



CITY OF MERRILL
FESTIVAL GROUNDS COMMITTEE
AGENDA • THURSDAY OCTOBER 5, 2017

Regular Meeting

Bierman Building

6:00 PM

- I. Call to Order
- II. Minutes of previous meeting(s):
 1. Minutes of September 7, 2017 meeting
- III. Agenda items for consideration:
 1. Continue reporting and discussion of alcohol licensing
 2. Continue discussion of Non-Profit/Charitable policy
 3. Commercial kitchen rental
 4. 2017 Fair recap
 5. 2018 Fair dates
 6. Food vendor lease
 7. Rodeo Association lease
 8. Monthly report from Festival Grounds Manager Bjorklund
- IV. Public Comment Period
- V. Establish date, time & location of next meeting
- VI. Adjournment

**City of Merrill
Festival Grounds Committee
Thursday, September 7, 2017 at 6:00 P.M.
Bierman Building**

I. Alderman Norton called the meeting to order at 6:00 p.m.

Committee members Present: Mayor Bill Bialecki, Rob Norton,(Chairperson), Alderman Paul Russell, Alderman Tim Meehean, Neal Christensen, Bryan Bloch, Brad Becker (Arrived 6:15)

Other attendees included, City Administrator Dave Johnson, City Attorney Tom Hayden, Festival Grounds Manager Richard Bjorklund, Alderwoman Kandy Peterson, Diane Wais, Pete Annis, Cindy Christenson, Jim Krueger, Henry Grefe, MP3.

Excused: City Clerk Heideman

II. Minutes of pervious meeting:

1. Minutes of the August 3, 2017 meeting.
Motion (Bialecki/Meehean) to approve.

III. Agenda Items for consideration:

1. Non-profit/charitable Policy
City Administrator outlined various uses of the buildings and grounds. A lengthy discussion was held on a proposed policy. More information will be gathered and brought back to the committee next month.

No action was necessary, requested or taken at this time.
2. Request to use Expo Center for District II Meeting – Assoc. of Fairs
Representing the Fair Association, Brad Becker, reported that the Fair Association will be hosting the District II meeting on October 5th, with up to 17 Counties participating, and would like to showcase the Bierman Expo Hall for this day long meeting. Mr. Becker is asking that the fee for the building be waived and that this is a great opportunity to share ideas on how to make our fair better. After a discussion, motion (Meehean/Bialecki) to reduce the fee to \$100.00, for one time only.
Carried
3. Alcohol Licensing Report
City Attorney Hayden reported that the entity, who had showed an interest in handling sales of alcohol in the Expo Center, has changed

their mind. He indicated that this should probably be sent out for proposals.

No action was necessary, requested or taken at this time.

4. Food Vendor Report.

Neil Christiansen reported that five of the seven vendors met recently and most were generally pleased with the year. The VFW and Eagles stands were disappointed with the limited hours they were allowed for music and are hoping that this will be better next year.

No action was necessary, requested or taken at this time.

5. Fair Report

Brad Becker reported totals are not finalized yet as they are still receiving bills. They are in the process of looking at various carnivals and no dates have been set yet for 2018, hopefully in the next couple of weeks. On request would be additional water hookups/T's west of the grandstand so they would not need to run hoses. Dave Johnson will look into this with the City Engineer.

No action was necessary, requested or taken at this time.

Mayor Bill Bialecki was excused at 6:55 p.m.

6. Monthly Report from Festival Grounds Manager Bjorklund

Rick Bjorklund distributed several packets of pictures with the layout of the VFW event, Fair and the Labor Day event. He indicated that most events now until year end will be in the Bierman Center

No action was necessary, requested or taken at this time.

IV. Public Comment Period

Brian Bloch from the Rodeo indicated they had the opportunity to sponsor a "chute" for the Minnesota Fair over the Labor Day holiday.

Brad Becker, indicated 6 fans were purchased and are currently in the cattle barn.

Jim Krueger, Badger Motel, regarding non-profit rates queried: "Is the demand for non-profit rates going to affect our profitability?"

V. Establish date, time and location of next meeting.

Thursday, October 5th, 2017 at 6:00 p.m. in the Bierman Building.

VI. Adjournment

Motion (Russell/Meehean) to adjourn. Carried. Adjourned at 7:10 p.m.

