

**City of Moorhead
City Council Meeting
Meeting Minutes
August 22, 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 August 22, 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](#)

Minutes: Mayor Voxland called the meeting to order.

2. Recognitions - Presentations

A. [Police Department Recognition - Cliff Harrison](#)

Minutes: Mayor Voxland presented a proclamation recognizing Dr. Cliff Harrison and his contributions to the Moorhead Police Department Volunteer Program.

B. [Fire Department Recognition - Kristian Scheel and Landon Olson](#)

Minutes: Mayor Voxland presented a proclamation recognizing Kristian Scheel and Landon Olson for their brave actions in controlling a fire at Brady's Service Center.

C. [Community Service Recognition - Salem Evangelical Free Church](#)

Minutes: Mayor Voxland presented at proclamation to Salem Evangelical Free Church recognizing their clean-up efforts along the ditches of Interstate 94.

3. [Citizens Addressing the Council](#)

Minutes: Ken Lucier, Moorhead resident, addressed the Mayor and Council regarding concerns over the continued closure of 1st Avenue North.

Tom Trowbridge, Assistant City Engineer, stated that the 1st Avenue North project is expected to be completed within the next 1-2 weeks. Construction along 1st Avenue North was divided into three separate projects due to

funding and timing constraints. Spring flooding, wet weather, and unforeseen construction issues for the contractor arose during the construction year, prolonging completion.

4. [Agenda Amendments](#)

Minutes: The following agenda item was added to the agenda:

- #27.A – Resolution to Approve Change Order #1 for River’s Edge Subdivision Flood Mitigation Project. Eng. No. 11-13-3New Business item - Flood

Motion to Approve made by Nancy Otto and seconded by Diane Wray Williams

Approve Agenda Amendments

Motion Passed

For: 8

5. [Consent Agenda](#)

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

Minutes: The following agenda items were removed from the consent agenda:

- #10 – Approve Contracts with Moorhead Colleges for U-Pass Unlimited Ride Program on MATBUS
- #16 – Resolution to Approve Request of The BNSF Railway Company to Close 3rd Street and the Adjacent Bike/Ped Path, and Utilize City Property for Construction of the 3rd Street Railroad Bridge Improvements
- #20 – Resolution to Approve Commercial Lease Agreement for Sandbag Storage

The following agenda item was added to the consent agenda:

- #27.A – Resolution to Approve Change Order #1 for River’s Edge Subdivision Flood Mitigation Project. Eng. No. 11-13-3New Business item - Flood

Motion to Approve made by Luther Stueland and seconded by Diane Wray Williams

Approve Consent Agenda

Motion Passed

For: 8

6. [Mayor and Council Appointments](#)

Motion to Approve made by Diane Wray Williams and seconded by Nancy Otto

Approve Mayor and Council Appointments

Motion Passed: Resolution #'s noted below

For: 8

A. [Resolution to Approve Appointment to Economic Development Authority \(Ward 2\)](#)
Resolution 2011-0822-1

- B. [Resolution to Approve Appointment to Moorhead Public Service Commission \(Ward 2\)](#)
Resolution 2011-0822-2
- C. [Resolution to Approve Appointment to Moorhead Public Service Commission \(Ward 4\)](#)
Resolution 2011-0822-3
- D. [Resolution to Approve Appointment to Park Advisory Board \(Ward 4\)](#)
Resolution 2011-0822-4

7. [Mayor and Council Reports](#)

Minutes: Council Member Altenburg provided a brief overview of recent meetings of the Human Rights Commission.

Council Member Hunt provided a brief overview of recent meetings of the Metropolitan Council of Governments (Metro COG).

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

Minutes: Michael Redlinger, City Manager, stated that City staff will present a comprehensive report to the Mayor and Council at the August 29 Committee of the Whole meeting regarding the City of Moorhead's future flood mitigation strategy.

Council Member Otto and Council Member Elmer provided a brief overview of recent meetings of the Metro Flood Diversion Project Board of Authority.

Community Services Department

9. [*Actions Related to Submission of 2012 Transit Grant Applications to the Minnesota Department of Transportation](#)

- A. [*Authorize Contract with Mn/DOT for 2012 Public Transportation Services](#)
Resolution 2011-0822-A

- B. [*Authorize Contract with Mn/DOT for 2012 Special Transportation Services for Persons with Disabilities and Senior Citizens](#)
Resolution 2011-0822-B

10. [Approve Contracts with Moorhead Colleges for U-Pass Unlimited Ride Program on MATBUS](#)

Minutes: Concern was noted on the low cost assessed to riders under the U-Pass Unlimited Ride Program.

