**Enrolled Minutes of the Meeting**
**For the Town Council of Merrillville**
**Special Meeting**
**Wednesday, December 6, 2023**

The Town Council of the Town of Merrillville, Lake County, Indiana met in a special meeting on **Wednesday, December 6, 2023** at 4:45 O'clock P.M in the Town Council meeting chambers (court room), 7820 Broadway Avenue, Merrillville, Indiana. 46410

The Town Council President, Rick Bella presided. The Town Clerk-Treasurer, was not present to memorialize the proceedings. The Town Council President made contemporaneous notes. The Town Attorney assisted with calling the roll. Councilor Richard Hardaway led the assembled in the Pledge of Allegiance to the United States Flag.

**Roll Call:** Present on roll call were Councilors Rhonda Neal, Richard Hardaway, Shawn Pettit, Leonard White, and Rick Bella. The Town Council President made contemporaneous notes to memorialize the proceedings. A quorum was attained.

**Other officials present:** Joseph Svetanoff, Town Attorney; Kosta Nuses, Chief of Police; and Lori Sanfratello, Executive Director of the Police Department, were also present.

With leave from the Town Council, the Town Council President described the purposes of the meeting. The Town Council President invited the Police Chief to speak to the need and urgency for passing the ordinance being considered in the special meeting.

Police Chief Nuses offered his belief in the importance to having a policy that distinguishes consumer credit cards from the electronic key cards for a limited purchasing network, like the WEX Cards.

**Special Orders:**

1. Consideration of **Proposed Ordinance No. 23-30**: An Ordinance to Amend the Merrillville Municipal Code, by establishing a new Subchapter Authoring Several Methods of Payments to and Made By Municipality, all Pursuant to IC 36-1-8, IC 36-1-4 and IC 36-1-3 et seq.

Councilor Pettit moved to approve for first reading Ordinance No. 23-30, seconded by Councilor Neal. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The ordinance was approved for first reading.

Councilor Pettit moved to suspend the rules pursuant to Merrillville Municipal Code Section 2-69(b) and allow consideration of Ordinance No. 23-30, on second reading, seconded by Councilor White. Upon a roll call vote, unanimous vote of the members present being necessary, there were five affirmatives and no negatives. The motion passed. The rules were suspended and the ordinance was approved for second reading.

Councilor White moved to approve Ordinance No. 23-30 on second reading, seconded by Councilor Neal. Upon a roll call vote, a two-thirds vote of the council membership being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was passed and adopted upon the signature of the Town Council President, as municipal executive, pursuant to IC 36-5-2-10(a).

**ORDINANCE NO. 23-30**
**of the**
**TOWN of MERRILLVILLE, INDIANA**

**An Ordinance to Amend the Merrillville Municipal Code, by establishing a new Subchapter Authoring Several Methods of Payments to and Made By Municipality, all Pursuant to IC 36-1-8, IC 36-1-4 and IC 36-1-3 et seq.**

**WHEREAS**, The Town Council is the fiscal body of the Town of Merrillville;

**WHEREAS**, IC 36-1-8–11 outlines permissible methods of payment to the municipality and its utilities;

**WHEREAS**, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

**WHEREAS**, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through passage of an ordinance passed by the legislative body;

**WHEREAS**, IC 36-1-4-17 provides a general power for municipalities to establish or approve third party collection arrangements;

**WHEREAS**, The Town Clerk-Treasurer has advised the Town Council of the desirability of permitting methods of payment to the municipality consistent with e-government, reducing the cost of collection, improving the speed of collection, and permitting added convenience for residents, ratepayers, users of services and others tendering payment to the municipality;

**WHEREAS**, The Town Council has determined that it would be of great public benefit of permitting methods of payment to the municipality consistent with e-government, reducing the cost of collection, improving the speed of collection, and permitting added convenience for residents, ratepayers, users of services and others tendering payment to the municipality, to support and carryout the public purposes of the municipality and its utilities;

