

June 11<sup>th</sup>, 2013

*Note: These minutes are subject to review and approval at the next regular Common Council meeting.*

The Common Council of the City of Merrill met on the above date in Regular Session, at the City Hall Council Chambers, 1004 East First Street. Mayor William R. Bialecki called the meeting to order at 7:00 P.M.

**130610** Silent Prayer

**130615** Pledge of Allegiance

**130620** Roll Call showed the following Common Council members present (8 of 8): Alderman Chris Malm (First District), Alderman Steve Hass (Second District), Alderman Ryan Schwartzman (Third District), Alderwoman Kandy Peterson (Fourth District), Alderman John Burgener (Fifth District), Alderman Dave Sukow (Sixth District), Alderman Rob Norton (Seventh District) and Alderwoman Anne Caylor (Eighth District).

The following were also in attendance: Transit Director Rich Grenfell, City Attorney Tom Hayden, City Clerk Bill Heideman, City Administrator Dave Johnson, Street Commissioner Richard Lupton, Airport Manager/FBO John Miller, Police Chief Ken Neff, City Hall Maintenance Supervisor Ramona Pampuch, Fire Chief Dave Savone, Library Director Stacy Stevens, Treasurer/Finance Director Kathy Unertl and Park & Recreation Director Dan Wendorf. Community Enrichment Center Director Jane Deau had an excused absence.

**130630** Minutes of May Meeting

Motion (Hass/Sukow) to dispense with the reading of the minutes of the May 14<sup>th</sup>, 2013 Common Council meeting and approve them as published. Carried.

**130640** Revenue and Expense Reports – May 2013

Motion (Hass/Burgener) to approve, as submitted, the May 2013 Revenue and Expense report. Carried.

**130660** Communications and Petitions

**130661** Employee Recognition

City Clerk Heideman read certificates of recognition for the following City employees: Kay E. Andrews, 10 years of service; David A. Graveen, 10 years of service.

**130690** Committee of the Whole

**130691** Consider recommendation(s) from June 11<sup>th</sup>, 2013 meeting on the request to lift the hiring freeze to replace retiring Street Department employee

At that meeting, the Committee recommended lifting the hiring freeze.

Motion (Hass/Burgener) to adopt. Carried.

**130692** Consider recommendation(s) from June 11<sup>th</sup>, 2013 meeting on the request to lift the hiring freeze to replace Firefighter/Paramedic who has resigned to accept firefighter position in Wausau

At that meeting, the Committee recommended lifting the hiring freeze.

Motion (Sukow/Caylor) to adopt. Carried.

**1306120** Board of Public Works

**1306121** The Board recommends authorizing the Street Department to replace the culverts on Taylor Street, between Cottage Street and Champagne Street, in preparation for the upcoming Taylor Street repair project.

Motion (Schwartzman/Burgener) to adopt. Carried.

**1306122** The Board recommends considering, as surplus property, the 12 doors removed from the Probation and Parole area during remodeling, and recommends selling all the doors. Each door is to be sold for a minimum of \$50.

Motion (Hass/Schwartzman) to adopt. Carried 8-0 on roll call vote.

**1306130** Health and Safety Committee

**1306131** The Committee recommends approving the 2013-2014 Beer & Liquor Licenses for Class "A", Class "B", "Class A", "Class B", Class "B" and "Class C" Wine, as submitted. All approvals would be contingent upon full compliance with the City of Merrill Code of Ordinances and Chapter 125 of the Wisconsin State Statutes.

Motion (Sukow/Caylor) to adopt. Carried. Abstaining – Alderman Schwartzman.

- 1306132** The Committee recommends approving the request from several businesses to close a block of East Main Street (from Poplar Street to Court Street) from 1:00 P.M. to midnight, for the Main Street Block Party on Friday, June 21<sup>st</sup>, 2013. Any music associated with the block party is to end by 11:00 P.M., and the street is to be cleaned up and reopened by midnight.

Motion (Schwartzman/Caylor) to adopt. Carried.

- 1306133** Consider request from Legends, 1007 East Main Street, for an extension of premises to sell alcoholic beverages in a fenced-in area outside their establishment on Friday, June 21<sup>st</sup>, 2013, in conjunction with a Main Street Block Party. They are also requesting that outdoor music be allowed until 11:00 P.M. (Alderman Caylor is bringing the request directly to the Common Council)

Motion (Caylor/Peterson) to approve the request, as submitted. Carried.