Minutes prepared and submitted by:

Thomas N. Hayden
Recording Secretary

MERRILL FESTIVAL GROUNDS

GROUND LEASE / FOOD VENDOR

This agreement, made and entered into as of _____, by and between the City of Merrill, Wisconsin, a municipal corporation, hereinafter called the Lessor, and _____ whose mailing address is _____ hereinafter called the Lessee(s).

WHEREAS, the Lessor owns and operates the Merrill Festival Grounds (hereinafter the “Grounds”) and Lessee is desirous of leasing from the Lessor a certain parcel of land at the Merrill Festival Grounds, hereinafter more fully described, for the purpose of concession sales and related endeavors;

NOW, THEREFORE, for and in consideration of the rental charges, covenants, and agreements herein contained, the Lessee does hereby lease from the Lessor the following premises, rights, and easements upon the following terms and conditions.

1. **Property Description:** Building No. ___ as described on the attached map, including five feet (5’) in all directions from the perimeter of Building ___ or area used and delineated by owner of Building ___. This consists of a land area ___ feet by ___ feet, totaling _____ square feet, with ___ lineal feet of frontage, located at the Merrill Festival Grounds.

If alcoholic beverages are served by Lessee, they agree to fence the area, if requested, in which alcohol is dispensed and/or consumed, per City of Merrill policy and/or insurance requirements.

2. **Building Construction.** The Lessee shall have the right to erect, maintain and alter buildings or structures upon the premises providing such buildings or structures conform to the building code requirements of the Wisconsin Department of Safety and Professional Services, pertinent provisions of any local ordinance in effect and the work is performed by properly licensed contractors. The plans for replacing or remodeling such buildings or structures shall be reviewed and approved in writing by the Lessor prior to construction.
3. **Term.** The original term of this lease commenced on _____ and will continue for 25 years from said date, it and shall be automatically renewed from year to year thereafter, January 1st through December 31st. This agreement shall be reviewed yearly for a period of three years, after commencement of the lease term, and every three years thereafter, with rates adjusted and other terms reviewed. In the event Lessee wishes to terminate this lease, Lessor shall receive at least a 90-day notice of such intention prior to the expiration of the lease.
4. **Rent.** The Lessee agrees to pay to the Lessor for the use of the premises, rights, and easements herein described, **a yearly rental of \$23.75 per linear foot for the land**

leased for a total annual charge of \$ _____, plus tax, payable on or before January 31st of each year during the term of this lease. It is understood and agreed that the rental rate specified shall be subject to reexamination and readjustment, as set forth above, provided that any readjustment of present rates shall be reasonable and applicable to all Leases at the Festival Grounds.

- 5. Sale of Products.** Lessee is aware that to accommodate the demands of certain event sponsors, the Lessor or Sub-Lessor retains the right to specify which brands of food or beverage products may be sold during such time as the Sub-Lessor is in legal possession of premises. Lessee shall agree to honor any written request, deemed reasonable and approved by the Festival Grounds Committee, made by the Sub-Lessor related to the sale of beverages or food products

Lessor or Sub-Lessor shall have the right to establish minimum prices for food and beverages, and size of commodities sold to ensure uniformity among vendors.

Lessor or Sub-Lessor may request/require and/or establish security measures at any time, and at any event, which alcohol is offered for sale.

- 6. Restrictions on Events.** Lessee agrees that during certain events sponsored by the City of Merrill, Merrill Chamber of Commerce, or like entities (e.g. Pork in the Park) at the Merrill Festival Grounds, Food Vendor Lessees shall not be open for business. The City of Merrill shall attempt to give the Food Vendor Lessees 30 days written notice of such event.
- 7. Non-Exclusive Use.** The Lessee shall have the right to the non-exclusive use, in common with others, of the parking areas, appurtenances and improvements; the right to install, operate, maintain and store, subject to the approval of the Lessor in the interests of safety and convenience of all concerned, all equipment necessary for the safe operation of the concession /refreshment stand; the right of ingress to and egress from the premises, which shall also extend to Lessee's employees, guests and patrons; the right, in common with others authorized to do so, to use common areas of the Merrill Festival Grounds.
- 8. Laws and Regulations.** The Lessee agrees to observe and obey during the term of this lease all laws, ordinances, rules and regulations promulgated and enforced by the Lessor, and by other proper authority having jurisdiction over the conduct of operations at the Merrill Festival Grounds.
- 9. Hold Harmless.** The Lessee agrees to hold the Lessor free and harmless from loss from each and every claim and demand of whatever nature made upon the behalf of or by any person or persons for any wrongful act or omission on the part of the Lessee, his agents or employees, and from all loss or damages by reason of such acts or omissions.
- 10. Assumption of Risk for Personal Property and Fixtures.** All personal property and fixtures of any kind or description whatsoever, including, but not limited to vehicles and products placed on the leased premises, shall be placed on the leased premises at the Lessee's sole risk, which risk Lessee hereby agrees to assume. The City of

