CITY OF MERRILL

COMMON COUNCIL

MINUTES ● TUESDAY OCTOBER 13, 2020

Regular Meeting | **City Hall Council Chambers** | **6:00 PM**

1. Call to Order

Mayor Woellner called the meeting to order at 6:02 P.M.

Attendee Name	Title	Status	Arrived
Paul Russell	Alderperson - First District	Remote	
Steve Hass	Alderperson - Second District	Present	
Rick Blake	Alderperson - Third District	Present	
Steve Osness	Alderperson - Fourth District	Present	
John M. Van Lieshout	Alderperson - Fifth District	Present	
Mike Rick	Alderperson - Sixth District	Present	
Mark Weix	Alderperson - Seventh District	Present	
Steve Sabatke	Alderman - Eighth District	Present	
Derek Woellner	Mayor	Present	

2. Silent Prayer
3. Pledge of Allegiance
4. Roll Call
5. Public Comment Period

Randy Wixson provided verbal information on resolutions related to a Conditional Use Permit and a Development Agreement for a proposed development at 305 East First Street. Those two resolutions are to be considered by the Common Council later in the meeting.

6. Minutes of previous Common Council meeting(s):
   1. Minutes of September 8, 2020 Common Council meeting

Motion (Osness/Van Lieshout) to approve.

RESULT: **APPROVED**

7. Revenue & Expense Reports(s):
   1. Revenue & Expense Report for the period ending September 30, 2020

Motion (Hass/Sabatke) to approve.

RESULT: **APPROVED**

8. General agenda items:
   1. Employee Years of Service Recognition:

      Donald A. Norman, 15 years (Police Department)

City Clerk Heideman read a certificate of recognition for Donald Norman.

9. Committee of the Whole:

    1. Consider request to lift the hiring freeze to create and fill Fire Inspector position (part-time) in the Fire Department. The Committee of the Whole recommends approval.

    Motion (Hass/Osness) to refer to the October 23rd Committee of the Whole 2021 budget meeting. On roll call vote, motion was tied 4-4. Voting No - Alderman Russell, Alderman Blake, Alderman Van Lieshout and Alderman Weix. Mayor Woellner broke the tie by voting No. Therefore, the motion was defeated.

RESULT:	**APPROVED BY ROLL CALL VOTE [5 TO 3]**
MOVER:	John M. Van Lieshout, Alderperson - Fifth District
SECONDER:	Rick Blake, Alderperson - Third District
AYES:	Russell, Blake, Osness, Van Lieshout, Weix
NAYS:	Hass, Rick, Sabatke

10. Personnel & Finance Committee:

    1. Bowmar Appraisal contract for 2021-2022

    Motion (Hass/Blake) to approve.

RESULT:	**APPROVED**

11. Placing Committee Reports on File:

    1. Consider placing the following committee reports on file: Airport Commission, Board of Review, Committee of the Whole/Redevelopment Authority (joint meeting), Health & Safety Committee, Library Board, Personnel & Finance Committee, Redevelopment Authority, Transit Commission and Water & Sewage Disposal Committee.

    Motion (Van Lieshout/Rick) to place on file.

RESULT:	**PLACED ON FILE**

12. Ordinances:

    1. An Ordinance amending Code of Ordinances Chapter 36, Article V, Section 36-251, related to ATV/UTV routes (Ordinance #2020-13).

    At the September 8th, 2020 Common Council meeting, this ordinance was given a first reading.

    City Attorney Hayden gave the ordinance a second reading.

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

    City Attorney Hayden give the ordinance a third reading by title only.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Steve Hass, Alderperson - Second District
SECONDER:	Mike Rick, Alderperson - Sixth District
AYES:	Russell, Hass, Blake, Osness, Van Lieshout, Rick, Weix, Sabatke

2. An Ordinance amending Code of Ordinances Chapter 6, Article IV, Section 6-90, to establish maximum number, size and location of apiaries (places where bees are kept) on private property (Ordinance #2020-14).

City Attorney Hayden gave the ordinance a first reading by synopsis.

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

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

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Steve Osness, Alderperson - Fourth District
SECONDER:	Rick Blake, Alderperson - Third District
AYES:	Russell, Hass, Blake, Osness, Van Lieshout, Rick, Weix, Sabatke

13. Resolutions:

1. A Resolution approving a Preliminary Plat for single family residential development between West St. Paul Street and West Tenth Street (Resolution #2655).

