

April 8th, 2014

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.

140410 Invocation by Pastor Jess Wakefield, First Presbyterian Church & Riverside Presbyterian Church

140415 Pledge of Allegiance

140420 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: Fire Captain Robert Akey Jr., Community Enrichment Center Director Jane Deau, Transit Director Rich Grenfell, City Attorney Tom Hayden, City Clerk Bill Heideman, City Administrator Dave Johnson, Utility Superintendent Kim Kriewald, Street Commissioner Richard Lupton, Airport Manager/FBO John Miller, Police Chief Ken Neff, Building Inspector/Zoning Administrator Darin Pagel, Library Director Stacy Stevens, Finance Director Kathy Unertl, City Hall Maintenance Supervisor Ramona Vanderkam and Park & Recreation Director Dan Wendorf.

140430 Minutes of March Meeting

Motion (Hass/Sukow) to dispense with the reading of the minutes of the March 11th, 2014 Common Council meeting and approve them as published. Carried.

140440 Revenue and Expense Report – March 2014

Motion (Hass/Burgener) to approve, as submitted, the March 2014 Revenue and Expense report. Carried.

140460 Communications and Petitions

140461 Claim filed by William Fisher, 202 East Tenth Street, for damages to his mailbox on February 16th, 2014, as a result of City snowplowing operations. The City's insurance carrier recommends that the claim be denied. The basis for their recommendation is that the investigation conducted by the City's insurance carrier revealed no negligence on behalf of the City. The City has an ordinance in place that the City has no obligation to repair or replace mailboxes damaged from snowplowing operations.

Motion (Hass/Burgener) to deny the claim. Motion carried 5-3 on roll call vote. Voting No – Alderman Malm, Alderwoman Peterson and Alderman Norton.

140462 Claim filed by Donald Radloff, 200 East Tenth Street, for damages to his mailbox on February 16th, 2014, as a result of City snowplowing operations. The City's insurance carrier recommends that the claim be denied. The basis for their recommendation is that the investigation conducted by the City's insurance carrier revealed no negligence on behalf of the City. The City has an ordinance in place that the City has no obligation to repair or replace mailboxes damaged from snowplowing operations.

Motion (Schwartzman/Hass) to deny the claim. Carried.

1404110 Parks and Recreation Commission

1404111 The Commission recommends funding the Park Improvement list as reviewed by the Commission at their April 2nd meeting, from the Memorial Forest Salvage Timber Account (non-lapsing).

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

1404140 Personnel and Finance Committee

1404141 The Committee recommends approving the document clarifying the policy related to donations to the City.

Motion (Schwartzman/Sukow) to adopt. Carried.

1404230 Placing Committee Reports on file

Motion (Sukow/Caylor) to place the following committee reports on file: Housing Authority, Committee of the Whole, Board of Public Works, Personnel and Finance Committee, Water and Sewage Disposal Committee, City Plan Commission, Redevelopment Authority and Airport Commission. Carried.

1403250 **ORDINANCE NO. 2014-06**

AN ORDINANCE AMENDING CHAPTER 30, ARTICLE II, SECTION 30-31(D) TO ADD GARBAGE COLLECTION AGREEMENT PROVISIONS

Motion (Sukow/Norton) 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 30, ARTICLE II, SECTION 30-31(D) TO ADD GARBAGE COLLECTION AGREEMENT PROVISIONS

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 30, ARTICLE II, SECTION 30-31(D) TO ADD GARBAGE COLLECTION AGREEMENT PROVISIONS

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

1404250 **ORDINANCE NO. 2014-07**

City Attorney Hayden provided a verbal synopsis of the difference between this ordinance and the original ordinance that created the joint municipal court. The State of Wisconsin requires that the ordinances passed by the City of Merrill and the City of Tomahawk be similar, and this ordinance would accomplish that.