- Merrill shall not be liable for any damage done to or loss of such personal property, or damage or loss suffered by any business or occupation of the Lessee arising from acts or omissions of others, or from the malfunction of any utility or mechanical systems serving the leased premises.
- 11. Insurance.** The Lessee agrees that he will deposit with the Lessor a policy of comprehensive liability insurance. The policy shall be issued by a company licensed to do business in Wisconsin and shall insure the Lessee against loss from liability to the amount of \$1,000,000 for the injury or death of one person in any one accident; and in the amount of \$1,000,000 for the injury or death of more than one person in any one accident; and in the amount of \$1,000,000 for damage to property of others for any one accident. The policy shall also name the City of Merrill, as additional insured and provide for a minimum of ten (10) days prior written notice to the City of Merrill in the event of a cancellation. The Lessee shall provide the City of Merrill with the Certificate of Insurance. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically terminate the lease, unless another policy has been filed and approved pursuant to this section and shall be in effect at the time of such cancellation or termination.
- 12. Maintenance of Buildings.** The Lessee will maintain the structures occupied by it and the surrounding land premises in good order and make such repairs as are necessary. In the event of fire or any other casualty to structures owned by the Lessee, the Lessee shall either repair or replace the building or remove the damaged building and restore the leased area to its original condition; such action must be accomplished within 120 days of the date the damage occurred. Upon petition by the Lessee, the Lessor may grant an extension of time if it appears such extension is warranted.
- 13. Right to Inspect.** The Lessor reserves the right to request entrance to the premises, which request will not be unreasonably withheld, at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement.
- 14. Taxes.** The Lessee shall pay all taxes or assessments that may be levied against the personal property of the Lessee or the buildings which he may erect on lands leased exclusively to it.
- 15. Signs.** The Lessee agrees that no signs or advertising matter may be erected without the consent of the Lessor.
- 16. Utilities.** Lessee is responsible for all utilities associated with their building, including electric, and propane. Water Utility will discontinue water service on or about October 31st.
- 17. Default.** The Lessee shall be deemed in default upon:
- a. Failure to pay rent within 30 days after due date.
 - b. The filing of a petition under the Federal Bankruptcy Act or any amendment thereto including a petition for reorganization or an arrangement.

- c. The commencement of a proceeding for dissolution or for the appointment of a receiver.
- d. The making of an assignment for the benefit of creditors.
- e. Violation of any restrictions in this lease, or failure to keep any of its covenants after written notice to cease such violation and failure to correct such violation within thirty days.

In the event of a default, except for the payment of rent, the Lessor shall give five (5) days written notice of the nature of the default to the Lessee. Lessee shall have thirty (30) days from the date of the notice to cure any other Default. Failure to pay rent in a timely fashion under this lease shall constitute a Default without further notice except as required under Wisconsin state statutes. Default as defined under this paragraph, shall authorize the Lessor, at its option, to declare this lease void, cancel the same, and re-enter and take possession of the premises.

- 18. Title.** Title to the building erected by the Lessee shall remain with the Lessee and shall be transferable. Upon termination of this lease, the Lessee may, at the option of the Lessor, remove the buildings, equipment, and property, and restore the leased property to its original condition.
- 19. Lease Transfer.** The Lessee may not, at any time during the time of this lease, assign or transfer this agreement or any interest contained herein, without the consent of the Lessor.
- 20. Merrill Festival Grounds Development.** The Lessor reserves the right to further develop or improve Merrill Festival Grounds as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance. If the development of the Merrill Festival Grounds requires the relocation of the Lessee on the Festival Grounds, the Lessor agrees to provide a comparable location to Lessee.
- 21. Dispute Resolution.** Any controversy or claim arising out of or relating to this Lease or any alleged breach thereof, which cannot be settled between the parties, shall be settled by resolution in the appropriate Court of Record.

A LEASE OF THE MERRILL FESTIVAL GROUNDS BETWEEN THE CITY OF MERRILL AND THE LINCOLN COUNTY RODEO ASSOCIATION

This agreement, made and entered into as of _____, by and between the City of Merrill, Wisconsin, a municipal corporation, hereinafter called the Lessor, and **Lincoln County Rodeo Association** whose mailing address is **7706 County Road S, Athens, WI 54411** hereinafter called the Lessee(s).

