

CITY OF MERRILL
SUPPLEMENTAL BUDGET HEARING
and
REGULAR BUSINESS MEETING
Tuesday January 26, 2021 6:00 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Tuesday, January 26, 2021 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 Picke, Councilor Carleton, Councilor Baley, Councilor McCollam, Mayor Carlson, and City Recorder Hernandez.

FLAG SALUTE:

The Flag Salute immediately followed with Mayor Carlson asking City Recorder Hernandez to lead.

OATH OF OFFICE:

- Oath of Office-Mayor Carlson: City Recorder Hernandez performed the Oath of Office. "I, Bill Carlson, do solemnly affirm that I will uphold and defend the Constitution of the United States and the State of Oregon; and uphold and defend the laws of the United States and the State of Oregon, and the Ordinances and Charter of the City of Merrill, and that I will, to the best of my ability, honestly and faithfully perform the duties of the Mayor, so help me God." City Recorder Hernandez congratulated Mayor Carlson.
- Oath of Office-Councilor Picke: Mayor Carlson performed the Oath of Office as a group. "I, Regina Picke; I, Dick Carleton; I Steve Baley; I Rodney McCollam, swear/affirm I will uphold the Constitution of the United States of America; the State of Oregon; the City Charter and Ordinances of the City of Merrill; and I will, to the best of my ability, honestly, faithfully, and lawfully perform the duties of City Councilor for City of Merrill, so help me God." Mayor Carlson congratulated City Council.
- Oath of Office-Councilor Carleton: *Refer to Oath of Office-Councilor Picke.*
- Oath of Office-Councilor McCollam: *Refer to Oath of Office-Councilor Picke.*
- Oath of Office-Councilor Baley: *Refer to Oath of Office-Councilor Picke.*

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
Council President Smith 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.

Jim Farmer (133 Monroe Street): "In the museum, the model 1868 57 Trap Door Single Shot Springfield Rifle, the third out conversion, The Eriskine Allin conversion, spelled ALLIN, was a master at Springfield, Massachusetts was established in 1794. Rifles like the one in the Klamath County Museum saw use in the Modoc (inaudible) War in 1872 and '73, and then there was a separate (inaudible) converting the Springfield Rifle Muskets to Civil War 58 Caliber Muzzle Loader to a new Breach Loader. It was a economic expedient. At that time Congress was a cut its expenditures to the U.S. War Department. So, there was 57 in 1873 the 45 70 Springfield was adopted, and it was contemporary with 1874 Sharp Single Shot Remington Rolling Block, which was designed by Leonard Geiger, improved on by Joseph Rider. So, that's my history lesson for the month."

Public Works Director Matthews stated the Merrill Historical War Museum houses a 57 Springfield owned by Frank J. Adams.

Jim Farmer (133 Monroe Street): "Yeah. I thought I saw two of them up in the museum. Most people don't even know about that kind of stuff."

Gary Robeson (405 Water Street): "I would like to reserve the right under public comment, at this time, for Code enforcement and/or under the Old Business about the easement in our neighborhood 36-97."
Mayor Carlson stated duly noted.

SUPPLEMENTAL BUDGET HEARING:

- Approve Supplemental Budget: City Recorder Hernandez stated the City of Merrill received a \$92,000.00 Grant from Oregon Department of Transportation to Chip Seal Third Street. The City of Merrill must pay the contractor and then Oregon Department on Transportation will reimburse the City. The Supplemental Budget is for the grant and the interfund loan. City Recorder Hernandez noticed the Water Improvement Project portion of the Supplemental Budget was missing a tabled Resolution 2021-837 and only sought approval for Resolution 2021-836.
- Resolution 2021-836: Appropriations per Budgetary Law: Councilor Carleton made a motion to approved Resolution 2021-836. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2021-837: Appropriations per Budgetary Law-Tabled.