- 1306134** Consider application from Matt Burbach for a Street Use Permit to block off one lane of traffic on First Street, just to the east of Pier Street, from 6:00 A.M. to 9:00 P.M. (or less) on June 25<sup>th</sup>, 2013, for removing fill on the property at 103 Pier Street (Alderman Caylor is bringing this application directly to the Common Council)

Motion (Caylor/Burgener) to approve the application, with an amendment to add the language to state, in case of inclement weather on June 25<sup>th</sup>, 2013, the permit would be valid on an alternate date acceptable to both the Street Department and the Police Department. Carried, as amended.

- 1306135** Consider application from Theresa Swiechowski, 200 N. Pine Street, for a Street Use Permit to close off the 1500 block of West First Street (Pine Street to Ohio Street) from 3:00 P.M. to midnight on July 3<sup>rd</sup>, 2013, in conjunction with a neighborhood Fourth of July celebration. (Alderman Caylor is bringing this application directly to the Common Council)

Motion (Sukow/Caylor) to approve the application. Carried.

**1306160** City Plan Commission

**1306161** The Commission recommends approving the site plan from St. Francis Xavier Catholic Church Veterans Memorial, for a proposed sign at Merrill Memorial Park, Memorial Drive, pending the establishment and outcome of a traffic visibility triangle.

Motion (Schwartzman/Peterson) to adopt. Carried.

**1306162** The Commission recommends approving, as submitted, the site plan from the City of Merrill Park and Recreation Department and the Merrill Baseball Association, for a covered shelter and, based on the availability of funds, a deck, at Athletic Park, Logan Street.

Motion (Sukow/Norton) to adopt. Carried.

**1306163** The Commission recommends approving, as presented, the site plan from the City of Merrill Park and Recreation Department for a dog park at the Merrill Area Recreation Complex, 1100 Marc Drive.

Motion (Hass/Norton) to adopt. Carried.

**1306185** Redevelopment Authority

**1306186** The Authority recommends accepting Richard and Sharon Schmidt's Request for Proposal (RFP) response, including sale price of \$4,350, for 318 Grand Avenue, for private parking and green space use.

Motion (Schwartzman/Peterson) to adopt. Carried 8-0 on roll call vote.

**1306230** Placing Committee Reports on file

Motion (Sukow/Schwartzman) to place the following committee reports on file: Housing Authority, Committee of the Whole, Community Development Committee, Board of Public Works, Health and Safety Committee, Personnel and Finance Committee, City Plan Commission, Transit Commission, Library Board, Redevelopment Authority, Enrichment Center Committee on Aging, Airport Commission and Tourism Commission. Carried.

**1305251** **ORDINANCE NO. 2013-08**

The first reading of the ordinance was at the May 14<sup>th</sup>, 2013 Common Council meeting.

City Attorney Hayden requested that he be allowed to give this ordinance and the next two ordinances second readings by title only. Without objection, it was so ordered.

SECOND READING OF AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, SECTION 2-23 TO ADD (6) ON-DUTY MEMBER OF THE MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Hass/Schwartzman) to suspend the rules and give the ordinance a third reading by title only. Carried.

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, SECTION 2-23 TO ADD (6) ON-DUTY MEMBER OF THE MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Hass/Sukow) to adopt. Carried 8-0 on roll call vote.

**1305252      ORDINANCE NO. 2013-09**

The first reading of the ordinance was at the May 14<sup>th</sup>, 2013 Common Council meeting.

SECOND READING OF AN ORDINANCE AMENDING CHAPTER 24, ARTICLE II, SECTION 24 TO ADD (25) MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Hass/Schwartzman) to suspend the rules and give the ordinance a third reading by title only. Carried.

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 24, ARTICLE II, SECTION 24 TO ADD (25) MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Caylor/Sukow) to adopt. Carried 8-0 on roll call vote.

**1305253      ORDINANCE NO. 2013-10**

The first reading of the ordinance was at the May 14<sup>th</sup>, 2013 Common Council meeting.