WHEREAS, the City of Merrill ("The Applicant") has applied for preliminary approval of a subdivision plat pursuant to Code of Ordinances Sec.111-114 for land located in Lots One, Two, Three, and Four of Certified Survey Map No. 2763, recorded on February 24, 2020, in Volume 16 of Certified Surveys, page 144, as Document No. 541501, in the office of the Register of Deeds for Lincoln County, Wisconsin; and

WHEREAS, The City Plan Commission considered the application at a hearing, duly noticed, and scheduled on October 7, 2020; and

WHEREAS, The City Plan Commission recommends approval of the preliminary plat subject to certain conditions; and

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 13th day of October, 2020, that

1. The Common Council Adopts the City Plan Commissions findings and incorporates them into this resolution.

2. The proposed preliminary plat of Single Family Residential Development between West St. Paul Street and West Tenth Street presented by City of Merrill and prepared by Joshua Prentice for REI and involving a subdivision plat pursuant to Code of Ordinances Sec.111-114 for land located in Lots One, Two, Three, and Four of Certified Survey Map No. 2763, recorded on February 24, 2020, in Volume 16 of Certified Surveys, page 144, as Document No. 541501, in the office of the Register of Deeds for Lincoln County, Wisconsin is hereby approved.

   BE IT FURTHER RESOLVED that the applicant, City of Merrill is directed to prepare the final plat in accordance with the requirements of Chapter 111 of the Code of Ordinances of the City of Merrill and present the final plat for review by the City Plan Commission.

   Motion (Hass/Weix) to approve.

RESULT:	**APPROVED**

2. A Resolution approving a Conditional Use Permit to remodel existing structure and construct two new storage buildings at 305 East First Street (Resolution #2656).

WHEREAS, Randall and Diane Wixson, d/b/a RC-N-DI Investments, LLC have requested a conditional use permit pursuant to the Merrill Zoning Code Chapter 113, Article IV, Section 113 for the purpose of remodeling existing building, which may be used for light manufacturing, and constructing two new storage unit buildings on the following described property:

TB Scott Lbr Co Add'n Lts 3-4-5-6 Blk 9, City of Merrill, Lincoln County, Wisconsin,

Commonly known as 305 E 1ST Street herein referred to as the "Premises"; and,

WHEREAS, the City Plan Commission scheduled a hearing on the application on October 7, 2020, 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, Section 113 and has recommended approval of said application;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 13th day of October, 2020, that a conditional use permit shall be issued to Randall and Diane Wixson, d/b/a RC-N-DI Investments, LLC for the purpose of remodeling existing building, which may be used for light manufacturing, and constructing two new storage unit buildings on the aforesaid described premises. This Conditional Use Permit shall allow the new and existing buildings to be accessed from the existing Right of Way.

Motion (Hass/Van Lieshout) to approve.

RESULT:	**APPROVED**

3. A Resolution authorizing a Development Agreement by and between the City and JJ Premier LLC (Resolution #2657). The Redevelopment Authority recommends approval.

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 11 on May 10, 2016 and the development site is within TID No. 11; and,

WHEREAS, JJ Premier LLC has proposed construction of up to fifteen new single-family homes through a phased construction timeframe; 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, additional property tax will be generated and new residential homes created from this development project; and,

WHEREAS, JJ Premier LLC has negotiated the development agreement to provide for transfer of property ownership of three lots on Edgewater Drive and an incentive payment not to exceed $30,000 to facilitate Phase 1 of the single-family home development project;.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 13th day of October, 2020, that the Mayor and City Clerk are authorized to sign the development agreement by and between the City of Merrill and JJ Premier LLC and to facilitate the implementation thereof.

Motion (Sabatke) to include language in the agreement stating that JJ Premier would be responsible for the laterals. Motion failed due to lack of a second.

Motion (Hass/Blake) to approve the resolution.

RESULT:	**APPROVED**

4. A Resolution authorizing a Development Agreement by and between the City and RC-N-DI Investments LLC (Resolution #2658).

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 6 on May 12th, 2009 and the development site is within TID No. 6; and,

WHEREAS, RC-N-DI-Investments LLC has proposed rehabilitation of an existing vacant commercial building and construction of two new storage unit buildings; 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, additional property tax will be generated; and,

WHEREAS, RC-N-DI-Investments LLC has negotiated the development agreement to provide for an incentive payment not to exceed $10,000 for the commercial redevelopment and new storage unit building development project;.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 13th day of October, 2020, that the Mayor and City Clerk are authorized to sign the development agreement by and between the City of Merrill and RC-N-DI-Investments LLC and to facilitate the implementation thereof.

Motion (Hass/Weix) to approve.