WHEREAS, the Lessor owns and operates the Merrill Festival Grounds (hereinafter the “Grounds”) and Lessee is desirous of leasing, at various times, agreeable between the parties, throughout the year, a certain parcel of land at the Merrill Festival Grounds, hereinafter more fully described, for the purpose of providing the annual exposition known as the Wisconsin River Pro Rodeo and various other rodeo related events;

NOW, THEREFORE, for and in consideration of the rental charges, covenants, and agreements herein contained, the Lessee does hereby lease from the Lessor the following premises, rights, and easements upon the following terms and conditions.

1. **Property Description:** Part of Certified Survey Map No. 2459, as recorded in the Lincoln County Register of Deeds Office, Lincoln County, Wisconsin, except those areas previously leased to service and similar organizations, as well as the public area delineated on the attached map.
2. **Building Construction.** The Lessee shall have the right to erect and alter temporary buildings or structures upon the premises providing such buildings or structures conform to the building code requirements of the Wisconsin Department of Safety and Professional Services, pertinent provisions of any local ordinance in effect, and the work is performed by properly licensed contractors. All plans for such buildings or structures shall be reviewed and approved in writing by the Lessor prior to erection.
3. **Term.** The original term of this lease commences on _____ and will continue for 5 years from said date, and shall be automatically renewed from year to year, January 1st through December 31st thereafter. This agreement shall be reviewed yearly for a period of three years after inception, and if renewed, every three years thereafter and rent/conditions adjusted. The original term of this lease commences for 14 days surrounding the Wisconsin River Pro Rodeo event, usually in June of each year.

4. Rent. Lessor shall charge \$1,000.00 plus utilities for the 14 day period of the Wisconsin River Pro Rodeo. No additional rent shall be assessed for periodic use during the remainder of the year to the Lincoln County Rodeo Association, in consideration of the economic and social benefit it provides to the City of Merrill and surrounding area.

Lincoln County Rodeo Association is responsible for all utility payments, paper products, cleanup of grounds/buildings, and repair of damages above and beyond normal wear and tear on the Festival Grounds and/or facilities.

Lincoln County Rodeo Association, with proper permits and licenses, shall be allowed to sell beer in the Grandstand during the Grandstand performances.

5. Use of the Arena Area by Others. Lessor and Lessee agree to the following:

- a) The Arena area may be used by other groups/organizations (“User”) after proper documentation/Lease Agreements are received and completed with the City.
- b) User will be responsible for any damages to the arena and related equipment. It will be at the Lessor and the Lincoln County Rodeo Association’s discretion if damages can be repaired or if replacement is needed.
- c) User will have a Lincoln County Rodeo Association representative on the grounds prior to moving any of the arena panels. (Does not apply to the City)
- d) User must clean arena at the end of each use.
- e) User may drag the arena area and may use the Lincoln County Rodeo Association’s drag. The use of a tiller is not allowed in the arena area.
- f) User is responsible to provide their own tractor. If assistance is needed, they must provide the City a minimum two weeks notice, and City will notify the Lincoln County Rodeo Association of the request. Assistance will be considered, but not guaranteed, based on the resources/availability of Lincoln County Rodeo Association staff.

6. Use of the Timing Building. Lessor and Lessee agree to the following:

- a) The Timing Building may be used by other groups/organizations (“User”) after proper documentation/Lease Agreements are completed with the City.
- b) User may have the use of equipment stored in the building, provided it is cleaned after use.
- c) User will be responsible for any damages to the building, equipment stored in the building, and related timing equipment. It will be at the Lessor and the Lincoln County Rodeo Association’s discretion if damages can be repaired or if replacement is needed.

