CITY OF MERRILL REGULAR BUSINESS MEETING

Tuesday December 10, 2019 6:00 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Tuesday, December 10, 2019 Regular Business Meeting to order at 6:00 p.m.

ROLL CALL:

Roll call was taken with the following members of Council and others being present: Councilor Smith, Councilor Johnson, Councilor Carleton, Councilor Hinton, Mayor Carlson, and City Recorder Hernandez.

FLAG SALUTE:

The Flag Salute immediately followed with Mayor Carlson asking City Clerk Jensen to lead.

MAYOR STATEMENT:

Mayor Carlson asked that everyone please turn cell phones on silence. All meetings are recorded. When addressing the City Council, please speak clearly and state your name.

PUBLIC COMMENT:

Mayor Carlson stated the public is invited to provide their comments and opinions to the City Council at this time on issues of concern. Non-emergency issues brought up in this form will not be considered tonight other than in this preliminary discussion, but if found warranted, may be considered at a future meeting of the city council. Public comment is limited to five minutes per person.

No public comment followed.

CONSENT AGENDA:

Meeting Minutes:

Councilor Smith made a motion to approve the Meeting Minutes for November 12, 2019. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.

Phone Poll:

- \$2,700.00 for Electrical at Lincoln Lift Station: Councilor Smith approved 12:14 p.m.; Councilor Carleton approved 3:02 p.m.; Councilor Hinton approved 9:30 a.m.
- \$1,400 for Police Vehicle Repairs: Councilor Johnson approved 3:22 p.m.; Councilor Hinton approved 3:24 p.m.; Councilor Carleton approved 3:27 p.m.
 Councilor Smith made a motion to approve the phone polls. Councilor Johnson 2nd the motion. The motion passed 4-0 in favor.

Business License Renewals:

• Modoc Electric, LLC; Merrill Mobile Manner; Thornwood Property Management (111 Garfield A and B); El Meson Laundromat; Azamar 122 N. Washington; Janet Herman (227 N. Washington and 305 N. Main); Merle's Custom Butchering; Dan's Autobody; Cesar Montano (122 and 124 Second Street); Cesar Montano 136 N. Jefferson; Joseph Mountain 412 E. Front Street; K & K Deli & Espresso; Lester Realty (612 W. 3rd Street, 211 W. 2nd Street); Superior Fence; The Water Hole. Councilor Johnson made a motion to approve the business licenses. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor, 1 abstained. Councilor Smith abstained due to conflict of interest (family).

• Business Licenses:

JJ Farms Business License (formally Jensen Trucking). Councilor Johnson made a motion to approve the business licenses. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor, 1 abstained. Councilor Smith abstained due to conflict of interest (family).

Accounts Payable:

Councilor Smith made a motion to approve the November 2019 account payables. Councilor Hinton 2nd the motion. The motion passed 4-0 in favor.

Councilor Smith made a motion to approve the November 2019 water transfer for \$5,684. Councilor Johnson 2nd the motion. The motion passed 4-0 in favor.

STAFF REPORTS:

Police: Marshal Bicknell was not present. Councilor Smith inquired to the status of the 2013 Police Dodge Charger. Councilor Hinton stated Emmett's is waiting on parts. Councilor Smith inquired which part broke on the 2013 Police Dodge Charger. Councilor Hinton state the lifters broke, which destroyed the cam shaft. The problem is common. The after-market parts should be higher quality resulting in a longer life span. A solenoid broke in the transmission on the white Dodge Charger. The part was in stock. Prohibiting panhandling has been ruled unconstitutional across district courts. Panhandling is a freedom of speech. Hitchhiking is enforced by Oregon Revised Statute. Councilor Smith inquired whether the responsibility for enforcing hitchhiking outside the City limits belongs to outside agencies. Councilor Hinton stated the responsibility belongs to the Oregon State Police. Discussion of patrol limits, mutual aid, and Oregon Department of Transportation overtime grant ensued.

• Public Works:

 Public Works Director Matthews submitted a report, yet was not present due to the Water Improvement Project new water connection. Councilor Carleton reported the concrete for the new water tank will be poured by week end. The tank is held up by the concrete approval. Once the Pumping Station is completed, the pumps will be installed. A change work order for \$40,000.00 was signed for the concrete pad.

