

**CITY OF MERRILL  
WORK SESSION**

Tuesday, February 22, 2022 2:00 P.M.

**MEETING CALLED TO ORDER:**

Mayor Carlson called the Tuesday, February 22, 2022 Work Session to order at 2:02 p.m.

**ROLL CALL:**

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

**FLAG SALUTE:**

The **Flag Salute** immediately followed with Mayor Carlson requesting Councilor McCollam to take the lead.

**MAYOR STATEMENT:**

Mayor Pro-Tem Carleton 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 Pro-Tem Carleton 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.

**NEW BUSINESS:**

1. Discuss Weed Height and Abatement: Mayor Carlson submitted "Suggested Fire Mitigation Steps". Suggestions for Weed Abatement are weed height of 8 inches in drought years and 12 inches in non-drought years. City Council in consultation with Rural Fire District to make drought year determination. Councilor Carleton stated the issue with Code Enforcement measuring weeds. Councilor Carleton suggested the Rural Fire Department enforce Weed Abatement as residents pay taxes to the district. Mayor Carlson stated Senate Bill 762 allows the City Council to defer Weed Abatement for fire mitigation to the Rural Fire Department. Councilor Baley suggested conversing with Fire Chief Heim about Weed Abatement. The code is generic. Public Works Director Matthews stated the weed chopper cuts weeds to 6-8 inches, and should not be abated below those measurements. No vegetation is impossible. Mayor Carlson stated the Rural Fire Department suggested no weeds, and opined unrealistic. Mr. Ongman stated the Rural Fire Department does not have enforcement capabilities. Mayor Carlson reiterated Senate Bill 762 authorizes enforcement to the Rural Fire Department. Mr. Ongman stated the Rural Fire Department would not know which court to send the citation to. Councilor Carleton stated Klamath County Justice Court under Code Enforcement. Mr. Ongman, speaking for the board, initializing Code Enforcement will fail. Rural Fire Department has unpaid personnel, volunteers. Mayor Carlson proposed an ordinance created in coordination with the Rural Fire Department. Public Works Director inquired to the responsible entity for Code Enforcement as the City of Merrill. Councilor Carleton affirmed Code Enforcement. Mr. Ongman stated the Rural Fire Department has not policy on Code Enforcement. Officer Srch stated Fire Chief Heim expressed concerns over combustible materials due to the impending drought. There was limited authority for citations through the Rural Fire Department. Mr. Ongman stated Oregon Department of Forestry, the Sheriff's Department, or Merrill Police Department has authority, as the Rural Fire Department does not own a citation book. Councilor Carleton stated the City of Merrill has authority to write citations for Code Enforcement violations. Mr. Ongman prefers the City of Merrill to retain authority over Code Enforcement. Officer Srch stated the City of Merrill has Code Enforcement complaint forms that can be filed. There could be cooperation with observing from an educated view. The forms could be viewed and signed by Merrill Police Department or Merrill Code Enforcement. Mayor Carlson reiterated that Senate Bill 762 authorizes City Council to grant Rural Fire District enforcement authority. The City of Merrill will retain Code Enforcement authority except for specific cases. Cooperation is the best policy, but the authority has

changed. Mr. Ongman questioned the Rural Fire Department writing the citation. Mayor Carlson stated the Rural Fire Department could. Mr. Ongman stated the Rural Fire Department would have to train. Councilor Carleton suggested forming a committee with Rural Fire Department and City Council for a cooperative effort for patrol instead of one entity being responsible. Mayor Carlson stated intent of communication through the City of Merrill newsletter. Councilor Baley stated the Rural Fire Department does not want to write citations. Citations are the Police Department. Councilor Carleton suggested the Rural Fire Department and City of Merrill partner with patrols and the City of Merrill retaining the authorization to issue citations for Code Enforcement, up to \$1,000.00, which usually is resolved. Public Works Director Matthews stated two entities issuing citations could create conflict. Complaints forms would be efficient. Councilor Carleton again suggested a proposal for management. Mayor Carlson inquired to parcels within the City Limits that are overgrown. Councilor Carleton stated Code Enforcement responsibility. Mayor Carlson suggested Fire Chief Heim partnering with the Code Enforcement Officer to contact the owners of the property with overgrown vegetation.