SECOND READING OF AN ORDINANCE AMENDING CHAPTER 26, ARTICLE II, SECTION 26-33 TO ADD (B) AND (C) RELATED TO MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Hass/Sukow) to suspend the rules and give the ordinance a third reading by title only. Carried.

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 26, ARTICLE II, SECTION 26-33 TO ADD (B) AND (C) RELATED TO MERRILL POLICE DEPARTMENT AUXILIARY

Motion (Schwartzman/Burgener) to adopt. Carried 8-0 on roll call vote.

**1306250      ORDINANCE NO. 2013-11**

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 36, ARTICLE II, DIVISION 3, SECTION 36 -86 – PARKING OF COMMERCIAL MOTOR VEHICLES, OVERSIZED VEHICLES OR EQUIPMENT

Motion (Hass/Caylor) to suspend the rules and give the ordinance a second reading and a third reading by title only. Carried.

SECOND READING OF AN ORDINANCE AMENDING CHAPTER 36, ARTICLE II, DIVISION 3, SECTION 36 -86 – PARKING OF COMMERCIAL MOTOR VEHICLES, OVERSIZED VEHICLES OR EQUIPMENT

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 36, ARTICLE II, DIVISION 3, SECTION 36 -86 – PARKING OF COMMERCIAL MOTOR VEHICLES, OVERSIZED VEHICLES OR EQUIPMENT

Motion (Hass/Caylor) to adopt. Carried 8-0 on roll call vote.

**1306251      ORDINANCE NO. 2013-**

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE II, SECTION 18-36 TO AMEND IMPOSITION OF ROOM TAX

Motion (Hass/Malm) to refer to a joint meeting of the Committee of the Whole and Tourism Commission. Carried.

**1306260      RESOLUTION NO. 2304**

**A PRELIMINARY RESOLUTION OF INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS BY POLICE POWER UNDER SECTION 66.0703 OF THE WISCONSIN STATUTES**

RESOLVED, by the Common Council of the City of Merrill, Wisconsin:

- A. The Common Council hereby declares its intention to exercise its power under Section 66.0703 Wisconsin Statutes, to levy special assessments under the police power upon all properties abutting the following improvements in the City of Merrill, Wisconsin:
1. Sidewalk inspection pursuant to sidewalk inspection program. Sidewalk maintenance area is generally confined to the First Ward and Second Ward East of Center Avenue:
    - a) Isolated sidewalk requested or needed.
    - b) Driveway approaches requested or needed.
    - c) Curb and gutter requested or needed.
- B. The Common Council determines that the above improvements constitute an exercise of the police power and the amount assessed each parcel abutting on the street shall be on a reasonable basis as approved by the Common Council and which rates are in effect at the time of installation in accordance with special assessment procedures set forth in provisions of Chapter 18, Article III, Division 3 of the Code of Ordinances, City of Merrill, Wisconsin.
- C. The assessments against any parcels of land may be paid in cash not later than November 1 of the year such improvements are made, or in installments as provided by Chapter 18, Article III, Division 3 of the Code of Ordinances, City of Merrill, Wisconsin. Rate of interest on installment payments shall be as set by Common Council action.
- D. The City Engineering Department shall, with respect to the items mentioned at paragraph A above, prepare a report consisting of:
1. Preliminary or final plans and specifications with maps of the improvements
  2. An estimate of the entire cost of the proposed work or improvements.
  3. A schedule of the proposed assessments as to each parcel of property affected.
  4. A statement that the properties against which the assessments are proposed are benefited and that the improvements constitute an exercise of the police power.

- E. The City Engineering Department shall complete and file such reports in the City Clerk's office for public inspection no later than June 5, 2013.
1. The Board of Public Works of the City of Merrill shall hold a public hearing on Wednesday, June 26, 2013 at 6:00 p.m. The hearing shall be held in the Council Chambers in the City Hall, Merrill, Wisconsin, on the improvements mentioned in paragraph A above. The City Clerk shall cause a notice of said hearing to be published once as a Class I notice no later than June 14, 2013. The City Clerk shall mail a copy of the notice to all interested persons at least ten (10) days before the date of the hearing.

Motion (Sukow/Burgener) to adopt. Carried.