• City Recorder:

• City Recorder Hernandez reported on contact with City Attorney Schade for complying with a subpoena. City Recorder Hernandez has been in contact with Oregon Secretary of State in regards to record maintenance and destruction of records. Hard copy documents requiring permanent retention are being scanned to create an electronic copy in the event of an emergency. Councilor Johnson inquired to the method of destruction. City Recorder Hernandez stated shredding, burning, and/or throwing away; however, Oregon Secretary of State recommends purging documents annually. City Recorder Hernandez sought approval for the Destruction Report and Internal Operating Policy. Councilor Johnson made a motion to approve the Records Destruction Report and Policy. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor. City Recorder Hernandez submitted documentation for the Oregon Tourism Project. No objection to the amendments on the Request for Public Records form to reflect Ordinance 2022.

• Lawyer:

 Mayor Carlson reported on consulting City Attorney Schade about a subpoena. Councilor Hinton inquired whether the subpoena was on a former police officer. City Recorder Hernandez affirmed.

Code Enforcement:

- Councilor Hinton reported on four abatement notices issued with one abated, two abatements with time left to comply, and one abatement with a second notice.
- Samantha Gallagher (13497 East Langell Valley Bonanza, Oregon 97623): "Hi. My name is Samantha Gallagher. We got one of those. I am a little confused. I am not really...the letter, like reading it talks about 20 feet, three feet high. I am not sure because the pictures it shows all of our bushes. So I do not know. Like this that is in the front of our house."

Councilor Hinton: "It is in front of your house. Yes. I do not know why he took that picture. It should just be there on the corner."

Samantha Gallagher: "I assumed it was probably this picture. The corner. We have lived there for thirteen years, and last year it became an issue. We talked to Brian, and he said let's not worry about it and da, da, da. He wanted us to come to the meeting because we do not want to cut it down to three feet. We have kids."

Councilor Hinton: "Three and a half,"

Samantha Gallagher: "Three and a half. And it is a privacy thing. The house was built in 1938. The bushes have been there for 40 plus years. We bought it this way. I am assuming your saying because you can't see perfectly. I get that to some extent. Although you can see how far back he is. You can still see a car right there. You can still see them. I know it is a dead end street. So it is not a busy street. If you pull slightly into the crosswalk, you can see clear to the corner. So, I don't know. I feel like...I don't want to cut them down. I want to keep it. It is a historical house. I try really, really hard to keep it super nice and everything picked up. You pull out of Martin's, you pull out of the Post Office, you pull out of the bank, you pull out of the Civic Center, you have to

pull into somewhat of the crosswalk to see. Those are busy places. I don't know. I know they probably need to be trimmed back a little bit off of the sidewalk. I do think that. I do not want to cut them down three feet because it is a main road. I have kids. I would have never of bought that place if it was like that. Ever. I do not know how you would sell it, honestly, by cutting it down." Mayor Carlson: "I think there is an argument to the precedent."

Councilor Hinton: "We had several complaints all from Water Street, the RV Park, and one Head Start bus driver. They have to pull across the crosswalk, into the street, in order to see. Enough to feel safe to pulling out, and when we get a complaint, we have to look at it."

Samantha Gallagher: "Right."

Councilor Hinton: "And it doesn't...and I have to agree with you. We have many places in town here. In fact, I got upset with mine. I do not know if you noticed. I took a chainsaw and cut mine down to three and a half feet. I am going to take it out. I am tired of messing with it."

Samantha Gallagher: "I don't know. I just can't imagine being able to do that."

Councilor Hinton: "I am going to take mine out and put a fence up. But with the complaints we have had, we looked into it, it is a violation of code; therefore, we...."

Samantha Gallagher: "How? I mean like, how after thirteen years we have lived there. The house has been there before any of that."

Councilor Hinton: "It has been ignored by Council and it shouldn't have been, which is Code Enforcement."

Councilor Carleton: "There are a lot of things like that in the City, Sam, that have been ignored. We are trying to straighten that up and what we do for one person we have to do for another. We can't pick and choose."