Lori Van Beek, Transit Manager, stated that in the near future a consultant will be conducting a 5-year transit plan study. U-Pass fees may be amended based on this report.

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

Approve Contracts with Moorhead Colleges for U-Pass Unlimited Ride Program on MATBUS

Motion Passed: **Resolution 2011-0822-5**

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

11. [*Resolution to Approve Specifications and Authorize Request for Proposals for Transit Vehicle Advertising Services](#)

Resolution 2011-0822-C

12. [Consider Actions Related to Ordinance 2011-12](#)

- A. [Approve Second Reading of Ordinance 2011-12: An Ordinance to Amend and Reenact Subsection 6-1-4E of the Moorhead Municipal Code Relating to Park Rules and Regulations: Pets](#)

Minutes: Holly Heitkamp, Recreation Division Manager, noted that the Park Advisory Board has recommended that leashed animals be allowed on the walking path in Southside Regional Park. City staff has proposed an amendment to the ordinance recognizing this change.

Motion to Amend made by Dan Hunt and seconded by Nancy Otto
Amend ordinance as proposed in the draft ordinance to include leashed animals on the walking path in Southside Regional Park
Amendment Passed

For: 8

Motion to Approve made by Mark Altenburg and seconded by Nancy Otto
Approve Second Reading of Ordinance 2011-12: An Ordinance to Amend and Reenact Subsection 6-1-4E of the Moorhead Municipal Code Relating to Park Rules and Regulations: Pets

Motion Passed: **Ordinance 2011-12**

For: 8

- B. [Approve Title and Summary](#)

Motion made to Approve made by Mark Altenburg and seconded by Nancy Otto
Approve Title and Summary of Ordinance 2011-12

Motion Passed: **Resolution 2011-0822-6**

For: 8

13. [Consider Actions Related to Ordinance 2011-8](#)

- 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 Approve made by Mark Altenburg and seconded by Diane Wray Williams
Approve Second Reading of Ordinance No. 2011-8: An Ordinance to Amending 2-3-11C Relating to Location Restrictions of a Liquor License
Motion Passed

For: 8

- B. [Approve Title and Summary](#)

Motion to Approve made by Mark Altenburg and seconded by Luther Stueland

Approve Title and Summary of Ordinance 2011-8

Motion Passed

For: 8

Minutes: It was noted later in the meeting that Ordinance 2011-08 was approved by the Mayor and Council prior to a report by City staff regarding recommendations of the Economic Development Authority (EDA) related to liquor license location restrictions.

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

- The EDA made a unanimous recommendation to repeal all City Code liquor license location restrictions.
- Any member of the Council can make a motion to reconsider approval of the ordinance to further amend location restrictions.
- Liquor establishments cannot operate in a residential district.

City staff was directed to gain feedback and input from Minnesota State University Moorhead and Concordia College regarding proposed liquor license location restrictions. City staff was further directed not to publish the previously approved ordinance in order that an amended ordinance could be considered at a future City Council meeting.

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

Reconsider Approve Second Reading of Ordinance No. 2011-8

Motion to Reconsider Passed

For: 7; Against: 1 – Diane Wray Williams

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

Motion to Table Passed

For: 7; Against: 1 – Diane Wray Williams

Engineering - Wastewater Treatment

14. [Resolution to Reject Bids, Approve a Variance Request & Amend the Engineering Services Agreement for the 20th St/40th Ave S/BNSF Pedestrian Underpass Project. Eng. No. 11-2-1.](#)

Minutes: Tom Trowbridge, Assistant City Engineer, stated that the bids received for the project were far greater than expected. City staff recommends that the bids be rejected and that staff be allowed to request a variance to redesign the underpass.

A. [Resolution to Reject Bids](#)

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

Resolution to Reject Bids for the 20th St/40th Ave S/BNSF Pedestrian Underpass Project. Eng. No. 11-2-1

Motion Passed: **Resolution 2011-0822-7**

For: 8

B. [Resolution to Approve Variance Request](#)

Motion to Approve made by Mark Altenburg and seconded by Greg Lemke

Resolution to Approve Variance Request for the 20th St/40th Ave S/BNSF Pedestrian Underpass Project. Eng. No. 11-2-1
Motion Passed: **Resolution 2011-0822-8**
For: 7; Against: 1 - Luther Stueland

C. [Resolution to Amend Engineering Services Agreement](#)

Minutes: Concern was noted regarding the relevance of this project compared to other needs in the community.