2. Discuss Garbage Storage: Mayor Carlson submitted "Suggested Fire Mitigation Steps". Weekly garbage pickup is not mandatory; however, if a resident does not have garbage service, the following rules apply: The garbage is to be stored inside a permanent structure, or the garbage is to be contained within a three-sided masonry structure with a minimum four foot height requirement.
3. Discuss Bulk Water Limits: The City of Merrill doubled Bulk Water Rates to \$10.00 per 1,000 gallons. The City of Merrill does not want to sell potable water for agricultural crops. Water may be used for roads and the like. A customer wanted 15,000 gallons for a swimming pool. Public Works Director Matthews redirected the guidelines for Bulk Water Sales to City Council as a swimming pool is not a necessity. Public Works Director suggested a maximum limit of 30,000 gallons. Councilor Carleton inquired whether City of Malin has a policy on Bulk Water Sales. Mayor Zieg stated the City of Malin sells Bulk Water, mostly construction. The City of Malin allows for animals. Councilor Carleton stated the sale of water for domestic purposes only. Public Works Director Matthews expanded upon by stated no resale. Mayor Zieg inquired whether the water is potable. Public Works Director Matthews affirmed. Discussion of potable water commenced. Public Works Director Matthews suggested changing the terminology to non-potable in the event a distributor's tank is unsanitary.
4. Discuss Code Enforcement: Mayor Carlson submitted "Suggested Fire Mitigation Steps". City Council is to retain enforcement authority and may defer to Rural Fire District for specific cases. No further discussion followed.
5. Discuss Police Department Policy, Procedures, and Structure: Councilor Johnson stated communicating expectations in the absence of the Marshal. Mayor Carlson stated the policies have been communicated.
  - a. Review and Consider Existing Policies and Procedures:
  - b. Consider Four Policing Approaches:
    - i. Disband Entirely: Dodge City Model, the City of Merrill is not obligated to provide police protection. The City of Merrill has a City Charter given by the Constitution of the State of Oregon. Police protection is not named. The City of Merrill chooses the option of police protection, not mandatory.
    - ii. Disband-County Contract: Chiloquin and Lakeview contracts with Klamath County instead of a municipal police force. Sheriff Kaber is having difficulties with personnel shortages. Mayor Zieg confirmed. The City of Malin has been advertising for the Marshal position for the past five months. Two local and one out of state applications were submitted. Marshal Broussard discussed wages and experience. Law Enforcement Officers find themselves in compromised positions in small communities in regard to ethics and morals as everyone knows everyone.
    - iii. Malin Partnership: A partnership with the City of Malin was discussed with Mayor Zieg. The City of Merrill specifically knows the difficulty of losing one person in a two person department. Merging the departments may add additional resources to increase the Chief of Police's wages and have a more flexible force. Councilor Carleton inquired whether the City of Malin services the City of Bonanza. If the City of Merrill created an alliance, then it would be the City of Malin, Merrill, and Bonanza. There was clarification that the partnership would be the City of Malin and the City of Merrill, Merrill and Malin Policing District. Councilor Carleton sought clarification in regard to a district. Mayor Zieg affirmed a district would be formed. Mayor Carlson stated a district or an intergovernmental agreement as a new district could take months to years. Councilor Baley conversed with Sheriff Kaber whom was in favor of the partnership. Mr. Ongman related that Fire District 1 in Klamath Falls and City Fire