**1306261 RESOLUTION NO. 2305**

**A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MERRILL, WISCONSIN AND GATEWAY NORTH LLC FOR CONSTRUCTION OF A RESTAURANT FACILITY**

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 3 and Redevelopment Area No. 1 on September 13, 2005 and amended the area on July 11, 2006; and,

WHEREAS, Gateway North LLC is constructing a new restaurant on property located within TID No. 3 and Redevelopment Area No. 1; and,

WHEREAS, the City of Merrill finds that the proposed development and the fulfillment of the items and conditions of the attached Development Agreement are in the vital and best interest of the City of Merrill, the Merrill Redevelopment Authority and City residents and serves a public purpose in accordance with State law; and,

WHEREAS, new property tax base will be generated and about 15 – 20 full-time equivalent positions will be created as a result of this new restaurant, and,

WHEREAS, the City of Merrill and Gateway North LLC have negotiated the development agreement to provide an incentive payment (pay as you go tax increment financing incentive) not to exceed \$100,000 to facilitate the commercial redevelopment, as well as reimbursement for costs of stormwater drainage improvements through the property for stormwater coming from the north, in an amount not to exceed \$35,000, and in addition, the City agrees to provide an economic development grant, upon proper application, pursuant to City of Merrill Code of Ordinance Chapter 4, to facilitate the issuance of a Reserve Class B liquor license for the premises;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 11<sup>th</sup> day of June, 2013, that the Mayor and City Clerk are authorized to sign the Development Agreement by and between the City of Merrill and Gateway North LLC and to facilitate the implementation thereof.

Motion (Schwartzman/Sukow) to adopt. Carried 5-3 on roll call vote.  
Voting No – Alderman Malm, Alderman Hass and Alderwoman Caylor.

**1306262 RESOLUTION NO. 2306**

**A RESOLUTION ESTABLISHING AND CLARIFYING EMERGENCY PROCLAMATION PROCEDURES**

WHEREAS, conditions may arise by reason of a riot or civil commotion, a disaster, or an imminent threat of a disaster, that impairs transportation, food or fuel supplies, medical care, fire, health or police protection, or other critical systems of the local unit of government; and,

WHEREAS, in the event of such disaster or threat, it may be necessary to declare such conditions constitute an “emergency” as defined in Wis. Stats. §323; and,

WHEREAS, it is desirable to outline the order in which certain officials may exercise power granted to them in declaring such an emergency;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 11<sup>th</sup> day of June, 2013, that in the event an emergency occurs within The City of Merrill at a time when the City Council is unable to meet promptly for the purpose of making such a declaration, the following persons may declare a state of emergency by proclamation as authorized by Wis. Stats. §323.14(4) (b):

- (a) The Mayor,

- (b) In the event the Mayor is unavailable, the City Administrator,
- (c) In the event the Mayor and the City Administrator are unavailable, the Chief of either the Police or Fire Department.

The proclamation shall be subject to ratification, alteration, modification, or repeal by the City Council as soon as that Council can meet, but the subsequent action taken by the City Council shall not affect the prior validity of the proclamation.

The emergency power of the City of Merrill conferred under Wis. Stats. §323.11 includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the City of Merrill and includes the power to bar, restrict, or remove all unnecessary traffic, both vehicular and pedestrian, from the highways or other areas.

Motion (Schwartzman/Sukow) to adopt, with an amendment adding the Council President as the second official (immediately after the Mayor) in the hierarchy of officials authorized to declare an emergency. Carried, as amended.

**1306263 RESOLUTION NO. 2307**

**A RESOLUTION APPROVING THE 2012 COMPLIANCE MAINTENANCE ANNUAL REPORT FOR THE CITY OF MERRILL WASTEWATER TREATMENT PLANT**

WHEREAS, the City of Merrill is required by the Wisconsin Department of Natural Resources (WDNR) to complete a Compliance Maintenance Annual Report on its Wastewater Treatment Plant; and

WHEREAS, the Water and Sewage Committee, of the City of Merrill, has reviewed the Compliance Maintenance Report for the year 2012, and has determined that it reflects the performance of the Wastewater Treatment Plant during 2012; and

WHEREAS, the report indicates a need for continued improvements at the Wastewater Treatment Plant and its operations to meet the requirements set forth by the WDNR;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN, this 11<sup>th</sup> day of June, 2013, that:

1. The Compliance Maintenance Annual Report for 2012 is hereby approved and authorized to be filed with the WDNR.
2. That the Compliance Maintenance Annual Report for 2012 is an accurate indication of the performance of the City of Merrill Wastewater Treatment Plant for the year 2012.
3. That report sets forth the following actions necessary to maintain an effluent requirement contained in the Wisconsin Pollutant Discharge Elimination Systems Permit:
  - a) Continue to address collection system operations and work to eliminate the potential for sanitary sewer overflows (SSO).