Samantha Gallagher: "Right. So I feel like what can we do because I do not want to cut them down. I feel like that's a safety thing for us as a family and the next person buying it. It is back quite a ways. The bushes are back. You have the telephone phone that obstructs the view. You have the tree that is not mine that obstructs the view. Also, if anybody is parked on the street, which they do, especially when the trucks park there. There is no way. You are going to pull across the crosswalk. You are going to be ten, five feet out and there should be no parking the whole street.

Councilor Hinton: "I agree. We need to take care of that issue too. Like about the trucks parking. We are going to have to get signs up everywhere. We have to get the curbs painted. Washington Street is one of the worst areas in town right now. We have to get them curbs painted so people will stop parking so you do not have to drive across the line to safety."

Samantha Gallagher: "Right and it is a dead end street."

Councilor Hinton: "It is a bad street though down beyond you guys. Without a doubt, you have one of the most attractive residence in this community. You really can't see it because of your bushes, but when Amie was there, she drove me crazy, she kept the front cut to four feet because that is where it is supposed to be. The front should be down to four feet, and then twenty feet on the corner, in each direction, supposed to be cut to three and a half. That is what the code calls for."

Councilor Smith: "Unfortunately, since we have received multiple complaints about it."

Ryan Gallagher: "When we bought the house, it was six feet tall."

Councilor Hinton: "It could have been."

Samantha Gallagher: "So the only thing we can do is cut them down? There is nothing we can do? No compromise? Just cut them down?"

Councilor Hinton: "I wouldn't cut them down."

Ryan Gallagher: "\$239,000.00 and you can cut them however you want."

Samantha Gallagher: "I know, but even three feet. That's like this tall. I mean what's the point?" Councilor Hinton: "It is supposed to be three and a half feet. I cut mine down to just above three because I got tired arguing with people about it. People in the little car can't see. People in like your truck, my truck, you can see better. When a bus driver told me, I am goin' okay."

Samantha Gallagher: "Well then, you need to move the tree, the telephone pole, you know? Just not the bushes."

Councilor Hinton; "I know. I have to agree with you. It will be a start."

Samantha Gallagher: "So you are going to start with the bushes? Not the tree or the telephone pole."

Councilor Hinton: "If anybody wants to cut a tree down, we do not have a problem with that." Samantha Gallagher: "It is not my tree."

Councilor Carleton: "Sounds to me, if the tree is an issue, we need to act on that too."

Councilor Hinton: "I think we should cut the tree down if it is an issue."

Councilor Smith: "I think that is on the City. I think that is one of the few trees left. Isn't it? On the sidewalk section there? Is that what we are talking about, on the sidewalk section there?"

Councilor Hinton: "There are some down by the park. The football field."

Samantha Gallagher: "The Civic Center."

Councilor Smith: "Is that the ones we are talking about, Greg?"

Samantha Gallagher: "No. The one in front of our house."

Councilor Hinton: "What do they call that? Friendly pedestrian strip. It is between the sidewalk and the curb."

Samantha Gallagher: "So the where's the 20 feet from where? What point are we talking?"

Councilor Hinton: "From the corner."

Samantha Gallagher: "From the corner of the sidewalk back 20 feet?"

Councilor Hinton; "Yes."

Samantha Gallagher: "That's a huge section of our property."

Councilor Hinton: "It is. I have to agree with ya. It really is. I didn't like cutting mine either, but I did. Tore my chainsaw up too."

Samantha Gallagher: "I do not know if I can do that though."

Ryan Gallagher: "We are trying to sell a home. One of the nicest homes in Merrill, and now you pretty much took a sale right out of it."

Samantha Gallagher: "Yes. Who or why would you buy....I would never, ever have bought it because I mean having kids, living on main street, people walking by. It is a privacy thing. It is a safety thing. It is a highway. People stop."

Councilor Hinton: "I will tell you something that a couple of people come and ask me about it when they seen it was for sale. Asked me what I knew about it. I said as far as I know, I have only been inside that house one time. It is one of the most attractive places in the community. I said, but what the problem is, you really can't see it. And they go yeah. When you walk inside, you felt like they were in a...it wasn't a prison. It was another word they said to me, and I can't remember what it was. They couldn't see it. You house is real attractive. If you could..."

