



CITY OF MERRILL

COMMON COUNCIL

MINUTES • TUESDAY OCTOBER 11, 2016

Regular Meeting

City Hall Council Chambers

7:00 PM

1. Call to Order

Mayor Bialecki called the meeting to order at 7:00 P.M.

Attendee Name	Title	Status	Arrived
Paul Russell	Aldersperson - First District	Present	
Pete Lokemoen	Aldersperson - Second District	Present	
Ryan Schwartzman	Aldersperson - Third District	Present	
Kandy Peterson	Aldersperson - Fourth District	Present	
John Burgener	Aldersperson - Fifth District & President	Excused	
Mary Ball	Aldersperson - Sixth District	Present	
Rob Norton	Aldersperson - Seventh District	Present	
Tim Meehean	Aldersperson - Eighth District	Present	
Bill Bialecki	Mayor	Present	

Also in attendance: Public Works Director/City Engineer Rod Akey, Street Superintendent Dustin Bonack, Transit Director Rich Grenfell, City Attorney Tom Hayden, City Administrator Dave Johnson, Police Chief Ken Neff, Building Inspector/Zoning Administrator Darin Pagel, Fire Chief Dave Savone, Library Director Stacy Stevens, Finance Director Kathy Unertl, Park and Recreation Director Dan Wendorf and City Clerk Bill Heideman.

2. Silent Prayer

3. Pledge of Allegiance

4. Roll Call

5. Public Comment Period

Ryan Martinovici spoke in opposition to the Conditional Use Permit application for 607 Cedar Street. He reported that the people in that neighborhood have been talking, and the majority of the neighbors are opposed. He explained that, while the neighbors respect the Bebels, this is an historic neighborhood, and that the property at 607 Cedar Street is listed on an historic register. He reminded the Common Council members that past Common Councils have specified that one of their goals is to preserve historic neighborhoods. He ended by stating that the type of business being proposed has nothing to do with opposing the permit.

Judy Woller provided historic details related to when HAVEN relocated to a historic building. She mentioned that, at the time, there was widespread opposition.

Mike Drury, who lives in the neighborhood of the proposed counseling center at 607 Cedar Street, reported that he has made major renovations at his property. He has nothing against these types of counseling services, but suggested that there are better locations available. He urged the Common Council to vote no on the Conditional Use Permit application.

John Shull, speaking at the request of Gene Bebel, stated that he did not understand why there was so much neighborhood opposition to the Conditional Use Permit application for 607 Cedar Street. In his opinion, this type of situation is similar to cases that occurred years ago, when neighbors opposed efforts by minorities to purchase properties. He noted that, if the applicant was planning on one less employee and planned to use less than 25% of the house for a business, a Conditional Use Permit would not even be required. He noted that the Bebels have been trying to sell their property for five years, and added that the person seeking to purchase the property would be living there. He then shared his thoughts on mental health and the necessity for mental health services. He noted that Ziesmer Photography operates a business in the same neighborhood, as the result of being granted a Conditional Use Permit. He suggested that, if the Conditional Use Permit is approved, changes to the neighborhood and any increase in traffic would be minimal. He encouraged the Common Council to approve the application.

Steve Weix stated that he was offended by Mr. Shull's comments. He said that people are not statistics, and that the neighbors should not be made out to be pawns. He knows and respects the Bebels. He suggested that the reason the Bebel property has not sold for five years is that the price was too high. He is opposed to the Conditional Use Permit application at 607 Cedar Street, but not because of the type of business it would allow.

Carol Michalowski stated that she knows and loves the Bebels. However, she noted that the friends of the Bebels who are supporting them do not live in the Bebels neighborhood. She stated that the neighborhood is listed on the Federal Register of historic neighborhoods. Although she is opposed to the Conditional Use Permit application, she does recognize that these types of services and facilities are essential. She suggested that, rather than the Bebels selling the house, they could have remodeled it to meet physical needs. She questioned why this issue was not considered by the City's Historic Preservation Committee. She suggested that, because commercial properties are available, it is not necessary to locate this business in a residential area.

City Attorney Hayden reminded everyone that, even though a property is on historic lists or registers, it is still possible to make modifications to the property.