- d) User may not hang, or attach items to, nail, cover, or in any way deface the exterior of the building. This includes, but is not limited to covering the sponsors name or the Lincoln County Rodeo Association/Wisconsin River Pro Rodeo's name on the exterior of the building.
- e) The building is the property of the Lincoln County Rodeo Association and shall not be used for storage by any other group.
- 7. Non-Exclusive Use.** The Lessee shall have the right to the exclusive use of the parking areas, appurtenances and improvements; the right to install, operate, maintain and store, subject to the approval of the Lessor in the interests of safety and convenience of all concerned, all equipment necessary for the safe operation of the Wisconsin River Pro Rodeo; the right of ingress to and egress from the premises, which shall also extend to Lessee's employees, guests and patrons; the right, in common with others authorized to do so, to use common areas of the Merrill Festival Grounds.
- This lease is expressly subject to Lease Agreements between the City of Merrill and other civic/benevolent organizations. No fees, rents, or similar charges shall be assessed by the Lincoln County Rodeo Association to those organizations during the term of this agreement.
- 8. Laws and Regulations.** The Lessee agrees to observe and obey during the term of this lease all laws, ordinances, rules and regulations promulgated and enforced by the Lessor, and by other proper authority having jurisdiction over the conduct of operations at the Merrill Festival Grounds.
- 9. Hold Harmless.** The Lessee agrees to hold the Lessor free and harmless from loss from each and every claim and demand of whatever nature made upon the behalf of or by any person or persons for any wrongful act or omission on the part of the Lessee, his agents or employees, and from all loss or damages by reason of such acts or omissions.
- 10. Assumption of Risk for Personal Property and Fixtures.** All personal property and fixtures of any kind or description whatsoever, including, but not limited to vehicles and products placed on the leased premises, shall be placed on the leased premises at the Lessee's sole risk, which risk Lessee hereby agrees to assume. The City of Merrill shall not be liable for any damage done to or loss of such personal property, or damage or loss suffered by any business or occupation of the Lessee arising from acts or omissions of others or from the malfunction of any utility or mechanical systems serving the leased premises.
- 11. Insurance.** The Lincoln County Rodeo Association shall furnish the City of Merrill with a Certificate of Insurance naming the City of Merrill as an additional insured, indicating proof of the following insurance and insurance limits: Workers Compensation (if applicable) in compliance with the Compensation Law of the State of Wisconsin,

General Liability Insurance with a minimum combined single limit of liability per occurrence for bodily injury and property damage coverage of \$ **2,000,000**. This insurance shall include on the Certificate of Insurance the following coverages:

- a. Premises - Operations
- b. Products and Completed Operations
- c. Broad Form Property Damage
- d. Broad Form Blanket Contractual
- e. Personal Injury
- f. Professional Liability

Automobile Liability Insurance with a minimum combined single liability per occurrence of \$**1,000,000** for bodily injury and property damage. This insurance shall include bodily injury and property damage for the following coverages:

- a. Owned Automobiles
- b. Hired Automobiles
- c. Non-Owned Automobiles

Such insurance shall indicate dates of coverage for all activities relating to the event, including accessing the Festival Grounds to set up prior to the event date(s), and cleaning up after the event.

- 12. Maintenance of Buildings.** The Lessee will maintain the structures occupied by it and the surrounding land premises in good order and make such minor repairs as are necessary. In the event of fire or any other casualty to structures owned by the Lessee, the Lessee shall either repair or replace the building or remove the damaged building and restore the leased area to its original condition; such action must be accomplished within 120 days of the date the damage occurred. Upon petition by the Lessee, the Lessor may grant an extension of time if it appears such extension is warranted.
- 13. Right to Inspect.** The Lessor reserves the right to request entrance to the premises, which request will not be unreasonably withheld, at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, local ordinances or other regulations.
- 14. Taxes.** The Lessee shall pay all taxes or assessments that may be levied against the personal property of the Lessee or the buildings which he may erect on lands leased exclusively to it.
- 15. Signs.** The Lessee agrees that no signs or advertising matter may be erected without the consent of the Lessor.

16. Default. The Lessee shall be deemed in default upon:

- a. Failure to pay any sums due within 30 days after due date.
- b. The filing of a petition under the Federal Bankruptcy Act or any amendment thereto including a petition for reorganization or an arrangement.
- c. The commencement of a proceeding for dissolution or for the appointment of a receiver.
- d. The making of an assignment for the benefit of creditors.
- e. Violation of any restrictions in this lease, or failure to keep any of its covenants after written notice to cease such violation and failure to correct such violation within thirty days.

17. Lease Transfer. The Lessee may not, at any time during the time of this lease, assign or transfer this agreement or any interest contained, without the consent of the Lessor.

18. Merrill Festival Grounds Development. The Lessor herein reserves the right to further develop or improve Merrill Festival Grounds as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

19. Dispute Resolution. Any controversy or claim arising out of or relating to this Lease or any alleged breach thereof, which cannot be settled between the parties, shall be settled by resolution in the appropriate Court of Record.

