

# WEEKLY MEMO

**Date:** June 30, 2011

**To:** Mayor Lynn Stauss, Council President Craig Buckalew, Vice President Wayne Gregoire, Council Members Marc Demers, Ron Vonasek, Henry Tweten, Greg Leigh, and Mike Pokrzywinski.

**From:** Scott Huizenga

**RE:** Weekly Update

## **UPCOMING MEETINGS:**

*July 5, 2011 – 5:00 pm – Council Meeting – Council Chambers*

*July 12, 2011 – 5:00 pm – Work Session – Training Room*

*July 19, 2011 – 5:00 pm – Council Meeting – Council Chambers*

## **WEEKLY UPDATE:**

### **Summer Flood**

High waters this week have necessitated the closure of some trails and roads along the Greenway system. The current projected crest as of the time of this memo is approximately 38 feet. That level would be near the closure level for the 4<sup>th</sup> Street NW/Highway 2 underpass. Public Works and the Public Safety crews will monitor the situation; and they stand ready to temporarily close access if required.

### **TE project approved**

As the State shutdown looms, staff received approval this week from MnDOT to proceed with the Transportation Enhancement project (sidewalks/trails) along DeMers Avenue and Central Avenue. The City has satisfied the right-of-way and easement requirements for the project. Yet, the State shutdown could force another delay in awarding a construction contract.

### **Shutdown**

The Ramsey County District Court ruled this week that Local Government Aid (LGA) must be paid in the event of a shutdown because it is a standing appropriation. Barring further appeals, this represents a victory for cities. East Grand Forks can expect to receive a payment on or about July 20 for approximately \$1.4 million – or half of the annual LGA allocation. The amount could change if there is a budget resolution before that date. Nancy Carroll, Board President of the Coalition of Greater Minnesota Cities, characterized the ruling as cities “dodging a bullet.” However, cities will have to continue to pressure elected officials not to reduce future LGA allocations.

I have attached my shutdown presentation from Tuesday’s work session as well as a corresponding memo from the League of Minnesota Cities about the same topic. Note that a couple of items have changed including the status of the aforementioned LGA payments. We have also been assured that water quality testing will remain available.

### **Spice**

An article ran in the June 28 edition of the *Star Tribune* indicating that three retailers are suing the Attorney General and select City Attorneys in an effort to prevent the named parties from prosecuting retailers for distributing synthetic cannabinoids. The East Grand Forks City Attorney is a named defendant in the suit. Other named parties include the Attorney General, and other City Attorneys from Duluth, Golden Valley, Maple Grove, Moorhead, and Waite Park. The Legislature passed a law that bans synthetic cannabinoids in the state of Minnesota. The law takes effect July 1. The suit does not seek any financial or compensatory damages, according to the League of Minnesota Cities Insurance Trust. The City Attorney is named as a defendant simply by nature of his position to seek relief from criminal prosecution relating to the newly-enacted law. A copy of the article is attached.

### **Sherlock Forest update**

The Rockn' the Sherlock benefit was held on Wednesday with what appeared to be very solid attendance throughout the day. The Sherlock Forest committee and its co-chairs very much appreciate the overwhelmingly positive feedback from the community and all of the parties who have and continue to make this project a priority. The Parks Superintendent is currently soliciting quotes for demolition. I expect that demolition will occur before the end of the July barring unforeseen circumstances. The Parks Superintendent will also coordinate staff to begin the bid/RFP advertisement process for new construction. The procurement process will take about a month. I remain optimistic that Sherlock Forest will be rebuilt by early Fall.

## **AGENDA ITEMS**

The consent agenda contains street repair quotes as discussed at the Work Session. There is one special event permit and a surplus property declaration.

Item 8 is the reconsideration of Resolution 11-06-52. Mayor Stauss filed his veto on June 28 of this Resolution to authorize plans and specifications for the proposed Waste Water Interconnect Project Phase I. The resolution is automatically reconsidered by City Charter. An override of the veto requires six votes.