Steve Schenck stated that, after moving to Merrill, he made a decision to make Merrill his home for the foreseeable future. He is opposed to the Conditional Use Permit application for 607 Cedar Street. He wants to see the neighborhood remain residential, and stated that allowing this type of business would negatively impact the neighborhood. He cited the City Comprehensive Plan, in which the results of a survey indicated that many people want to retain a "small town" atmosphere. He ended by expressing his hope that the Common Council can understand and respect his position.

Frieda Swanson spoke in favor of the Conditional Use Permit application for 607 Cedar Street. She stated that sales of homes should be up to the buyer and seller, and that others do not have the right to oppose home sales. She noted that Noreen Salzman is planning on living in the home if the application is approved. She speculated that any opposition is due to fear of the unknown.

A man from Wausau spoke in favor of the Conditional Use Permit application for 607 Cedar Street. He stated that, when Noreen Salzman opened similar centers in the City of Wausau, she maintained the integrity of the neighborhood.

A lady read a letter for Noreen Salzman, supporting the Conditional Use Permit application for 607 Cedar Street.

A therapist from Wausau spoke in favor of the Conditional Use Permit application at 607 Cedar Street. She provided details on the type of business that would be there, and spoke positively to the character of the applicant, Noreen Salzman. She stated that the clients are just like the rest of us, and that Noreen Salzman has a quality track record of running this type of business in an historic neighborhood.

Ellen Marlowe stated her opposition to the Conditional Use Permit application for 607 Cedar Street. She would like to see the neighborhood remain residential.

Joseph Yelle stated that, although the Bebels are fine people, he does not favor allowing a business in a residential, historic neighborhood. Mr. Yelle added that he and his wife are opposed to the Conditional Use Permit at 607 Cedar Street.

Don Zimmerman expressed his opposition to the ordinance related to off-street parking in residential areas. He submitted a petition (approximately 200 signatures) opposing the ordinance. Mr. Zimmerman stated his opinion that the ordinance is too vague. He also reported that the City Attorney is against the ordinance, and that the City Attorney only drafted the ordinance because he was instructed to draft it. He noted that there are numerous rental properties in the City, and many of them have limited parking space. He questioned that, in the case of rental properties, who would receive the citation, the landlord or the tenant? He speculated that only about 10% of City residents would be in favor of the ordinance, and therefore it should not be adopted.

Kay Landolt stated that, although the neighbors love the Bebels, she is opposed to the Conditional Use Permit at 607 Cedar Street, due to the historic significance of the property and neighborhood.

Thomas Krembs, DDS, stated that he thought it was uncalled for to introduce the race issue into the discussion of the 607 Cedar Street Conditional Use Permit applications. He is opposed to a business in a residential district.

Amanda Kostman spoke in favor of approving the Merrill Area Housing Authority proposal for the former Fox Point site.

Representing Redevelopment Resources, Mary Rajek provided information on the former Fox Point site.

Gene Bebel spoke in favor of the Conditional Use Permit at 607 Cedar Street. He cited a similar business currently operating on Cottage Street, and noted that he was not aware of any problems at that location. He added that his neighborhood has undergone drastic changes in the last few years.

6. Minutes of previous Common Council meeting(s):
 1. Minutes of September 13, 2016 meeting
Motion (Schwartzman/Ball) to approve.

RESULT: APPROVED

7. Revenue & Expense Reports(s):

1. Revenue & Expense Report for Period Ending September 30, 2016

Motion (Schwartzman/Meehean) to approve.

RESULT: APPROVED

8. Communications and Petitions:

1. Claim filed by Paul Mathias for damages to his vehicle caused by a fallen tree limb at Riverside Park on September 8, 2016. The City's insurance carrier recommends that the claim be disallowed. This recommendation is based on the fact that an investigation by the insurance carrier revealed no negligence on behalf of the City. The City did not have prior or constructive notice of the tree condition which allegedly caused this incident. The actual cause of the limb failure is believed to be wind.

Motion (Schwartzman/Peterson) to disallow.

RESULT: DISALLOWED

9. Board of Public Works:

1. Request for proposals (RFP) response on potential sale of city property at 300 S. Alexander Street. The Board of Public Works recommends approving the \$10,000 offer from C&D Excavating, LLC and DC Disposal.

Motion (Meehean/Norton) to approve.

RESULT: APPROVED

2. Draft agreement from the State of Wisconsin - Department of Transportation for a proposed connecting highway change for the city to take over Grand Avenue from Marc Drive to Champagne Street. The Board of Public Works recommends approval.