Samantha Gallagher: "I don't think that people really want to look at the highway. So. It is a preference. The problem they have is with the RV Park. So, it's not the bushes and not the feeling they are closed in because nobody wants to look at semi's flying by. And it is a sound thing too. It's a sound barrier."

Councilor Hinton: "I tried that. I let mine grow up to about 7 feet one year to see if it cut down on the sound. It did not. The decimal stayed the same."

Mayor Carlson: "I propose we table the enforcement for one month. Maybe, Stan, you, and I can go out and see if there is a compromise."

Councilor Hinton: "I do not see how you are going to compromise it when you have a code."

Councilor Johnson: "I do not either."

Mayor Carlson: "I have not studied it."

Councilor Hinton: "It is in black and white."

Councilor Johnson: "If you don't enforce it with them, then you can't enforce it with the rest of the community if you let it slide."

Councilor Smith: "That's true. That is where you are going to have to look at. Your basically going to have to totally change an ordinance. Like I said, your going to get accused of..."

Councilor Hinton: "The new ordinances for the (inaudible) is even worse."

Samantha Gallagher: "What other ordinances are being neglected?"

Councilor Smith: "Trust me. If you had been here for the last three or four months of meetings, this has been a big, huge topic. It's not just this one instance. There is ordinances that have been ignored in certain things."

Samantha Gallagher: "So there is no such thing as like precedence since like the fact that it's been forty some years like this? Someone bought a property like this and now your saying, 'Oh, hey, now you have to cut all your bushes down.' It's like Stan's property that he had behind the RV

Park. I guarantee that you cannot build those sheds on property line and every one of those sheds are built on the property line. So are they taking those down too?"

Councilor Hinton: "They are...its commercial. I built every one of those sheds."

Samantha Gallagher: "I am sure with permits too."

Councilor Hinton: "Yeah."

Samantha Gallagher: "I am going to talk to a lawyer first because I do not want to cut them down."

Councilor Hinton: "Sure."

Councilor Carleton: "Have at it." Councilor Smith: "By all means."

Samantha Gallagher: "Because it has been there since 1938. Like I guarantee you the bushes have been there for forty plus years. So that's my case."

Councilor Smith: "Like I said, we can revisit it once everybody has had a chance. You can review your rights by all means. We can double check ours as well. Come next month, revisit it again in January. Obviously it has been this long. I would rather have everybody double check their stuff one more time before we make any final decisions."

Councilor Carleton: "Did you get a copy of the ordinance?"

Samantha Gallagher: "I have it."

Councilor Smith: "Unfortunately, there has been so many things that going through and cleaning up Front Street that..."

Councilor Hinton: "So many things have gotten out of hand. It will take us a least a year to catch up what went bad for about a year."

Mayor Carlson: "Table the enforcement activity for one month and discuss it in January."

Councilor Smith: "Just with this instance. There are not all ordinances or all violations. This one particularly, they showed up. They're requesting us to double check things."

Councilor Johnson: "I think Stan knows his ordinances and that."

Ryan Gallagher: "I agree of the ordinances. Pretty obvious, but for thirteen years and all of a sudden they become important. That's my point."

Councilor Carleton: "A lot of things have happened in the City that way, Ryan."

Samantha Gallagher: "That's not our fault."

Ryan Gallagher: "I spent \$210,000 on the way it is."

Samantha Gallagher: "Now you guys are deciding that it is a big deal when. I would have never of bought that. Never in a million years. I was pregnant, having kids. I would never because one living in town wasn't ideal for me. Oh, this wasn't bad. Its privacy and now...and everyone is like doesn't it bother you having your kids playing? I'm like no. Nobody can see. That would bother me. I would not like that. I would not have bought that property, and we spent a pile of money on it. And I feel like how are we going to sell it with half bushes gone. One, it would look like crap, and, two, it's a privacy thing. You can't put a fence."

Councilor Smith: "Even if we were to make a final decision, technically, they still have another month before they have to do anything until they get their third notice. I am just saying we might as well wait another month id she wants to refer with her lawyer."

Councilor Hinton: "(inaudible) lawyer. I think that is a fantastic idea. I really do. I like that idea." Councilor Carleton: "Yeah."