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 10, FROM A MUNICIPAL COURT TO A JOINT MUNICIPAL COURT

Motion (Hass/Norton) 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 10, FROM A MUNICIPAL COURT TO A JOINT MUNICIPAL COURT

THIRD READING OF AN ORDINANCE AMENDING CHAPTER 10, FROM A MUNICIPAL COURT TO A JOINT MUNICIPAL COURT

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

1404260 RESOLUTION NO. 2357

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

WHEREAS, the Board of Public Works of the City of Merrill, Wisconsin held a Public Hearing in the City Hall, Merrill, Wisconsin, for the purpose of hearing all persons interested in the matters contained in the preliminary resolution of the City of Merrill, of its intent to exercise special assessment powers pursuant to Police Power under Sec. 66.07 Wis. Stats., all as set forth below, and the reports of the Engineering Department mentioned therein on the following proposed projects and other matters, to-wit:

Preliminary Resolution of February 11, 2014, a copy of which is attached hereto, on which a hearing was held on the 26th day of February, 2014;

NOW THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 8th day of April, 2014, to complete the following public works projects in the City of Merrill:

1. Sidewalk maintenance pursuant to sidewalk inspection program. Sidewalk maintenance area is generally confined to the Second District, west of Center Avenue.
 - a) Isolated sidewalk requested or needed.
 - b) Driveway approaches requested or needed.
 - c) Curb and gutter requested or needed.

NOW THEREFORE, BE IT FURTHER RESOLVED, by the Common Council of the City of Merrill, Wisconsin,

1. That the reports of the City Building Inspector/Zoning Department pertaining to construction of said improvements, including the plans and specifications are hereby adopted and approved.
2. That the Board of Public Works shall cause the improvements to be made by City employees or it may advertise and let any part or all of the same out on bids.

3. That payment for said improvements be made by assessing the costs to the property benefited as indicated in said report, as an exercise of the Police Power.
4. Those benefits shown on the reports are true and correct, having been determined on a reasonable basis and are hereby confirmed.
5. That the assessments for all projects included in said reports are hereby combined as a single assessment but any interested property owner shall be entitled to object to each assessment separately or any assessment jointly for any purpose or purposes.
6. The assessment against any parcel may be paid in cash not later than November 1 of the year such improvements are made, or in installments as provided by City Ordinance, and if not so paid, shall be extended upon the tax roll as a delinquent tax against said parcel and all proceedings in relation to the collection, return and sale of property for the delinquent real estate taxes shall apply to such assessment except otherwise provided by Statute.
7. The City Clerk is directed to publish this resolution as a Class 1 notice in the official newspaper.
8. The Clerk is further directed to mail a copy of this resolution and a statement of the final assessment against the property to every property owner whose name appears on the assessment roll whose post office address is known or who can with reasonable diligence be ascertained.

Motion (Sukow/Schwartzman) to adopt. Carried.

1404261 RESOLUTION NO.

A RESOLUTION AUTHORIZING DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MERRILL, WISCONSIN AND PINE RIDGE RESTAURANT, LLC

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 7 and Redevelopment Area No. 3 on August 11, 2009; and,

WHEREAS, Pine Ridge Restaurant, LLC is constructing a commercial development on property located within TID No. 7 and Redevelopment Area No. 3; and,

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

WHEREAS, the City and Pine Ridge Restaurant, LLC, have negotiated the development agreement to provide an incentive payment to facilitate the commercial development;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 8th day of April, 2014, that the Mayor and City Clerk are authorized to sign the development agreement by and between the City of Merrill and Pine Ridge Restaurant, LLC, and to facilitate the implementation thereof.

Motion (Caylor/Malm) to refer to an outside firm (Quarles & Brady) to obtain a legal opinion on the agreement. On roll call vote, motion was tied 4-4. Voting No – Alderman Schwartzman, Alderwoman Peterson, Alderman Burgener and Alderman Norton. Mayor Bialecki broke the tie by voting No. Therefore, the motion failed.

Note: Alderwoman Caylor objected to Alderman Schwartzman voting on the motion, citing a possible conflict of interest. Mayor Bialecki responded that, since it was a motion to refer, he would rule that Alderman Schwartzman was within his rights to vote.