Motion (Norton/Schwartzman) to approve.

RESULT: APPROVED

3. Consider placing flashing pedestrian crossing lights at various intersections. The Board of Public Works recommends purchasing, from Carmanah, three pairs of R920 rectangular rapid flashing beacons. The three pairs would be installed at the intersection of Sales Street and East Main Street, at the intersection of Center Avenue and East Sixth Street and at the intersection of West Main Street and State Street.

Motion (Meehean/Russell) to approve.

RESULT: APPROVED

4. Consider bids on Meadow Lane project. The bids were opened on October 4th, 2016. At a meeting on September 29th, 2016, the Board of Public Works recommended taking bid(s) directly to the Common Council.

Public Works Director/City Engineer Akey reported that nine bids were received. He recommended approving the low bid of \$142,388 from Haas.

Motion (Meehean/Schwartzman) to approve the bid of \$142,388 from Haas.

RESULT: APPROVED

5. Consider bids on City parking lots paving project. The bids were opened October 6th, 2016. At a meeting on September 29th, 2016, the Board of Public Works recommended taking bid(s) directly to the Common Council.

Public Works Director/City Engineer Akey reported that one bid was received. He recommended approving the bid of \$63,700 from American Asphalt.

Motion (Norton/Meehean) to approve the bid of \$63,700 from American Asphalt.

RESULT: APPROVED

6. Consider bids on parks ADA paving project. The bids were opened on October 6th, 2016. At a meeting on September 29th, 2016, the Board of Public Works recommended taking bid(s) directly to the Common Council.

Public Works Director/City Engineer Akey reported that one bid was received. He recommended approving the bid of \$35,550 from American Asphalt.

Motion (Norton/Ball) to approve the bid of \$35,550 from American Asphalt.

RESULT: APPROVED

10. Health and Safety Committee:

1. "Class A" (cider only) license application from CAP Operations Inc., Mary Hofele, Agent, for Holiday #49, 1312 West Main Street. The Health and Safety Committee recommends approval.

Motion (Peterson/Ball) to approve.

RESULT: APPROVED

11. Personnel and Finance Committee:

1. Consider potential lease terms for parking lot lease behind 401 West Main Street. Lease would be with Merrill Area Housing Authority. The Personnel and Finance Committee recommends approval.

Motion (Schwartzman/Russell) to approve.

RESULT:	APPROVED
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2. Consider creating a Public Works I position and deleting a Public Works II position in the Street Department. The Personnel and Finance Committee recommends approval.

Motion (Meehean/Norton) to approve.

RESULT:	APPROVED
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12. Redevelopment Authority:

1. TID #9 environmental and demolition loan (not to exceed \$37,500) for 1003 and 1005 S. Center Avenue (former Club Modern site), secured by mortgage by Stephen and Linda Blake. The Redevelopment Authority recommends approval.

Motion (Schwartzman/Peterson) to approve.

RESULT:	APPROVED
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2. Consider proposals for housing redevelopment at 1905 East 14th Street (former Fox Point site). The Redevelopment Authority recommends selecting the proposal from Horizon/Merrill Housing Authority (MAHA).

Motion (Schwartzman/Norton) to approve.

RESULT:	APPROVED BY ROLL CALL VOTE [4 TO 2]
AYES:	Schwartzman, Peterson, Norton, Meehean
NAYS:	Lokemoen, Ball
ABSTAIN:	Russell
EXCUSED:	Burgener

13. Water and Sewage Disposal Committee:

1. Potential full-time Utility Administrative Assistant position

Motion (Norton/Peterson) to approve.

Motion (Schwartzman/Lokemoen) to refer to the 2017 budget, which will be considered at the October 21st Committee of the Whole meeting.

RESULT:	REFERRED TO COMM. OF THE WHOLE	Next: 10/21/2016 8:15 AM
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14. Placing Committee Reports on File:

1. Consider placing the following committee reports on file: Board of Public Works, City Plan Commission, Committee of the Whole, Health & Safety Committee, Library Board, Parks and Recreation Commission, Personnel and Finance Committee, Police and Fire Commission, Redevelopment Authority, Tourism Commission, Water and Sewage Disposal Committee and Zoning Board of Appeals

Motion (Meehean/Norton) to place on file.

