill & Overlay on 4th Ave S from 21st to 34th St. Eng. No. 10-A2-7](#)
Resolution 2010-1213-D
17. [*Resolution to Authorize the Mayor and City Manager to Execute a Cooperative Construction Agreement for the Replacement of the Traffic Signal System at TH 75 & 7th Ave S.](#)
Resolution 2010-1213-E
18. [*Resolution to Approve Change Orders #1 & #2 for the Caddy Ave & 18th Ave N Flood Mitigation Project. Eng. No. 09-A13-2E](#)
Resolution 2010-1213-F
19. [* Resolution to Approve Renewal of Land Leases for the Application of Wastewater Treatment Facility Biosolids](#)
Resolution 2010-1213-G

Fire Department

20. [*Resolution to Enter Into Hotel Inspection Agreement with the State of Minnesota, Department of Public Safety - Fire Marshal Division](#)
Resolution 2010-1213-H
21. [*Resolution to Approve Budget Adjustment to Reallocate Capital Improvement Funds](#)
Resolution 2010-1213-I

Police Department

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](#)

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

Motion Passed: **Resolution 2010-1213-8**

For: 6; Against: 2 - Luther Stueland, Mark Hintermeyer

Minutes: David Ebinger, Chief of Police, provided an overview of the amended ordinance pursuant to recommendations of the City Council and clarified the following in response to Mayor and Council questions:

- Some ordinance changes limit the ability of law enforcement to address incidents in domestic situations.
- Exclusion of facsimile weapon enforcement at private residences is not a common stipulation in other Minnesota city ordinances.

The Mayor and Council Members stated the following:

- Revisions in the proposed ordinance appear reasonable.
- Concern was noted regarding the limits of law enforcement to address facsimile weapon use on private property, particularly in domestic violence situations.
- Facsimile weapons appear to be a threat to public safety in other Minnesota counties.
- There is concern that the ordinance appears to violate the Second Amendment to the United States Constitution.
- Concern was noted that self-defense is still restricted in public locations.
- It is not advised by law enforcement that individuals utilize a facsimile weapon in order to protect self or others.
- Minnesota State Statute appears to protect facsimile weapon use in domestic situations.
- The Mayor and City Council would like a report from the Moorhead Police Department if facsimile weapon use on private property becomes concerning.

23. [*Resolution Authorizing Extension of the Red River Valley Gang and Drug Task Force Funding for 2011](#)
Resolution 2010-1213-J

City Manager Reports

24. [Resolution to Approve Federal Legislative Services Agreement](#)

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

***Resolution to Approve Federal Legislative Services Agreement**

Motion Passed: **Resolution 2010-1213-9**

For: 7; Against: 1 - Luther Stueland

25. [*Resolution to Approve Amendment to the Third Amended and Reconstituted Joint Powers Agreement \(Joint Dispatch Center\)](#)
Resolution 2010-1213-K

26. [Reports - Updates](#)

Minutes: Michael Redlinger, City Manager, stated the following:

- City staff is preparing a budget adjustment for an upcoming City Council meeting in order to allow additional broadcasts of City committee/board/commission meetings. The City will also amend and revise its contract with Moorhead Community Access Media (MCAM).
- Labor negotiations are underway and a progress report should be available in January 2011.
- City staff continues to prepare material for the 2011 City Council retreat.

27. Executive Session

Minutes: No Executive Session necessary.

28. [New Business](#)

A. Closure of the SE Main Ave/I-94 Interchange Ramps

Minutes: City staff stated that they do not currently have the technical data for the FHWA to approve retention and reconstruction of the SE Main Ave/I-94 interchange ramps. Language in the technical corrections bill does not allow the City to bypass other Federal regulations.

The Mayor and City Council would like to go on record as supporting the expedited opening and retention of the SE Main Ave/I-94 interchange ramps as well as provide a voice of support to area businesses and residents who will be forced to cope with the closure.

Motion to Approve made by Mark Hintermeyer and seconded by Nancy Otto
Motion to direct staff to develop a scope of work and timeline schedule for the expedited opening, retention, and reconstruction of the SE Main Ave/I-94 interchange ramps

Motion Passed: **Resolution 2010-1213-10**

For: 8

B. 2011 City Council Retreat Planning

Minutes: The Mayor and Council Members stated the following:

- Concern was noted regarding the current schedule of topics planned at the 2011 Council Retreat. It is preferred that the Mayor and City Council participate in professional development activities that improve Council effectiveness and cohesion.
- It was noted that the Council has been able to remain respectful of one another despite differences of opinion.
- There is a perception that there is an intended effort by some Council Members to exclude others in correspondence and meetings on

topics of the City Council.

- It was noted that Open Meeting Law prohibits communication involving all Council Members outside of formal City Council meetings.
- It is preferred that the City Council discuss 5-10 year goals and ways to bridge trust between Council Members.

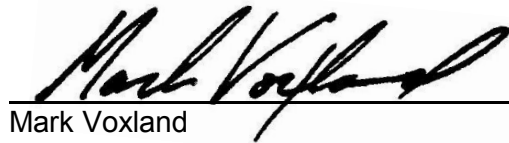
29. [Citizens Addressing the Council \(continued, if necessary\)](#)

Minutes: Ken Lucier, Moorhead resident, addressed the Mayor and Council regarding his concern over the approved first reading of Ordinance 2010-08. Mr. Lucier provided a handout entitled, "Petition for Redress of Grievance Title 4-4-12 Moorhead City Code."

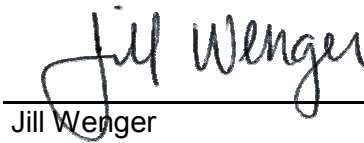
Meeting adjourned at 9:04 p.m.

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