**WHEREAS**, It would be and is in the best interest of the Town of Merrillville to amend the Merrillville Municipal Code by adding a new subchapter entitled Authorized *Method of Payments* to and from the Municipality in order to further perfect the operation of the Town and its utilities; and,

**WHEREAS**, The Town Council believes this action to be necessary and desirable **for the conduct of the affairs of the Town, and in the public interest, consistent** with the powers granted under IC 36-1-3 et seq., IC 36-1-4 et seq., and IC 36-1-8-11;

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Merrillville, Lake County, Indiana, as follows:

**Section 1.** That Section 2-140 formerly reserved in the Merrillville Municipal Code be amended by removing Section 2-140 from its reserved status and activating it for use;

**Section 2**. That the Merrillville Municipal Code shall be amended by adding a new division, styled as Sections 2-140 through 2-140.07, Authorized methods of payments to and from the Municipality, which shall read as follows:

**Authorized Methods of payment to and from the Municipality**

**Sec. 2-140 Definitions**
As used in this chapter, "credit card" means a:
(A) Credit card;
(B) Debit card;
(C) Charge card; or
(D) Stored value card

**Sec. 2.140.01 Authorized financial instruments for payments to the municipality.**
(A) Payments may be made to the municipality, its executive departments and its utilities, for any lawful purpose by any of the following financial instruments:

(1) Cash.
(2) Check.
(3) Bank draft.
(4) Money order.
(5) Bank card or credit card.
(6) Electronic funds transfer.
(7) Wire funds or automated clearing house (ACH).
(8) Any other financial instrument authorized by the fiscal body.

(B) If there is a charge to the municipality, its executive departments or municipally owned utility for the use of a financial instrument, a fee may be collected equal to the amount of the charge from the person who uses the financial instrument.

**Sec. 2.140.02 Procedures for payments to be uniform.**
In accepting payments under the provisions of this chapter and IC 36-1-8-11, the procedure authorized for a particular type of payment shall be uniformly applied to all payments of the same type. The municipal fiscal officer is authorized to administer and enforce this section and in consultation with the Town Manager, to promulgate written guidelines consistent with its purposes.

**Sec. 2-140.03 Added authority related to acceptance of bank or credit cards.**
(A) The municipality, its executive departments and its utilities may contract with any of the following:

(1) A bank card or credit card vendor for acceptance of bank cards or credit cards.
(2) A third-party online collection service for acceptance of bank cards or credit cards.

(B) If there is a vendor transaction charge or discount fee, whether billed to the municipality, its executive departments and its utilities or directly charged to one of its accounts, the municipality, executive department or utility shall collect a fee equal to the transaction charge or discount fee imposed by the vendor.

(C) The municipality, its executive departments and its utilities may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this section.

**Sec. 2-140.04 Authorized financial instruments for payments by the municipality.**
(A) Payments may be made by the municipality, its executive departments and its utilities for any lawful purpose by any of the following financial instruments:

(1) Cash.

(2) Check.
(3) Bank draft.
(4) Money order.
(5) Bank card or credit card.
(6) Electronic funds transfer.
(7) Wire funds or automated clearing house (ACH).
(8) Any other financial instrument authorized by the fiscal body.

(B) That payments made by cash as authorized in subsection (A) of this section shall be confined to payments made from a petty cash fund as authorized in this code, subject to Indiana law and regulations of the external auditing agency.