RESULT:	**APPROVED**

5. A Resolution authorizing the issuance and sale of a $1,065,000 General Obligation Promissory Note (Resolution #2659).

WHEREAS, the City of Merrill, Lincoln County, Wisconsin ("City"), is presently in need of funds aggregating $1,065,000 for public purpose of financing acquisition of buses in anticipation of grant funding; and

WHEREAS, the Council deems it necessary and in the best interests of the City that, pursuant to the provisions of Section 67.12(12), Wisconsin Statutes, the sum of $1,069,000 be borrowed for such purpose(s) upon the terms and conditions hereinafter set forth:

NOW, THEREFORE, BE IT RESOLVED that for the purpose(s) hereinabove set forth the City, by its Mayor, and Clerk, pursuant to Section 67.12(12), Wisconsin Statutes, borrow from First State Bank the sum of $1,065,000, and, to evidence such indebtedness, said Mayor and City Clerk shall make, execute and deliver to the Lender for and on behalf of the City the promissory note of the City to be dated October 20, 2020, in said principal amount with interest at the rate of ninety-five hundredths percent (0.95%) per annum and payable as follows:

In one payment on March 1, 2021, plus interest payable as set forth below.

Interest is computed for the actual number of days principal is unpaid on the basis of a 360 day year. Said interest to be payable on the dates set forth above on the outstanding principal balance, with prepayment privileges on any date on or after October 20, 2020. A copy of the promissory note shall be attached to this resolution.

BE IT FURTHER RESOLVED, that there be, and there hereby is, levied on all the taxable property of the City, a direct annual irrepealable tax sufficient in amount to pay the principal and interest on said note as the same becomes due and payable, said tax to be in the following minimum amounts:

$1,068,625.44 due on March 1, 2021 for the year 2020.

If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said note when due, the requisite amount shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

In the event that the City exercises its prepayment privilege, if any, then no such direct annual tax shall be included on the tax rolls for the prepayments made and the amount of direct annual tax hereinabove levied shall be reduced accordingly for the year or years with respect to which said note was prepaid.

In each of said levy years, the direct annual tax so levied shall be carried into the tax rolls each year and shall be collected in the same manner and at the same time as other taxes of the City for such years are collected; provided, that the amount of tax carried into the tax roll may be reduced in any year by the amount of any surplus in the debt service account for the note. So long as any part of the principal of, or interest on, said note remains unpaid, the proceeds of said tax shall be segregated in a special fund used solely for the payment of the principal of, and interest on, said note.

BE IT FURTHER RESOLVED, that there be and there hereby is established in the treasury of the City, if one has not already been established, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund. Within the debt service fund, there be and there hereby is established a separate and distinct account designated as the “Debt Service Account for Promissory Note dated October 20, 2020”, which account shall be used solely for the purpose of paying principal of and interest on said note. There shall be deposited in said account any accrued interest paid on said note at the time it is delivered to the Lender, all money raised by taxation or appropriated pursuant hereto, and such other sums as may be necessary to pay principal and interest on said note when the same shall become due.

BE IT FURTHER RESOLVED, that the proceeds of said note shall be used solely for the purposes for which it is issued, but may be temporarily invested until needed in legal investments, provided that no such investment shall be in such a manner as would cause said note to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or the Regulations of the Commissioner of Internal Revenue there-under; and an officer of the City, charged with the responsibility for issuing the note, shall certify by use of an arbitrage certificate, if required, that, on the basis of the facts, estimates and circumstances in existence on the date of the delivery of the note, it is not expected that the proceeds will be used in a manner that would cause said note to be an “arbitrage bond”.

BE IT FURTHER RESOLVED, that the projects financed by the note and their ownership, management and use will note cause the note to be a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended, and that the City shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the note.

BE IT FURTHER RESOLVED, that the City Clerk shall keep records for the registration and for the transfer of the note. The person in whose name the note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on the note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such note to the extent of the sum or sums so paid. The note may be transferred by the registered owner thereof by presentation of the note at the office of the City Clerk, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his legal representative duly authorized in writing. Upon such presentation, the note shall be transferred by appropriate entry in the registration records and a similar notation, including date of registration, name of new registered owner and signature of the City Clerk, shall be made on such note.

BE IT FURTHER RESOLVED, that the note is hereby designated as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code of 1986, as amended, relating to the ability of financial institutions to deduct from income, for federal income tax purposed, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

BE IT FURTHER RESOLVED, that the City officials are hereby authorized and directed, so long as said note is outstanding, to deliver the Lender any audit statement or other financial information the Lender may reasonably request and to discuss its affairs and finances with the Lender.