Item 9 approves the plans and specifications and authorizes the advertisements of bids for the bike/pedestrian trail improvements along the Red Lake River (Griggs/LaFave Park).

# Implications of a State Shutdown

---

Scott Huizenga, City Administrator  
Presented to Council Work Session 6-28-2011

## City Direct Service Impacts - Immediate

- Red River State Recreational Area Campground
- Permits/Licenses including liquor, some building permits/licenses, contractor licenses

## Project Delays

- Safe Routes to School (13<sup>th</sup> Street to Central Middle School)
- 2011 Transportation Enhancement (sidewalk/trail on DeMers Ave/Central Avenue N)
- BNSF Central Avenue Signalization and Gate Crossing
- 2011 Miscellaneous Electric Upgrades
- Industrial Park expansion (EDA, DEED – state)
- Grant funding unavailable

## Local Government Aid (LGA)

- First payment scheduled for July 20<sup>th</sup>
- Certified at \$2.8 million annually plus Market Value Homestead Credit (MVHC) of \$200,000+
- House bill kept LGA whole in 2011, cuts in 2012; Senate version had smaller cuts in both years; Conference committee had larger cuts in both years

## Other potential service issues

- “Special Master” to be appointed to define “essential services”
- Transit funding
- Police access to state databases
- Water quality testing

## Long-Term Implications

- Many experts predict a shutdown that could last into September – coinciding with the start of the fall school season
- General Fund Unreserved Balance: \$2.6 million – cash flow for 4-5 months
- The 2011 Adopted Budget anticipated partial cuts to LGA based on 2010 levels
- Service cuts/furloughs not recommended before at least October if shutdown remains unresolved



## State Government Shutdown: Implications for Local Governments

*June 28, 2011*

### Introduction

The prospect of a state government shut-down beginning this Friday carries with it a variety of implications for cities and other local governments. Some of the implications are obvious and others are not so obvious. To help cities prepare for a shutdown, League staff has prepared the following guidance on the potential impacts on cities' ability to provide "core" government services—those directly tied to a city's ability to protect "life and property." The following does not cover all of the potential effects, but addresses many that cities may encounter. Please contact us if you have additional suggestions for impacts that should be included.

### Indirect impact resulting from loss of various state aids and credits

The Minnesota Department of Revenue has indicated that in the event of a shutdown, a variety of state aids and credits will not be paid to cities. This could include existing standing and open aid and credit appropriations, such as:

- Local Government Aid (first half due July 20)
- Police and Fire Amortization Aids (one-third of annual amount due July 15)
- Public Employee Retirement Association (PERA) employer contribution aids (first half due July 20)
- Utility Value Transition Aid (first half due July 20)
- Distribution of local sales tax receipts (due the 5<sup>th</sup> of each month).

The League and other city groups will likely pursue legal action against the state the week of June 27 to compel payment of the amounts due cities, but in the event those efforts are unsuccessful, loss of state funding will impact cities. The types of effects and level of impact will differ from one city to the next, depending on their levels of reserves and other considerations. But in the case of a more lengthy shutdown, loss of state funds could make it difficult for cities of all kinds, in all areas of the state, to perform the following critical functions:

- Ability to meet bond obligations funded by local sales tax receipts
- Ability to meet local debt obligations using Public Facilities Authority as trustee for bond payments or to provide funding for contractor contractual obligations.
- Animal control
- Board of Equalization trainings & process
- County Resources/Services (solid waste, landfills)

- Enforcement of local ordinances (nuisances, health)
- Fire
- Functions of city hospitals and nursing homes
- Jail
- Local emergency response
- Municipal organized refuse collection
- Police
- Property assessor training
- Public transportation, including that for the elderly and disabled
- Water and sewer services
- Wetland approvals for road projects

### **Direct impacts associated with state agencies shutting down or reducing services**

Beyond the potential loss of state aids and credits, many critical and core city services would likely be directly impacted by the shutdown or reduction of services provided by state agencies. The following impacts seem likely based on our discussions with state officials:

- Licenses and permits – City employees without current state-issued licenses may not continue in their profession; nor may facilities continue to operate without required permits or licenses. For example, one-third of police officers renew their licenses by June 30 each year. If any city officer in the current group fails to renew their license before the shutdown, they may not work until they do so. Other similar licensing of personnel or facilities that may affect you are:
  - Airport permits
  - Building inspectors
  - Driver’s licenses (regular & commercial)
  - Nurses, Doctors, Emergency Responders/Emergency Medical Services Regulatory Board (EMSRB)
  - Health care facilities
  - Limited driver’s licenses, passports and other documents: (regular and commercial). Receiving new or renewed licenses may be limited in certain areas.<sup>1</sup>
  - Police officers/Peace Officers Standards and Training (POST) Board<sup>2</sup>

---

<sup>1</sup> [Hennepin] county has seven service centers for people to get driver's licenses, car tabs, passports and other documents. Plans call for all seven to be closed during a shutdown, but final action has yet to be taken. Star Tribune, June 27, 2011.

<sup>2</sup> Quoting POST Board website, June 28, 2011: “For officers with active licenses, failure to renew by the deadline means the license will “expire” effective July 1 and they cannot perform peace officer duties until the license is “restored.” If the POST Board is closed on July 1 and throughout the shutdown, officers will not have the ability to “restore” and therefore cannot work as a peace officer. Also, if POST is closed on July 1, we will not be able to contact the [Chief Law Enforcement Officer] and advise them of officers who failed to renew and are therefore unable to perform peace officer duties. In the event of a shutdown, POST will not be able to issue licenses to new hires after June 30.”

- Sanitarians
  - Stormwater construction permits<sup>3</sup>
  - Vehicle registration: New or renewed vehicle registration services may be limited in certain areas.
  - Wastewater/Water Operators<sup>4</sup>
  - Wastewater treatment facilities/ municipal storm water systems (Permits required under FCWA)
- Inspections activities – State inspections are required for many purposes. State shutdown may mean your city will go elsewhere for required items that the state will not provide, or simply that some inspections will completely halt. For example:
    - Bridge (MNDOT) inspection will likely not occur
    - Building inspection activity may be affected
    - Drinking water (state labs will close and cities will be required by Federal regulations to use an outside source to insure testing compliance; there will be extra cost to cities that will still be paying state for this service)
    - Electrical inspection may be limited
    - Roads – any local road projects necessitating MNDOT sign off will not happen
    - State inspection for boilers, elevator, utilities, hospital, nursing homes and any State Fire Marshall support will likely not be available.
  - Other direct impacts
    - BCA/DPS background & driving records checks
    - DNR firefighting assistance may be limited
    - Election services/SVRS/campaign finance
    - Gas/electrical utilities approvals at state level will likely not be available
    - Report of new hires to MDHS for child support enforcement
    - Applications to DPS for reimbursement of health insurance payments made to police and fire disabled or killed in the line of duty
    - Levy certification process – these services will likely be suspended
    - Mediation Services (contract/union negotiations)

---

<sup>3</sup> Since staff will not be available to receive or review applications, the submittal will not be considered complete, and therefore construction stormwater permits will not be valid, if the application is submitted during a shutdown period. A valid permit is required for all construction projects disturbing one acre or more — for things like road and bridge improvements and commercial/industrial/multifamily developments.

<sup>4</sup> According to the MPCA website, June 28, 2011 “Certain [environmental] licenses and license renewals for environmental work are dependent on MPCA receipt of a license fee. These licenses cover septic system professionals, landfill and wastewater operators and others. Licenses that are not expired will still be valid through any potential disruption in service from the state. However, since the MPCA cannot receive fees if it is shut down, any license renewals received by the state would not be processed while state workers are away. The licenses or license renewals that were sent during the shutdown period would not be valid if the fee is sent to the MPCA during the shutdown period.”