Department combined several years ago. The departments contracted into an intergovernmental agreement for approximately two years before forming a district to create a seamless transition and suggested the same model for the City of Merrill and Malin. Problems are discovered and resolved to the benefit of the whole. Councilor Johnson inquired to the central location of the police officers. The question was undetermined. Mayor Carlson stated a model is the Modoc Sheriff. There are resident officers in Tulelake and different cities. There is a tie with the officer to the city with a daily routine route and a resident officer in each city. Councilor McCollam inquired whether Marshal Broussard was the sole paid patrolman. The Reserve Officers are paid. Marshal Broussard stated the City of Malin has four Reserve Officers, three currently paid. Councilor Johnson inquired whether the Reserve Officers attended the Police Academy. Marshal Broussard stated DTSSP has no requirements for Reserve Officers except mandatory background checks, physical examinations, and psychological evaluations. Changes have been made. A background check and a job offer before the psychological evaluation can be performed. After the psychological exam, the hiring process proceeds. Marshal Broussard's policy is to treat all as a full time police officer to reduce liability. The Reserve Officers work 100-200 hours per month. Councilor Carleton inquired the costs involved with the Reserve Officer Program. Marshal Broussard stated a physical exam and psychological evaluation, which is approximately \$800.00. Upon hiring, the Reserve Officer is provided safety gear. Then the City carries Workers Comp. Part-time Police Officers, also known as Reserve Officers, must be managed under a certified Police Officer. What falls upon Marshal Broussard falls upon the City Council as structured. Councilor Johnson inquired whether the Reserve Officers are eligible for PERS and insurance. Marshal Broussard affirmed PERS, not insurance. Mayor Zieg clarified the Reserve Officers are eligible for insurance, but the City does not provide for part-time through limited hours. PERS must be provided when 600 worked hours is reached annually. A retired Police Officer must be paid PERS regardless of hours worked. The Chief of Police job description is to structure, train, and limit liability. If a Chief of Police is sued, a lawyer is paid \$300.00 per hour and \$3,000.00 daily when the suit reaches the court. Councilor Johnson inquired to the amount of training for a Police Officer before patrolling alone. Currently, the City trains, Klamath Community College trains through the Sheriff's Office, which is 500 hours. Marshal Broussard has a Field Training Officer and a Field Training Manual. Trainings are recorded in the manual. The Reserve Officer is not paid until productive. Once productive, the Reserve Officer must be supervised through contact, if not in person. Public Works Director Matthews inquired to the time to become productive. Marshal Broussard stated one year with no experience. Councilor Carleton inquired whether the Reserve Officers have other jobs. Marshal Broussard affirmed. Discussion of budgeted hours ensued. Marshal Broussard discussed the safety and responsibility of the City Council for Police Officer(s). Councilor Carleton inquired to backup. Councilor Baley inquired to whom Officer Srch calls for backup. Officer Srch stated 911, but backup is not guaranteed.

iv. Existing Structure: The City of Merrill could maintain a two person Police Department.

c. Consider Models for Partnering with the City of Malin: Marshal Broussard stated the partnership would allow another full-time officer to be hired at 40 hours per week. On days off, the Reserve Officers would cover. Mayor Zieg reviewed the budgets for the City of Merrill and Malin. In the Police Expenditures, the budgets equate to \$500,200.00. The funds could be used more effectively in partnership. Councilor Carleton stated 4 full-time officers could be hired. Mayor Zieg stated at least three.

d. Consider Intra-Government Agreement versus Creation of New District: Mr. Ongman discussed a non-tax based district with the ambulance service as example. Mayor Carlson inquired to forming a levied tax based district. Councilor Carleton was opposed to the tax based district. A district would take years to form. Discussion of financials ensued. City Attorney Nathan Ratliff joined the work session via telephone. Councilor Carleton posed the question of process to form a Policing District with City of Malin and City of Merrill. City Attorney Nathan Ratliff stated the Cities could form a district or enter into an intergovernmental agreement. The easiest method would be an intergovernmental agreement. City Attorney Nathan Ratliff would need to investigate levied tax districts, but is the assumption that a new entity would be required.

## **ORDINANCES:**



- First Reading of Ordinance XYZ: The ordinance was presented. Councilor Carleton questioned Bonanza as listed. Bonanza could be eliminated. Councilor Carleton questioned the temperature of Malin City Council. Mayor Zieg has not approached Malin City Council. The first reading will be March 8, 2022.