Motion to Approve made by Dan Hunt and seconded by Nancy Otto
Resolution to Amend Engineering Services Agreement for the 20th St/40th Ave S/BNSF Pedestrian Underpass Project. Eng. No. 11-2-1
Motion Passed: **Resolution 2011-0822-9**
For: 7; Against: 1 - Luther Stueland

15. [Resolution to Award Bid for the I-94 Flood & Drainage Improvements. Eng. No. 09-A5-1 H & I](#)

Minutes: Tom Trowbridge provided a brief overview of the project. City staff clarified the following in response to Mayor and Council questions:

- This project is the City's highest priority flood improvement project as it will significantly reduce temporary flood control efforts in advance and during a flood event.
- Bids for the project were above the engineer's estimate likely due to the fact that the project has an aggressive timeline and the contractor will be working within the Interstate right-of-way.
- City staff believes there would be a greater cost-benefit of completing the project prior to a potential spring 2012 flood event as compared to re-bidding the project again.
- Delaying the bid award could put project completion at risk.
- The City will not be able to use a special assessment for the I-94 Flood & Drainage Improvement project.
- Authorization of this project would utilize a portion of the \$16.5M in Department of Natural Resources (DNR) Flood Damage Reduction (FDR) grant funding. The City was recently notified that this funding required an additional local match of \$4M.
- The additional local match is based on a grant requirement that the City's local share be calculated at 2% of the median household income multiplied by the number of households in the City. Increased population as identified in the 2010 census data incurred an increase in the City's local share. Recalculation of this equation applies to all FDR grantees.
- No additional funds beyond the \$4M would be required of the City through year 2020 if further FDR funds become available.
- There are many additional areas of the city that are in need of flood protection to a level of 42 feet (100-year flood stage). To complete these projects, use of the \$16.5M in FDR funds is critical.
- City staff is working to identify how the \$4M in funding can be raised

through a variety of financing options. A detailed proposal outlining a comprehensive flood mitigation strategy is planned at the August 29 Committee of the Whole meeting.

- The City spends a significant amount of money each year during a flood event utilizing temporary flood control measures (\$3.8M in 2010). The City may not always be reimbursed for these costs unless there is a Presidential Disaster Declaration. Providing flood protection to a level of 42 feet would nearly eliminate temporary flood control costs.

The Mayor and Council Members stated the following:

- Concern was noted regarding the obligation of \$4M in matching funds for the FDR grant.
- Concern was noted over the impact of a second assessment within the same assessment district.
- It was noted that citizens want to move forward with comprehensive flood control projects that protect the entire City.
- The City will need to provide citizens with a clear rationale for why the \$4M is necessary and how it benefits the entire City.

Motion to Approve made by Brenda Elmer and seconded by Luther Stueland
Resolution to Award Bid for the I-94 Flood & Drainage Improvements. Eng. No. 09-A5-1 H & I

Motion Passed: **Resolution 2011-0822-10**

For: 7; Against: 1 - Luther Stueland

16. [Resolution to Approve Request of The BNSF Railway Company to Close 3rd Street and the Adjacent Bike/Ped Path, and Utilize City Property for Construction of the 3rd Street Railroad Bridge Improvements](#)

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

- The BNSF Project will involve loud construction noise and will be conducted 24-hours daily for a period of five days. Without 24-hour construction the project would take three times longer.
- City staff is encouraging BNSF Railway Company to conduct outreach and communication efforts regarding this project.

It was noted that all Council members support an underpass downtown. The Mayor and Council directed City staff to make another request to BNSF to remove weeds along railroad tracks in the central corridor of Moorhead.

Motion to Approve made by Nancy Otto and seconded by Mark Altenburg
Resolution to Approve Request of The BNSF Railway Company to Close 3rd Street and the Adjacent Bike/Ped Path, and Utilize City Property for Construction of the 3rd Street Railroad Bridge Improvements

Motion Passed: **Resolution 2011-0822-11**

For: 8

17. [*Resolutions for Completed Public Improvement Projects Funded with Special](#)

Assessments

- A. [*Resolution Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments](#)
Resolution 2011-0822-D
- B. [*Resolution to Call for Hearing for Proposed Assessments](#)
Resolution 2011-0822-E

18. [Discussion: I-94 & SE Main Ave/CSAH 52 Interchange Ramps](#)

Minutes: Concern was noted regarding the Federal Highway Administration's (FHWA) delay on ruling over the City's Change Order Request to reconstruct the I-94 & SE Main Ave/CSAH 52 Interchange Ramps.

