

City of Mercer Minutes

February 13, 2025

Mayor Lori Stute called the meeting to order and lead the Pledge of Allegiance and conducted roll call with Barb Stute-present, Gary Volochenko-present, Randy Zinke-present, Erika Lorenz absent and Tonya Wellington-Auditor absent.

Lori Stute read the minutes from the meetings on January 15, 2025, and February 6, 2025. Gary Volochenko made the motion to approve the minutes with changes made and Barb Stute seconded. Barb Stute, Gary Volochenko, and Randy Zinke all voted aye. Motion carried.

Financials

Randy Zinke made the motion to approve the financial report and Gary Volochenko seconded. Barb Stute, Gary Volochenko and Randy Zinke all voted aye. Motion carried.

Bills

Lori Stute stated that we need to hold off on paying ABC electric till they come back and have their inspection and fix the ceiling in the back room. Randy Zinke made the motion to approve the bill, excluding ABC Electric till they come back and finish and add Wilson Law bill and Barb Stute seconded. Barb Stute, Gary Volochenko and Randy Zinke all voted aye. Motion carried.

Water Bills

Randy Zinke asked if account seventy-four was sent a letter and yes there was a letter sent. Lori Stute stated she talked to account sixty-seven about billing.

Park Minutes

Lori Stute stated the park committee provided their financial reports to the city board.

Old Business

Lori Stute stated the State Audit for the City of Mercer that Kathy Schon talked about at the January 16th meeting was looked in to. Lori Stute opened the website that Kathy Schon provided and pulled up the information. It is saying that we are delinquent in 2018, and it states that we need a single audit. 2019, 2020, 2021 and 2022 were all received and 2019 was processed and can be viewed online with the PDF and 2023 is delinquent so at this time they are working on 2018 and 2023, and they are requesting information that is missing and 2024 they have not received yet. Randy Zinke stated that we are not 6 years delinquent and did not think that was right when that comment was made. Lori Stute stated that she knew Tonya Wellington-Auditor was working on 2018 trying to locate some needed information. Just to clarify, it is just 2018 and 2023 that are delinquent.

Lori Stute has contacted a contractor to come up and look at the pump house and see what he thought and is just waiting for his opinion on what needs to be done. I just wanted to inform the public that we are trying to figure out how to fix it.

New Business

Randy Zinke stated that we should have a subcommittee under the city looking into new community center funding. Gary Volochenko stated that if the city is going to be involved, we should build a building so we can have the city hall in the new community center. Lori Stute asked if we are allowing a subcommittee to be put into place to oversee the community center project? Randy Zinke made the motion that the city accepts the subcommittee

which includes Willa Murray, Karen Zinke, Randy Zinke, Barb Stute, and Cayce Stute to look into funding for the Mercer Community Center project and Barb Stute seconded. Barb Stute and Randy Zinke voted aye, and Gary Volochenko voted no. Motion carried. Lori Stute stated that if other people are interested in being on the subcommittee to let the board know.

Lori Stute stated that it brings us to water assessment issue determination with Jim Wilson from Wilson Law Firm. Jim Wilson stated that after looking into the water assessment it boiled down to six issues. Anytime you create a special assessment district for improvements in North Dakota. The process requires the city passing resolution to create the district. Once it is created, they must set out to determine the boundaries of the district are going to be and what properties are included. Once that has been determined and the engineers report has completed the details of the major purpose, feasibility, and estimated cost of the improvement. Then it would be passed on to the city council for approval and once the city council approves it there is a 30-day window for people to assert any protest within regard to the conclusion of their property in the special assessment district. If you missed that deadline there is a safe harbor which the state also gives you six months with which to file an appeal with the District Court. If that is not done, that is the last shot to protest anything about the special improvement district. The assessment rule from 2015 is an assessment rule we need to go by. Jim Wilson stated that he also looked into the authority of the city council to allow people to discontinue paying or discontinue their service to their property or remove any infrastructure service lines and quite paying for their assessment that has been assessed to their property. The city council has absolutely no authority to do that with regards to the assessment. Once the thirty days are up after it has been approved it is locked in and cannot be changed unless judicial intervention means the court orders a change. That is the only time the city council can go back and make a change. If there have been properties that have been removed from the assessment rule, they acted without that authority. Anyone that is on the assessment rule from 2015 is liable for every single one of those assessments that has occurred since then, regardless of what the city council has said or done. Randy Zinke asked if he could clear up that it does not matter if there are sewer and water lines on the parcel. Jim Wilson stated it does not, creating improvements through a special assessment is to get the infrastructure in to place so that it is available in the future if people want to hook up to it. The fact that you are not hooked up to it or using it at all has no bearing on the assessments at all. Jim Wilson stated that with the Liabilities for deficiencies, the only deficiencies that the city would be liable for is if in creating the district and assessment payments, that they may have made a missed calculation and figured out it was the wrong amount to assessed properties. Any deficiencies that are due to any residents not paying their assessments that would be all on the residents. Any certified water bill would be turned into the county at the fall of the year, and they are put onto resident's taxes. After three years of non-payment, the city can foreclose on residents' property because special assessments are a lean against your property. Every single property should be paying the base rate because that is what they used to pay for the whole infrastructure from maintenance and servicing the loans which are spread out among the whole community. The city council will have to go back to 2015 and see which properties have paid and how much they paid. Randy Zinke asked Jim Wilson if a resident asked to have water put to this lot that has nothing on it. Is the city responsible for putting water in it if there is no intention of building? Jim Wilson stated according to the engineer's report those curb stops are in there so the residents would have to pay for the service line to the curb stop. Betty Schatz asked if there will be a monthly assessment on our water bill the extra that the resident needs to pay. Randy Zinke stated that they were going to have to bill them from 2015 till present and would receive a monthly bill. Lori Stute stated that the residents that have not been billed to this point will need to set up new accounts for them to be billed monthly going forward. Lori Stute stated that the amount of the original water loan was \$429,000.00 and we still owe an unpaid principal of \$376,179.43 plus interest. The amount of the original sewer loan was \$287,000.00 and the unpaid principal is \$261,711.76 plus interest.

Lori Stute stated that if there is no other discussion and no other topics, can I get a motion to adjourn the meeting? Barb Stute made a motion to adjourn the meeting and Randy Zinke seconded. Barb Stute, Gary Volochenko, and Randy Zinke all voted aye. Motion carried.