**Sec. 2-140.05 Authorized financial instruments.**

(A) Payments may be made by the clerk-treasurer for the municipality, its executive departments and its utilities, for any lawful purpose by any of the following financial instruments:

(1) Warrant or negotiable order of withdrawal pursuant to the provisions of IC 36-5-4 et seq., 5-11-10 et seq., and 5-13-5 et seq.;

(2) Bank card or credit card; provided, that it is expressly authorized by the proper board of jurisdiction, identifies the responsible officer for the card, and expressly sets forth the approved uses for it;

(B) Pursuant to IC 5-13-5-5, transactions or payments may be made by the clerk-treasurer for the municipality, its executive departments and its utilities, for any lawful purpose set forth in this chapter by any of the following financial instruments:
(1) Electronic funds transfer;
(2) Wire funds or automated clearing house (ACH);

(C) In making payments under subsection (B) of this section the clerk-treasurer shall maintain adequate documentation of the transactions so that they may be audited as provided by law, and the use of the instruments set forth in subsection (B) of this section shall be limited to those payments authorized by IC 5-13-5 and those set forth in the Town of Merrillville's Ordinance Authorizing Payment in Advance of Board Allowance.

**Sec. 2-140.06 Electronic Keys and Unitary Purchase Networks Authorized.**

(A) The Town Council finds that participation in purchasing networks can lead to budgetary and operational economies and over time, contribute to lower costs for certain necessary operating supplies such as gasoline, and reduce service time in procurement or resupplying, and therefore subject to the purchasing code and IC 5-22 et seq., use of such unitary purchase networks is desirable, in the interests of the municipality and hereby authorized, subject to the provisions in this section;

(B) The Town Council particularly authorizes the use of the WEX Company Electronic Key Card system – a unitary purchasing network pursuant to this section for use by such departments as may be identified by the Town Manager, and makes the following findings and determinations:

(1) The program is a specific electronic buying network limited to gasoline purchases only for use by municipalities, employing a negotiated network of gasoline retailers to offer the sale of gasoline at lower than retail prices and without imposition of retail sales taxes;

(2) The program uses an electronic access card, that looks like a consumer credit card but in fact is a *controlled*, *unitary purpose*, *access key*, that may only be used for the purchase of gasoline at a participating network retailer, with the card and the associated personal identification number (PIN) programed to bar any purchases of anything but gasoline through member network retailers to enrolled member participants;

(3) The Town Council finds and determines that the WEX Card is part of a unitary purchasing network, limited to the sole purpose of purchasing through the participation in an enrolled network a single commodity for the municipality and therefore is not a consumer credit card, and is not included in the definitions of Section 2-140 of this Chapter.

(C) In purchasing and participating in a card keyed system unitary purchasing network generally and under the WEX system in particular the following additional conditions and controls shall be in force for the Town of Merrillville:

(1) A unique PIN shall be assigned to the employee authorized to make purchases by the department's purchasing agent;
(2) Use of the PIN shall be limited to ONLY municipal vehicles, and a separate control distinctly aligned with the municipal vehicle, such as assigning any member access card to the vehicle alone;
(3) Assignment of the card to the particular vehicle shall be verified at the end of each shift or workday;
(4) Invoices shall be detailed, discretely identifying, the date of the transaction, person purchasing, the vehicle receiving product, product purchased, where the purchase took place, units purchased, unit price and total prices;
(5) The department's purchasing agent or designee shall review the invoices for correctness and document the review conspicuously with signature or initials;
(6) Shall not be used to by-pass the internal controls or the general accounting system of the municipality, but should only be used according to the purposes set forth in this section. Where possible, use of purchase orders as prescribed in IC 5-22-18-5, should still be in force

(D) Payment may be made on the basis of an invoice that is supported with the level of detail set forth in the subdivision above according to IC 5-11-10-1.6 et alia.

(E) Provided that the invoices comply with the subsection (C) prescribed above, and Subsection (D), the claim may be allowed without additional supporting documentation such as a transaction receipt.