RESULT:	PLACED ON FILE
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15. Mayor's Appointments:

1. Alderman Rob Norton, to the Festival Grounds Committee (as Chairperson), term to expire April, 2018, Alderman Tim Meehan to the Festival Grounds Committee, term to expire April, 2018 and Alderman Paul Russell, to the Festival Grounds Committee, term to expire April, 2018. Appointments would take effect after potential approval of the Festival Grounds Committee Ordinance

Motion (Norton/Meehean) to approve.

RESULT:	APPROVED
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16. Ordinances:

1. An Ordinance amending Chapter 113, Article VI, Section 113-168: Off – Street Parking Restrictions in Residential Areas. On October 11th, 2016, the Common Council referred this ordinance to the Board of Public Works.

This ordinance received a first reading at the September 13th, 2016 Common Council meeting.

City Attorney Hayden gave the ordinance a second reading.

Motion (Ball/Peterson) to refer to the Board of Public Works. Motion carried 4-3 on roll call vote. Voting No - Lokemoen, Schwartzman and Norton.

RESULT:	REFERRED TO BPW	Next: 10/26/2016 4:00 PM
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2. An Ordinance amending Chapter 20, Article II, Section 20-21 Fire Prevention Code Inspections, to update with the correct Wisconsin Administrative Code reference (Ordinance #2016-11).

City Attorney Hayden gave the ordinance a first reading.

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

City Attorney Hayden gave the ordinance a second reading and a third reading by title only.

RESULT:	APPROVED [7 TO 0]
MOVER:	Ryan Schwartzman, Alderperson - Third District
SECONDER:	Paul Russell, Alderperson - First District
AYES:	Russell, Lokemoen, Schwartzman, Peterson, Ball, Norton, Meehean
EXCUSED:	Burgener

- 3. An Ordinance amending Chapter 26, Article II, Section 26-22, to include knives with a 3-inch or larger blade in the definition of dangerous weapons (Ordinance #2016-12).

City Attorney Hayden gave the ordinance a first reading.

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

City Attorney Hayden gave the ordinance a second reading and a third reading by title only.

RESULT:	APPROVED [7 TO 0]
MOVER:	Ryan Schwartzman, Alderperson - Third District
SECONDER:	Paul Russell, Alderperson - First District
AYES:	Russell, Lokemoen, Schwartzman, Peterson, Ball, Norton, Meehean
EXCUSED:	Burgener

- 4. An Ordinance Creating Chapter 2, Article VI, Division 1, Section 2-151. to add the Merrill Festival Grounds Committee (Ordinance #2016-13).

City Attorney Hayden gave the ordinance a first reading.

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

City Attorney Hayden gave the ordinance a second reading and a third reading by title only.

Mayor Bialecki requested that the ordinance be amended to change the terms of office from three years to two years. Without objection, it was ordered.

Motion (Lokemoen/Schwartzman) to amend by changing the City Administrator from a voting member to an ex-officio member, and by changing the Mayor from an ex-officio member to a voting member. Motion to amend carried.

RESULT:	APPROVED [7 TO 0]
MOVER:	Rob Norton, Alderperson - Seventh District
SECONDER:	Tim Meehean, Alderperson - Eighth District
AYES:	Russell, Lokemoen, Schwartzman, Peterson, Ball, Norton, Meehean
EXCUSED:	Burgener

5. An Ordinance amending the District Zoning Map of the City of Merrill, Wisconsin for Lots 2 and 3, Block 9 of V.R. Willards Addition to the City of Merrill (property at 103 East Fourth Street). The rezoning would be from R-3 Residential to Public (Ordinance #2016-14).

City Attorney Hayden gave the ordinance a first reading.

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

City Attorney Hayden gave the ordinance a second reading and a third reading by title only.

RESULT:	APPROVED [7 TO 0]
MOVER:	Rob Norton, Alderperson - Seventh District
SECONDER:	Ryan Schwartzman, Alderperson - Third District
AYES:	Russell, Lokemoen, Schwartzman, Peterson, Ball, Norton, Meehean
EXCUSED:	Burgener

6. An Ordinance amending Chapter 2, Article VI, Division 2, Section 2-155(a): Residency Required for Service on Boards or Commission, Limitation on Terms as they relate the Airport Commission and Housing Authority.