Motion (Hass/Malm) to refer the resolution to the next regular Common Council meeting (May 13th, 2014), so that the new Common Council members can be given an orientation on Tax Increment Districts and Tax Increment Financing. Motion carried 5-3 on roll call vote. Voting No – Alderman Schwartzman, Alderwoman Peterson and Alderman Norton.

1404262 RESOLUTION NO. 2358

A RESOLUTION AUTHORIZING AN APPLICATION FOR OUTDOOR RECREATION AIDS

WHEREAS, the City of Merrill is interested in acquiring or developing lands for public outdoor recreation purposes as described in the application; and,

WHEREAS, financial aid is required to carry out the project;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 8th day of April, 2014, that the City of Merrill has budgeted a sum sufficient to complete the project or acquisition and hereby authorizes Dan Wendorf, Parks and Recreation Director for the Parks and Recreation Department to act on behalf of the City of Merrill to:

Submit an application to the State of Wisconsin Department of Natural Resources for any financial aid that may be available;

Submit reimbursement claims along with necessary supporting documentation within 6 months of project completion date;

Submit signed documents; and

Take necessary action to undertake, direct and complete the approved project.

BE IT FURTHER RESOLVED, that the City of Merrill will comply with State or Federal rules for the programs to the general public during reasonable hours consistent with the type of facility; and will obtain from the State of Wisconsin Department of Natural Resources or the National Park Service approval in writing before any change is made in the use of the project site.

Motion (Hass/Sukow) to adopt. Carried.

1404270 Mayor's Communications

Mayor Bialecki thanked Alderman Hass and Alderwoman Caylor for their years of service on the Common Council. This is the last regular meeting for Alderman Hass and Alderwoman Caylor as members of the Common Council.

In order to prevent additional freeze-ups, resident were reminded to keep their water running until notified otherwise.

The ribbon-cutting for the new Walmart will be April 9th.

The Common Council reorganizational meeting will be held at 7:00 P.M. in the Common Council Chambers on April 15th. Although Anne Caylor won the election for Eight District Alderperson at the April 1st election, she has indicated she has relocated and will not be able to serve.

Mayor Bialecki requested that any resident of the Eighth Aldermanic District that is interested in being consider for appointment to that position please contact either Mayor Bialecki or City Clerk Heideman by April 15th. At the April 15th reorganization meeting, the Common Council will be interviewing candidates and then making an appointment for that position.

1404280 Public Comment Period

Alderman Hass thanked his Second District constituents for their support during his ten years of service. He thanked former Mayor Williams for helping him, and also thanked former Mayor Caylor. Although Alderman Hass did not serve with former Mayor Caylor, he explained that former Mayor Caylor severed as a mentor when Alderman Hass began his service as an alderperson.

Alderwoman Caylor thanked her Eighth District constituents for their support during her six years of service. She said that, although some people think that being an alderperson is a thankless job, she never saw it that way. She hopes that more people will become involved and active on the Common Council, to ensure that taxpayer money is spent wisely. She stated that the results of the recent election certainly did not indicate a ringing endorsement of Mayor Bialecki. She thanked Alderman Hass for the countless extra hours he worked as Common Council President. Finally, she extended best wishes to the new Common Council.

Alderman Malm thanked Alderman Hass and Alderwoman Caylor for the help they provided to him during their tenures as alderpersons.

Jon Gartmann, owner of the Merrill Karate Club, stated that he was seeking a site to relocate his business. He is looking for guidance from someone on the next steps in the process. He also noted that he is considering a recreation center for youth, and also is seeking guidance on the how to proceed with that.

1404999 Motion (Hass/Caylor) to adjourn. Carried. Adjourned at 7:43 P.M.

William R. Bialecki
Mayor

William N. Heideman, CMC, 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 April 14th, 2014.

William N. Heideman, CMC, WCMC
City Clerk