- Proceeding before the Offices of Administrative Hearings will likely be suspended.
- Labor Relations Services (contract/union negotiations), lists of arbitrators for grievance and interest arbitration, unit determination for bargaining units
- Prosecution services (Department of Motor Vehicle information may be unavailable)
- Report of new hires to MDHS for child support enforcement
- State personal will likely be unavailable to do assessor training
- State right-of-way (traffic signals, utility lines will not be accessible)

# StarTribune



## Retailers sue over 'designer' drug ban

Article by: , Star Tribune

Updated: June 27, 2011 - 10:05 PM

Starting at midnight on Friday, it will be illegal to possess and sell what lawmakers consider dangerous designer drugs in Minnesota, including the so-called research chemical blamed for a mass overdose in Blaine this spring that killed a 19-year-old.

But three Minnesota retailers who are trying to derail the ban filed a lawsuit in Hennepin County District Court on Monday in an attempt to delay or even block the law from taking effect. They claim the ban is too vague and too broad and that consumers and retailers won't know if they are breaking the law.

"It's disappointing that anybody would file a lawsuit to protect these stores and give them the right to sell this product that's harming our youth," said Rep. John Kriesel, R-Cottage Grove, one of the authors of the law.

The legislation, passed this spring, declares it illegal for people in Minnesota to use

synthetic drugs that are "substantially similar" in chemical structure and pharmacological effects to illegal drugs. Legislators also outlawed certain chemicals used to make designer drugs, including so-called synthetic pot.

To get around a federal law similar to Minnesota's ban, the targeted products are typically labeled "not for human consumption." They are sold over the Internet and in such retail outlets as tobacco shops and record stores. In many cases, the products are described as bath salts or herbal incense and are sold in tiny foil packets that often cost \$10 to \$50.

The ban is being challenged by three retailers: Down in the Valley, with stores in Golden Valley, Maple Grove and Crystal; Last Place on Earth in Duluth; and Disc and Tape, with stores in Moorhead, East Grand Forks and Waite Park.

They claim the law is unconstitutionally vague and provides no criteria for determining whether a substance is "substantially similar" to an illegal drug.

Consumers and retailers won't know "if they're committing a crime or not," argued attorney Marc Kurzman, who represents the

Advertisement

**FIREWORKS AFTER THE CONCERT!**

**FREE OUTDOOR CONCERT**

**DIAMOND RIO**

**MONDAY, JULY 4**

**MYSTIC Amphitheater**

**MYSTIC LAKE CASINO • HOTEL**

mysticlake.com

Owned and Operated by the Shakopee Mdewakanton Sioux Community

Print Powered By FormatDynamics™

# StarTribune



stores. "You shouldn't have to get the answer by being charged and going through criminal trials."

The retailers claim Minnesota's ban could technically include hemp clothing and other products now sold in department stores and pet food stores.

The retailers also claim the law was passed without any scientific proof showing that the forbidden substances can be harmful, and that the ban infringes on an individual's rights of privacy and the pursuit of happiness.

Duluth City Attorney Gunnar Johnson, one of the defendants named in the suit, said many people have been hurt by these designer drugs because they think the products are safe.

"Government has a role in making sure that our citizens are not being exposed to harmful products, whether it's toys for kids or products that there's kind of a wink wink, that this is not for ingestion, but that's what they're selling it for," Johnson said.

The retailers were part of a group that sued the federal government this spring after the Drug Enforcement Administration used

administrative powers to temporarily outlaw five chemicals commonly found in synthetic cannabinoids, which allegedly mimics the effects of marijuana. A federal judge ruled the district court did not have jurisdiction and dismissed the suit.

Pam Louwagie • 612-673-7102

Advertisement

**TONY BENNETT**  
**SATURDAY, AUGUST 27**  
**ON SALE NOW**

**Mystic LAKE**  
 CASINO • HOTEL  
 mysticlake.com

Owned and Operated by the Shakopee Mdewakanton Sioux Community

Print Powered By FormatDynamics