**OTHER-FUTURE AGENDAS:**

**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.

Marshal Broussard passed on police knowledge. Marshal Broussard works for the Malin City Council. The structure of the Police Department is on the shoulders of Marshal Broussard. The City of Malin's role is to provide Marshal Broussard with a budget, ensure Marshal Broussard is performing duties, have the power to dictate schedule, and the City Council is the governing body of the City; however, law enforcement, as the Chief of Police, is Marshal Broussard's department. Marshal Broussard hires. City of Malin has a board. Marshal Broussard fires, and in the event an officer is fired, the officer retains the right to challenge the termination. The City of Malin does not have the authority to terminate and sit at a board at the same time. The City has the authority to appoint a board. Marshal Broussard's job is to police and has sat with the District Attorney because there are laws called Failure to Perform Your Duties. Marshal Broussard does not need permission to perform duties, which is why Marshal Broussard has been hired as Chief of Police. Marshal Broussard works with the City Council. Marshal Broussard respects the City Council. Marshal Broussard meets with the Mayor daily to discuss the police. Mayor Zieg advises and both come to an agreement on discussions. A Police Officer has the authority to enforce law. If the City Council is unhappy with actions by Marshal Broussard, the City Council holds the authority to question, reprimand, and the like, but Marshal Broussard runs the Police Department. Marshal Broussard is responsible for failure to perform duties. As communicated by Attorney Generals and District Attorneys to Marshal Broussard, as Police Chief, the City Council is not the Chief of Police. The Chief of Police is responsible for enforcing the law with cooperation and teamwork from the City Council. Marshal Broussard could not work for the City of Malin for 28 years without the cooperation of the City Council. Marshal Broussard's speech is not directed at any one person, as the statement is stating authority. Marshal Broussard's City Council desires the police to be local; however, investigations may lead to various destinations hundreds of mile away. Marshal Broussard is dual certified in the State of Oregon and State of California. Marshal Broussard does not need permission to leave the City of Malin to perform duties. Marshal Broussard stated philosophy. The City Council must have faith and trust. City of Malin Police Department enjoys mutual aid with City of Merrill on Officer Srch's days off at the request of Mayor Carlson. Malin City Council allows mutual aid, but Marshal Broussard shall not abuse the freedom. Officer Srch has been a team player, knowledgeable, well trained, and Marshal Broussard enjoys working with Officer Srch. Marshal Broussard is hopeful whomever replaces the Chief of Police position with retain the same relationship with the City of Merrill. Marshal Broussard thanked the City Council for time.

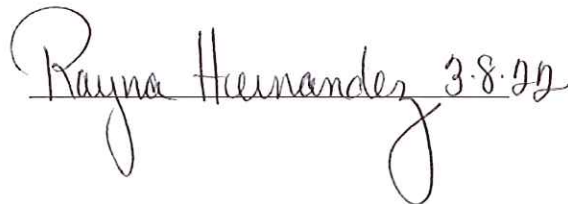
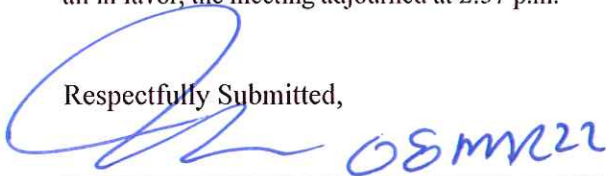
Mayor Carlson thanked Marshal Broussard and the City of Malin for the help in a challenging time.

Public Works Director Matthews thanked Marshal Broussard and the City of Malin City Council for responding when called and for patrolling the Potato Festival.

**ADJOURN MEETING:**

Councilor Carleton made a motion to adjourn the February 22, 2022 Meeting. Councilor Baley 2<sup>nd</sup> the motion. With all in favor, the meeting adjourned at 2:57 p.m.

Respectfully Submitted,



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Bill Carlson - Mayor

Date

Rayna Hernandez – City Recorder Date