

City of Mercer Council Minutes

December 14, 2023, at 7:00 pm

Interim Mayor Ken Thomsen called the meeting to order with council members Barb Stute, Gary Volochenko, Erika Lorenz and Randy Zinke and Tonya Wellington-Auditor all present.

Ken Thomsen led the Pledge of Allegiance.

Ken Thomsen read the minutes from November 9, 2023. Erika Lorenz made the motion to approve the minutes with changes made, and Barb Stute seconded. Barb Stute, Gary Volochenko, Erika Lorenz, and Randy Zinke voted Aye. Motion Carried.

Financial Report

Gary Volochenko made the motion to approve the Financial Report and Randy Zinke seconded. Barb Stute, Gary Volochenko, Erika Lorenz, Randy Zinke voted Aye. Motion Carried.

Bills

Barb Stute made the motion to approve the bills for the month and Erika Lorenz seconded. Barb Stute, Gary Volochenko, Erika Lorenz, and Randy Zinke voted Aye. Motion Carried.

Water Bills

Gary Volochenko proposed to have the water date changed from the 15th of the month to have it be the last day of the month. No decision was made at this time. The council was provided with the water bills for residents. At this time there will be no letters sent.

Park Minutes

Erika Lorenz read the minutes from the park. They met after the tree lighting on November 28, 2023. This year's winter fund raiser is going to be a sausage cook off at Mercer Community Center on February 4th, 2024. The park water bill was \$53.00, and electric was \$42.05. The balance is \$1,297.51.

New Business

Ken Thomsen discussed a flat rate for water. He has received phone calls from residents that stated they do not want a flat rate. Ken Thomsen proposed that we have Rural Water still do our water readings and have Tonya Wellington-Auditor do the billing. Ken Thomsen opened it up for discussion from the public and the council. Erika Lorenz did bring up that it has been proposed before to change the billing date and it would not work with billing with Rural Water. Erika Lorenz stated that we need to find out if we could even do our own billing.

Erika Lorenz found the minutes from August 20, 2018, on Mercer website. In the minutes Katherine Volochenko asked why our water bills are do after 15 days and not 30 days.

Ann Oberg from Rural Water stated she can change it on her part, but it is up to the board if they want to change the date.

Randy Zinke proposed to get rid of the water meters and just bill a flat rate.

A resident stated that he lives in Bismarck and by the time he gets his bill he only has 5 days to get it to the City of Mercer before its late. Tonya Wellington-Auditor stated that she does look at the postage dates on the envelope because she has seen it take 8 days to get from Bismarck to Mercer. These residents are not being charged a late fee by the city because they were mailed on time.

Ken Thomsen stated that he will contact Ann Oberg from Rural Water and see what changes can be made.

Ken Thomsen stated that we need three flag poles on main street. Tonya Wellington will take our flags for main street and have them exchanged at American Legion in Washburn. Our city has Christmas decorations, currently we only have four. Ken Thomsen would like to have enough flags and flag poles for light pole on main street before Memorial Day.

Ken Thomsen opened it up to discussion on Waste Management contract. Erika Lorenz asked if our contract ends in 2024. Tonya Wellington has met with a representative from Waste Management and has provided them with the information to build a new contract before contact 2024. Waste Management representative would like to come to a meeting this coming summer to present the new contract.

Ken Thomsen opened it up for discussions in the Court Service Contract that was provided to the council members. After discussion, no action was taken at this time.

Ken Thomsen discussed the application for an open burning permit for the City of Mercers tree dump.

The City of Mercer did get written up for leaving the gate open at the tree dump. Gates at the City of Mercer tree dump cannot be left open. Ken Thomsen stated that Tonya Wellington-Auditor now has a key at city hall and all board members have keys. Residents will need to ask one of the board members or stop at City Hall and ask Tonya Wellington-Auditor for a key.

Ken Thomsen stated that Tonya Wellington has been working with the State Auditors Office to provide them with information needed to finish our full audits for the years 2018-2022. Tonya Wellington-Auditor has gotten 2019 and 2020 finished and is dropping them off at the State Auditor's office with Pearl LaCoursiere on Dec 15, 2023.