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

- The FHWA's request for additional information was related to the impact of the ramps on the operation of the Interstate system.
- City staff is optimistic that modeling information provided to FHWA will provide additional support for the project.
- Metro COG is preparing the report. SRF Consulting Group is completing the modeling work.

City staff were directed to provide a timeline to the Mayor and Council related to FHWA's recent request and determine the City's legal or other recourse if FHWA does not approve the City's change order request.

Fire Department

- 19. [*Approve First 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

Operations Department

- 20. [Resolution to Approve Commercial Lease Agreement for Sandbag Storage](#)

Minutes: Council Member Elmer stated that she would abstain from voting on this matter due to her spouse's legal representation of the lessor.

Motion to Approve made by Dan Hunt and seconded by Diane Wray Williams
Resolution to Approve Commercial Lease Agreement for Sandbag Storage

Motion Passed: **Resolution 2011-0822-12**

For: 7; Abstain: 1 - Brenda Elmer

Police Department

- 21. [*Resolution to Approve Agreements with the Minnesota Institute of Public Health \(MIPH\) for the Alcohol Compliance Check Grant and Alternate Underage Drinking Enforcement Grant](#)

Resolution 2011-0822-F

Administration

22. [Resolutions to Accept Offers on Sale of Bonds](#)

Minutes: Brian Neugebauer, City Attorney, provided a brief overview of the bids.

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

Resolutions to Accept Offers on Sale of Bonds

Motion Passed: Resolution #'s noted below

For: 8

A. [Resolution Accepting Offer on Sale of \\$4,940,000 G.O. Improvement Bonds, Series 2011A](#)

Resolution 2011-0822-13

B. [Resolution Accepting Offer on Sale of \\$905,000 G.O. Improvement Refunding Bonds, Series 2011B](#)

Resolution 2011-0822-14

23. [Motion to Remove from Table: December 6, 2010 Tabled Resolution to Approve Five-Year Extension to Bridge Company Operating Agreement \(15th Ave. N. Toll Bridge\)](#)

Minutes: The following individuals addressed the Mayor and Council regarding their support for a five-year extension to the Bridge Company Operating Agreement:

- Kip Moore, Bridge Company
- Jim Dixon, Bridge Company

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

- The City of Fargo approved the five-year extension and indicates that they do not have an interest in acquiring the bridge in 2013.

The Mayor and Council Members stated the following:

- Concern was noted regarding the reluctance of the City Council to formally vote on the request.

Motion made to Remove from Table made by Dan Hunt and seconded by Greg Lemke

Remove from Table – Resolution to Approve Five-Year Extension to Bridge Company Operating Agreement (15th Ave. N. Toll Bridge)

Motion Failed

For: 3 - Diane Wray Williams, Dan Hunt, Greg Lemke

Against: 5 - Luther Stueland, Nancy Otto, Mark Altenburg, Brenda Elmer, Mark Hintermeyer

24. Approve Licenses - Permits

A. [*Resolution to Approve Licenses – Permits](#)

Resolution 2011-0822-G

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

Minutes: Michael Redlinger, City Manager, indicated that a special Committee of the Whole meeting could be scheduled to share further information on the topic of drug paraphernalia or Council Members could meet individually with Moorhead Police Department and Clay County Attorney staff to receive additional information.

The Mayor and Council Members stated the following:

- It is preferred that the discussion occur as part of an open meeting.
- It was noted that Committee of the Whole meetings are not designed for public input.
- Concern was noted regarding the use of tobacco sampling at some local tobacco product shops.

It was determined that a Committee of the Whole meeting would not be scheduled. City staff was directed to inquire which tobacco product shops allow tobacco sampling.

26. Executive Session

Minutes: No executive session was held.

27. New Business

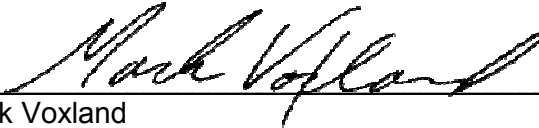
- A. [*Resolution to Approve Change Order #1 for River's Edge Subdivision Flood Mitigation Project. Eng. No. 11-13-3](#)
Resolution 2011-0822-H

28. [Citizens Addressing the Council](#)

Minutes: Ken Lucier, Moorhead resident, addressed the Mayor and Council regarding his concern over errors to City Council procedural rules of order.

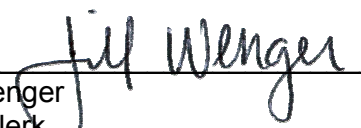
Meeting adjourned at 8:20 p.m.

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