City Attorney Hayden gave the ordinance a first reading.

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

City Attorney Hayden gave the ordinance a second reading and a third reading by title only.

RESULT:	APPROVED [7 TO 0]
MOVER:	Ryan Schwartzman, Alderperson - Third District
SECONDER:	Kandy Peterson, Alderperson - Fourth District
AYES:	Russell, Lokemoen, Schwartzman, Peterson, Ball, Norton, Meehean
EXCUSED:	Burgener

17. Resolutions:

1. A Resolution approving a Certified Survey Map on Johnson and East Sixth Streets requested by Church Mutual Insurance Company (Resolution #2487).

WHEREAS, Church Mutual Insurance Company has applied for approval of a division of land by certified survey map pursuant to Code of Ordinances Section 111-116 for land located in part of Lot 1 of Certified Survey Map No. 1755, recorded in Volume 9, on Page 10, as Document Number 430764, filed in the Lincoln County Register of Deeds Office, located in the Southwest ¼ of the Northeast ¼ of Section 7, Township 31 North, Range 7 East, City of Merrill, Lincoln County, Wisconsin; and,

WHEREAS, the application was referred to the City Plan Commission which considered the proposed division at a meeting on October 4, 2016; and,

WHEREAS, the City Plan Commission has recommended approval of the land division by certified survey map, subject to a restriction that any public improvements be completed by the developers before any future development occur on the Premises;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 11th day of October 2016, that the proposed certified survey map presented by Church Mutual Insurance Company and prepared by Joshua W. Prentice, Surveyor, located in part of Lot 1 of Certified Survey Map No. 1755, recorded in Volume 9, on Page 10, as Document Number 430764, filed in the Lincoln County Register of Deeds Office, located in the Southwest ¼ of the Northeast ¼ of Section 7, Township 31 North, Range 7 East, City of Merrill, Lincoln County, Wisconsin is hereby approved.

BE IT FURTHER RESOLVED, that the City Clerk is directed to so certify the approval of this certified survey map and return the original to the applicant together with a certified copy of this resolution.

Motion (Russell/Meehean) to approve.

RESULT:	APPROVED
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2. A Resolution approving a Conditional Use Permit for a counseling office to be located at 607 Cedar Street (Resolution #2488).

WHEREAS, Noreen Salzman has requested a conditional use permit pursuant to the Merrill Zoning Code Chapter 113, Article IV for the purpose of opening a counseling office on the following described property:

Lots Ten (10), Eleven (11) and Twelve (12) in Block Five (5) of Mathew and Mc Cords Addition to the City of Merrill, Lincoln County, Wisconsin.

WHEREAS, the City Plan Commission scheduled a hearing on the application on October 4, 2016 due public notice having been given and opportunity given to those interested to speak on the application; and,

WHEREAS, the City Plan Commission has reviewed the Application, found that it does meet the requirements of Merrill Zoning Code Chapter 113, Article IV and has recommended approval of said application, with appropriate signage;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 11th day of October, 2016, that a conditional use permit shall be issued to Noreen Salzman for the purpose of opening a counseling office on the aforesaid described property with appropriate signage.

Motion (Lokemoen) to approve, with conditions, as follows: No parking would be allowed on East Seventh Street. At any one time, the maximum numbers of vehicles allowed in the driveway on the north side would be two. Also, a second driveway would need to be created, to allow access to the south side of the house. Motion failed due to lack of a second.

RESULT:	APPROVED BY ROLL CALL VOTE [5 TO 2]
MOVER:	Tim Meehean, Alderperson - Eighth District
SECONDER:	Rob Norton, Alderperson - Seventh District
AYES:	Lokemoen, Schwartzman, Peterson, Norton, Meehean
NAYS:	Russell, Ball
EXCUSED:	Burgener

18. Mayor's Communications

Mayor Bialecki thanked all those who spoke during the public comment period earlier in the meeting. He was, however, offended by the comments made by one speaker, and invited that speaker to return to a future meeting and apologize.

Because of the election being held on Tuesday, November 8th, the next Common Council meeting is scheduled for Wednesday, November 9th. Mayor Bialecki urged everyone to vote.

Mayor Bialecki extended best wishes to Transit Director Grenfell.

19. Adjournment

Motion (Ball/Norton) to adjourn. Carried. Adjourned at 9:14 P.M.