BE IT FURTHER RESOLVED, that said note shall be delivered to the Lender on or after the date of said note, upon receipt of the total principal amount of the loan evidenced thereby, plus accrued interest, if any, to date of delivery, provided that, if this is a refinancing, the refunding note shall be immediately exchanged for the note being refinanced.

RESULT:	**APPROVED BY ROLL CALL VOTE [UNANIMOUS]**
MOVER:	Steve Hass, Alderperson - Second District
SECONDER:	Steve Osness, Alderperson - Fourth District
AYES:	Russell, Hass, Blake, Osness, Van Lieshout, Rick, Weix, Sabatke

6. A Resolution introduced by Mayor Woellner regarding the use of face masks.

WHEREAS, the United States Center for Disease Control (CDC) updated their webpage, "How Coronavirus Spreads," on October 5th, 2020, stating:

COVID-19 most commonly spreads during close contact.

- People who are physically near (within 6 feet) a person with COVID-19 or have direct contact with that person are at greatest risk of infection.
- When people with COVID-19 cough, sneeze, sing, talk, or breathe they produce respiratory droplets. These droplets can range in size from larger droplets (some of which are visible) to smaller droplets. Small droplets can also form particles when they dry very quickly in the airstream.
- Infections occur mainly through exposure to respiratory droplets when a person is in close contact with someone who has COVID-19.
- Respiratory droplets cause infection when they are inhaled or deposited on mucous membranes, such as those that line the inside of the nose and mouth.

- As the respiratory droplets travel further from the person with COVID-19, the concentration of these droplets decreases. Larger droplets fall out of the air due to gravity. Smaller droplets and particles spread apart in the air.
- With passing time, the amount of infectious virus in respiratory droplets also decreases.

COVID-19 can sometimes be spread by airborne transmission

- Some infections can be spread by exposure to virus in small droplets and particles that can linger in the air for minutes to hours. These viruses may be able to infect people who are further than 6 feet away from the person who is infected or after that person has left the space.
- This kind of spread is referred to as airborne transmission and is an important way that infections like tuberculosis, measles, and chicken pox are spread.
- There is evidence that under certain conditions, people with COVID-19 seem to have infected others who were more than 6 feet away. These transmissions occurred within enclosed spaces that had inadequate ventilation. Sometimes the infected person was breathing heavily, for example while singing or exercising.
- Under these circumstances, scientists believe that the amount of infectious smaller droplet and particles produced by the people with COVID-19 became concentrated enough to spread the virus to other people. The people who were infected were in the same space during the same time or shortly after the person with COVID-19 had left.
- Available data indicate that it is much more common for the virus that causes COVID-19 to spread through close contact with a person who has COVID-19 than through airborne transmission.

COVID-19 spreads less commonly through contact with contaminated surfaces.

- Respiratory droplets can also land on surfaces and objects. It is possible that a person could get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes.
- Spread from touching surfaces is not thought to be a common way that COVID-19 spreads."; and,

WHEREAS, the CDC also states on their “Cloth Face Cover Guidance” webpage update August 7th, 2020:

"Masks are recommended as a simple barrier to help prevent respiratory droplets from traveling into the air and onto other people when the person wearing the mask coughs, sneezes, talks, or raises their voice. This is called source control. This recommendation is based on what we know about the role respiratory droplets play in the spread of the virus that causes COVID-19, paired with emerging evidence from clinical and laboratory studies that shows masks reduce the spray of droplets when worn over the nose and mouth. COVID-19 spreads mainly among people who are in close contact with one another (within about 6 feet), so the use of masks is particularly important in settings where people are close to each other or where social distancing is difficult to maintain."

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this 13th day of October, 2020, that all citizens are urged to familiarize themselves with and to follow the current guidelines from the CDC by visiting the following webpage

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>.

RESULT:	**TABLED BY ROLL CALL VOTE [5 TO 3]**
MOVER:	Mike Rick, Alderperson - Sixth District
SECONDER:	Steve Osness, Alderperson - Fourth District
AYES:	Hass, Osness, Van Lieshout, Rick, Sabatke
NAYS:	Russell, Blake, Weix

14. Mayor's Communications

Mayor Woellner expressed disappointment that the resolution on masks was not even considered by the Common Council.

Early voting for the November 3rd election will begin at 8:00 A.M. on Tuesday, October 20th. Early voting will be available only at City Hall. Hours are 8:00 A.M. to 4:30 P.M. (Monday-Friday). Early voting will end on Friday, October 30th. On that day only, City Hall will be open for early voting until 5:00 P.M.

15. Adjournment

Motion (Van Lieshout/Osness) to adjourn. Carried. Adjourned at 7:06 P.M.