Motion (Burgener/Norton) to adopt. Carried.

#### **1306270** Mayor's Communications

Discussion with Northcentral Technical College (NTC) representatives concerning efforts to alleviate noise levels during training sessions at the (NTC) Public Safety Center for Excellence (PSCE), 1603 Champagne Street.

A petition with 80 signatures from residents living near the PSCE has been submitted to the City. The petitioners have concerns regarding the noise coming from the PSCE during law enforcement/emergency training sessions.

Mayor Bialecki introduced Dr. Lori Weyers, President of NTC. Dr. Weyers stated that, as soon as NTC officials were aware of the noise concerns and related petition, they took steps to address the concerns. She reminded everyone that, although NTC was encouraged to relocate after their facility suffered tornado damage, NTC made a decision to rebuild and reinvest in the City of Merrill. She added that NTC is trying to be a good neighbor by addressing the noise concerns, and she requested that NTC be given time to implement these noise-reductions steps.

Shelly Mondeik, NTC Vice-President of Learning, provided information on the training being done at the PSCE. Other representatives of NTC provided additional information on the steps being taken to alleviate the noise level.

Motion (Hass/Malm) to suspend the rules and grant floor privileges to Charles Novitch and Mike Ravn. Carried.

Charles Novitch, spoke on behalf of the petitioners. He stated that the type of training being done at the PSCE raises the adrenaline level in the participants, and it also raises the adrenaline level of residents living close to in the PSCE. He stated that the noise level could interfere with nearby residents getting enough sleep, including those who work second of third shift. He also suggested that the noise level could have an adverse effect on property values in the area.

Mike Ravn, 101 W. Taylor Street, reported on the positive impact that the NTC investment in the PSCE has had on the Merrill community and area. He stated that there is no perfect solution and that resolution of this issue will involve compromise.

Alderman Hass suggested that NTC be given time to implement their proposed noise-reduction measures.

#### **1306280** Public Comment Period

Charles Novitch suggested that the sirens at the PSCE be allowed only between 9:00 A.M. and 6:00 P.M., rather than the 7:00 A.M. to 9:00 P.M. timeframe being proposed by NTC.

Marilyn Schmidt, 1100 Harrison Street, stated that she has witnessed drives in the area of the PSCE pulling to the side of the road, thinking that the sirens from the PSCE were sirens related to an actual emergency. She speculated that the opposite scenario could also occur, with drivers not responding to sirens in cases of actual emergency situations.

Jeremy Ratliff, 2401 W. Jackson Street, spoke on the proposed indoor firing range at the PSCE. He thinks it is possible to muffle all the noise from an indoor facility. He also stated that, as a former police officer, he knows that classroom training is not the same as “hands-on” training, and that “hands-on” training is critical.

Dave Lerand stated that, in his opinion, people will adapt to the noise level over time.

Mark Gehring, 503 W. Taylor Street, stated that, in his opinion, the sirens at the PSCE are both loud and annoying. He does not think that a person would grow accustomed to the siren noise over time.

Paul Proulx, 1005 Jefferson Street, noted that he lives in the vicinity of the PSCE. He said that the sirens are not continuous, and he urged that NTC be given a chance to implement their noise-reduction measures.

**1306999** Motion (Hass/Caylor) to adjourn. Carried. Adjourned at 8:44 P.M.

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William R. Bialecki  
Mayor

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William N. Heideman, WCMC  
City Clerk

I, William N. Heideman, City Clerk of the City of Merrill, Wisconsin, do hereby certify that the Mayor approved the above action of the Common Council on June 17<sup>th</sup>, 2013.

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William N. Heideman, WCMC  
City Clerk