Tonya Wellington was asked to contact ND Legue of Cities for clarification on Mercer's old water ordinance. Stephanie Dassinger Engebretson, ND League of Cities, was asked if there can be "side deals" made with a valid water ordinance on file? Stephanie stated that "Mercer City board should not make decisions that directly are in violation of the City Ordinance.

Randy Zinke stated that we did have an ordinance in effect when some of these side deals were made. Those deals should not have taken place.

Ken Thomsen stated that the deals they made may not be valid. Because of the way the ordinance read. This is why a revised ordinance needed to be created to address and clarify these issues.

Stephanie Dassinger Engebretson also provided a summary of NDCC 4404-22, a conflict-of-interest law, which states, "A member of city council "who has a direct and substantial personal or pecuniary interest in a matter before the [board] must disclose the fact to the body of which that person is a member, and may not participate in or vote on the particular matter without the consent of a majority of the rest of the body."

Old Business

Ken Thomsen stated that we need to decide if we want to proceed and have the second reading of the water ordinance to an act it or to continue to table and have more discussion on the matter. Erika Lorenz stated she would like to open it for public discussion.

Troy Schlafman stated he received the paperwork to opt out or to put a new curb stop at his house property. They sent paperwork back stating he did want the new curb stop for the house property. He did not receive paperwork for his corner lot with his shop because there never was supposed to be water there. So, he never had the option to opt out. After the curb stop was put in at the shop property the engineer told him he thought it was for the house property when they put the curb stop in. Then the engineer asked if they could just leave it there if you are not getting charged for it. He stated that would be fine if he would not get charged for it.

Craig Schlafman asked if we have the engineering notes from Ulteig Engineering. Ken Thomsen stated we have looked for other documents pertaining to this water project and have had a tough time finding what we are looking for. Erika Lorenz stated we should contact Ulteig Engineering and request engineering notes.

Margaret Brown asked the question regarding people taking out their curb stops so they do not have to pay. Who pays to have the curb stop put in if they would like to build a home on that property? Ken Thomsen stated it would fall back on the person wanting to hook up to the City of Mercer water line. Margaret Brown asked about the flat rate for water. If the City would use a flat rate, would that rate be based on the number of members in the household?

Ken Thomsen said Margaret Brown made a great point and that is why it is only a discussion tonight because things like this need to be brought up. The more he hears from the public, the more he believes a flat rate will not work.

Ken Thomsen asked the council members what the next step should be in this matter. Erika Lorenz stated that we should talk to Ulteig Engineering and find out if there is still documentation that shows who was allowed to opt out.

Randy Zinke stated we should have a second reading and still talk to Ulteig.

Ken Thomsen stated that we need to solve a problem and our ordinance needs to be cleaned up and he believes these things need to be addressed. The City needs to do what is best for the town by trying to clear up the vague language in the ordinance.

Ken Thomsen asked the council if they want to proceed with discussion or to proceed with the second reading of the new water ordinance. Randy Zinke and Barb Stute want second reading and Erika Lorenz voted no.

Ken Thomsen stated we have two votes yes and one vote no. He stated that we should have the second reading. We need to clean up this ordinance and move forward and address these issues individually. The language in the old ordinance does not address the loans, delinquent payments or reconnect fees. Erika Lorenz

agrees, the ordinance needs to be addressed, there are so many things that are not clear or are not included at all. How do we determine how someone connects to the water system or what the reconnect fee is on a night or weekend? The revised water ordinance should include all of that. We should also be fair to the people that were not to be included in the first place and were through no fault of their own.

No motion was made at this time.

Adjourn Meeting:

Ken Thomsen asked for a motion to adjourn the meeting.

Barb Stute made a motion to adjourn the meeting and Gary Volochenko seconded. Barb Stute, Gary Volochenko, Erika Lorenz, and Randy Zinke voted Aye. Motion carried.

Next meeting is on January 11th, 2024, at 7pm