(F) It shall be unlawful to use the card keyed system unitary purchasing network generally and under the WEX system in particular for any personal use or any use not consistent with the lawful purposes of the municipality;

**Sec. 2-140.07 Consumer Credit Card Usage Policy.**
The Town Council finds that the use of consumer credit cards as authorized in Section 2-140.04 in this Code, is a desirable purchasing tool, subject to the following provisions:

(A) The following identified persons shall be authorized to use a consumer credit card issued under the authority of a local public depository or another financial institution authorized to do business in the United States, and in the custody of the person named:

(1) Town Manager
(2) Streets and Engineering Director
(3) Parks and Recreation Director
(4) Chief of Police
(5) Fire Chief

(B) Credit cards shall not be regularly carried on the person of the identified custodians but shall be held by a senior staff person and signed out by the custodian when needed. The above-named custodians shall maintain a log of the times the card is signed out, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned to the senior staff person, and the log shall be filed with the senior staff person;

(C)The consumer credit card shall be used for only the following purposes:

(1) .Lawful public purposes of the municipality
(2) Shall not be used to by-pass the internal controls or the general accounting system of the municipality, but only used when the use of the regular purchasing process is unduly burdensome or a vendor requires it to conclude a purchase. Where possible, use of purchase orders as prescribed in IC 5-22-18-5, should still be in force;
(3) For expenses (including meals) in consequence of municipal travel, according to policies associated with such status and dining meetings in which promotion of municipal business is the objective or undertaking;
(4) For on-line vendors who will not accept the purchase order or extend a line of credit to the municipality in support of a lawful municipal purchase;

(G) Payment cannot be made on the basis of a statement or a credit card slip only, but rather, must be made on the same basis for allowance of a claim under IC 5-11-10-1.6 et alia., and must include an invoice with supporting contemporaneous slips or receipts, tied to the listed transactions.

(H) Additionally, any interest or penalty incurred due to late filing or furnishing of documentation by an officer or employee may be the personal obligation of the responsible officer or employee, so time processing and filing of the needed records is highly encouraged.

(I) The consumer credit card should be chosen on the basis of the lowest costs of use, but if an annual fee is charged, it is authorized for payment.

(J) It shall be unlawful to use the Town's authorized consumer credit card for any personal use or any use not consistent with the lawful purposes of the municipality;

**Section 3.** Notwithstanding any existing ordinance governing payment in advance of board or commission allowance, pursuant to IC 36-5-4-12(b)(13), upon the passage and adoption of this ordinance any pending invoices or accounts payable vouchers filed for payment of WEX Key system card services shall be paid in advance of allowance, then subject to review and allowance by the Town Council at its next regular or special meeting following its payments;

**Section 4.** At the time of passage of this ordinance, the Police Chief has two credit cards, one issued under the authority of a local public depository another financial institution authorized to do business in the United States, which is authorized to continue until such time as a single card may be found that meets the needs of the police department or until this ordinance is amended by action of the Town Council.

**Section 5.** Any and all such ordinances in conflict with the provisions of this ordinance are hereby repealed and of no further force nor effect;

**Section 6.** Whereas an emergency exists for the immediate taking effect of this Ordinance, it shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a);

Introduced and Filed on the 6th Day of December 2023. Consideration on the same day or at same meeting of introduction was / was not approved, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** 6th Day of December 2023, by the Town Council of the Town of Merrillville, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of MERRILLVILLE, INDIANA**

**ATTEST:**

**/s/Rick Bella, President (IC 36-5-2-10)**

**Kelly White Gibson, Esq.**
**Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

There being no further business necessary or desired to be discussed by the Town Council of the Town of Merrillville, the Special Meeting of the Merrillville Town Council of Wednesday, **December 5, 2023,** was adjourned by the Town Council President at 12:15 O'clock p.m.

Michael W. Griffin

By: Michael W. Griffin, M.P.A., IAMC/MMC/CPFA/ACPFIM/CMO
Recorder Pro-Tempore
Interim Town Manager

Approved by the proper body at its meeting of December 19th, 2023.

Rick Bella

Rick Bella, President
Merrillville Town Council

Kelly White Gipson, Esq.
Merrillville Town Clerk-Treasurer