Samantha Gallagher: "Well, I get that there's a code. I feel like there has to be some sort of...the fact that we bought it that way. It's been like that. It's a historical home. It's almost 100 years old. I'd like to keep it intact."

Councilor Hinton: "Yeah. It's a nice place. Sound home. It's really a nice place. I could have bought it back in '98 for \$60,000. And didn't do it."

Re-discuss in January 2020.

Planning:

Building Application: 224 N Main Street Storage Units: Mayor Carlson recused self due to
conflict of interest. City Council President Smith presided. Resident William Carlson presented
the majority of the project as an office building with a studio apartment above. The intention of a
five year plan is to use the office for consulting. In the interim, the proposal is to build storage
units behind the office. The street frontage will be an office. The second floor will be a studio

apartment with appealing architecture on the north side off the building. The building will be commercial as is the intent of the code. Resident Lee Harris approves the project with conditions, The Planning Commission required conditions on drainage. The proposal is to have a downgrade into two linear ponds (230 feet of linear drainage). Agreement to limit the hours of operations from 7 a.m. to 8 p.m. The lighting is to face downward away from residential housing. A resident was in agreement with the project with one exception with strength fencing on the north and south side to avoid damage to existing fencing. Resident William Carlson agreed and asked the fencing be conditioned. Councilor Johnson inquired to off street parking, Resident William Carlson stated there will be no designated off street parking; however, a customer may park within the secure fencing. A key will be necessary to enter. There is nothing to prevent a person from a person parking on the side of the street. Councilor Hinton stated the street is 100 feet in width with the City right-a-way. There is space available for public parking. Resident William Carlson stated 38 feet between the property line and edge. Two 16 foot paths will be provided. Councilor Hinton inquired whether the paths are created for vehicles. Resident William Carlson affirmed and committed to laying landscape paper with four inches of compacted base rock, Councilor Hinton asked if there would be two 20 foot driveways. Resident William Carlson affirmed with the building built in the center with two driveways measuring 16 1/4 feet. Councilor Hinton inquired to the height of the fencing between the storage sheds and Resident Robbie Rush. Resident William Carlson committed to a 6 foot fence, Councilor Hinton inquired whether the fence would be replaced. Resident William Carlson stated the fence would not be replaced nor the right, Councilor Hinton inquired whether the fence would be replaced if Resident Robbie Rush agreed. Resident William Carlson stated the fence would be metal. Councilor Hinton inquired whether there would be access to the alley from the back. Resident William Carlson stated a negative. The access would be from Main Street. The proposal is to install a security fence in the back alley. Councilor Smith sought clarification as the front entrance as the sole access. Resident William Carlson affirmed. There would be a 10 foot security gate. Discussion of vehicle entry and exit ensued. Councilor Hinton stated the project correctly followed the Comprehensive Plan. Councilor Carleton made a motion to approve the application for 224 N Main Street. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor,

PROJECT MERRILL:

• A meeting will be held at City Hall on January 8, 2020 at 10:00 a.m.

LOST RIVER ARTS AND CULTURAL ALLIANCE:

• Public Works Director Matthews was absent but submitted a written report.

NEW BUSINESS:

Merrill Commercial Property Offer: Margaret Moore presented the proposal to City Council. The buyer is offering \$159,000.00 and \$10,000.00 earnest money. The offer is all cash. The buyer has provided verification of proof of funds. The closing date is listed as January 3, 2020. A response is required by December 12, 2019. The buyer waived the right to the Vacant Land Disclosure. There are no contingencies except for the five day preliminary report. Councilor Carleton thought the acreage was 6.7 once deeded. Margaret Moore responded with 5.12 acres. Councilor Smith inquired to the buyer's intent of use for the property. Margaret Moore stated the buyer has no immediate plans for the property. The buyer is reinvesting investment money. Councilor Carleton stated the buyer is purchasing on speculation only to resell in the future. Margaret Moore reiterated the buyer has no immediate plans for the property. The buyer resides in Malin, Oregon. Councilor Carleton stated the City Council needs to consider the public's money and the plans for the property. Business located on the Merrill Commercial Property must generate tax revenue for the City of Merrill. Councilor Carleton stated the desire to view a business plan before moving forward with the offer. Councilor Johnson inquired to the original asking price for the property. Margaret Moore replied \$191,000.00. Suggested price was a low of \$161,000.00 and a high \$191,000.00. The response from City Council must be an acceptance, denial, or counter, which may include a request for a business plan. The Merrill Commercial Plan was provided to the buyer with the knowledge any plans must be approved by City Council. Mayor Carlson stated the City of Merrill loses control if the buyer approaches City Council with a project allowed by commercial zoning. The City Council has a degree of obligation to approve the project. Mayor Carlson suggested a site plan with the Planning Commission.

Councilor Carleton desired commitment to a project. Councilor Smith was in agreement with Councilor Carleton. City Council desired a development plan from the buyer with confirmation and deadline. Councilor Carleton made a motion to reject the Merrill Commercial offer for lack of development plan or development agreement. Councilor Hinton 2nd the motion. The motion passed 4-0 in favor. Mayor Carlson excused self to sign rejection to offer. City Council President Smith presided.

OLD BUSINESS:

- Front Street and Washington Safety Measures (Crosswalks, Signage, and/or Lights): The intent was to meet with City Engineer Darryl Anderson to view the street design. The meeting did not occur. Tabled.
- Washington Street Parking at Umpqua Bank and Merrill Post Office: Councilor Smith suggested rewording the agenda item to proper parking set-backs from crosswalks within the City of Merrill. Councilor Hinton stated painting the curbs would aid the problem with parking. Councilor Smith stated a flyer must be mailed to all business owners about illegal parking. A plan needs to be created for painting curbs in the spring. Enforcement must be addressed. Councilor Hinton stated City of Merrill Code has a map dictating where curbs are to be painted. The action plan to meet with Public Works Director Matthews and Councilor Smith to create a timeline to paint curbs and eliminating parking spaces. Agendize February 2020. City Council President Smith referred back to Mayor Carlson.
- Support for Rural Medical Care/Nurse Practitioner Michael Sheets: Mayor Carlson signed a dozen City of Merrill letters of support, which were mailed to various entities.
- Discuss FEMA Flood Study: Councilor Carleton and Mayor Carlson met with Flood Engineer Mark Miller. The City of Merrill continues to be at risk as a flood may impact the sewer; however, multiple parcels are no longer located within the flood plain. The City of Merrill is working with Tulelake Irrigation District, Kraig Beasly, to create an operations plan to use the drainage capacity of the Tulelake Irrigation District ditches to lower the flood level. Cross sections of Lost River will be reviewed for flow capacity as the second item to reduce flood levels. Mark Miller is representing the City of Merrill well.

ORDINANCES:

Bill 2025 Ordinance Amending Chapter 90.23 Subsection C Noxious Vegetation: First Reading: Mayor Carlson read the ordinance into record. Mayor Carlson inquired to a hypothetical question about a neighbors vegetation and whose responsibility to abate. Councilor Hinton stated the ordinance is to clarify City of Merrill right-a-way and owner responsibility. No objections followed the first reading.

RESOLUTIONS:

FUTURE AGENDAS:

No Truck Traffic for Merrill Baptist Property and Signage: Trucks from Les Schwab and Dollar General use the Merrill Baptist property to turn around. Refrigerated tractor trailers run continuously at night. Resident Teresa Perry stated bad design on every Dollar General layout plan. Councilor Carleton suggested signage to prevent trespassing.

PUBLIC COMMENT:

The public is invited to provide their comment and opinion to the City Council at this time on issues of their concern. Non-emergency issues brought up in this forum will not be considered tonight other than in this preliminary discussion, but if found to be warranted, may be considered at a future meeting of the City Council. Public comment is limited to 5 minutes per person. No public comment followed.

ADJOURN MEETING:

Councilor Smith made a motion to adjourn the December 10, 2019 Meeting. Councilor Carleton 2nd the motion. With all in favor, the meeting adjourned at 7:05 p.m.

Respectfully Submitted,

Kuyna tlemandos

Bill Carlson - Mayor

Date

Rayna Hernandez – City Recorder Date