CONSENT AGENDA:

- **Meeting Minutes:**
December 8, 2021 Council Meeting Minutes: Councilor Carleton made a motion to approve the December 8, 2021 Meeting Minutes and entire consent agenda. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- **Phone Poll:**
The WaterHole 2 Business License (Councilor Smith-Text Approved; Councilor Hinton-Verbal Approved; Councilor Carleton-Texted Approved) 3-0 in favor.
Rebuild Lincoln Street Pump \$1,800.00 Revised to \$2,200.00 (Councilor Hinton; Councilor Picke; Councilor Smith; Councilor Carleton) 4-0 in favor.
Refer to meeting minutes for motion.
- **Business License Renewals:**
 - 1. See Attached List:
 - 2. Wild Goose Lodge Business License Renewal:
 - 3. Merrill Motel Business License Renewal:
City Council amended the motion to approve the December 8, 2021 Meeting Minutes and entire consent agenda. Councilor Picke recused self due to conflict of interest as owner of the Wild Goose Lodge and Councilor McCollam recused self due to conflict of interest as owner of Merrill Motel. Councilor Carleton made a motion to approve the business licenses. Councilor Baley 2nd the motion. The motion passed 2-0 in favor with 2 recusals.
- **Business Licenses:**
- **Accounts Payable:**
December 2020 Account Payables: *Refer to meeting minutes and business license renewals for motion.*
December 2020 Water Transfer: *Refer to meeting minutes and business license renewals for motion.*

STAFF REPORTS:

- **Police:**
 - Marshal Bicknell submitted a report to City Council and read. Marshal Bicknell congratulated the new and returning City Council members with an emphasis on a positive working relationship between City Council, the community, and Merrill Police Department.
The past year has been a challenge to maintain peace and security for law enforcement in general. Marshal Bicknell thanked the citizens of Merrill for maintaining values and remaining dignified throughout the Country and State political controversies, which not all surrounding communities may claim.
Due to COVID-19, local law enforcement may only arrest a person-to-person felony crime or a domestic violence assault. The practice of the Merrill Police Department has been non-tolerance of misdemeanors and violations affecting peace and security of the community and has been an effective practice in reducing criminal behavior. Most non-domestic crimes reported within Merrill are committed by non-residents. Arrests are no longer a tool.

Arrests for warrants and misdemeanor crimes have given the City of Merrill the reputation as a non-sanctuary City. The Merrill Police Department have had several crimes and warrants where only citations and reports to the District Attorney's Office were issued for prosecution, which does not have the desired effect of a direct consequence for criminal behavior.

There has been an increase in criminal activity and mental health calls throughout the County; however, Merrill currently has not seen an increase. The Merrill Police Department has prioritized visible patrols and proactive measures. Positive relationships with residents and businesses are crucial to maintaining safety and security.

Marshal Bicknell provided annual statics.

Beginning February 1, 2021, possession of a controlled substance for personal use has been decriminalized. This includes methamphetamine, heroin, cocaine, opioid based prescription pain killers and more. Law Enforcement may only issue a \$100.00 citation and the defendant may chose to enroll in a rehabilitation program to dismiss the fine. If the defendant chooses neither option, no further legal action may be taken.

Marshal Bicknell discusses training and manual updates.

Marshal Bicknell sought approval to purchase tires from Les Schwab for \$920.00 per vehicle.

Councilor Picke made a motion to approve the purchase of tires with the provision Marshal Bicknell research whether three bids are necessary before purchasing in City Code. Councilor Carleton 2nd the motion.

- **Public Works:**

- Public Works Director Matthews submitted report and read: checked lifts; gathered water and sewer samples; well static level is 72 feet; completed DMR; hung pink tags and had shutoffs; performed multiple locates; cleaned restrooms; fixed three sewer plugs; dismantled Christmas decorations and thanked Tulelake for the use of City lift truck; removed holiday baskets; plowed snow twice; completed ODOT mileage report; completed ODOT bridge and street report; installed new light in office; welded broken hinges on Lincoln Street Lift Station; checked and added oil to Willow Street compressors; cleaned shop at transfer station; organized water and sewer clamps and fittings; sent maps to ODOT for ADA upgrade; met with ODOT regarding future projects on Front Street; built shelves in FireServe room; scraped parking lot; built around excavated water valve at #2 wellhouse; Recycled Water Report for DEQ in progress; excavated sewer line at City restrooms and added two cleanouts; moved police vehicle and speed limit trailer to old sewage plant; Part-time Laborer Roman Vazquez painted trim in City Hall; heater is not working at the pump station-Metal Masters.

- **City Recorder:**

- City Recorder Hernandez reported on completing and submitting year end taxes and retirement. City Recorder Hernandez stated attending meetings with Oregon Department of Transportation along with City staff and completing trainings.

- **Lawyer:**

- Report: City Attorney Jennifer Schade introduced self.

- **Code Enforcement:**

- Report: Marshal Bicknell reported on an ongoing case. Three notifications were mailed, and a citation was issued for "Junk Vehicles on Property". On the day of the court appearance, the resident complied. The citation was dismissed through the court. Code Enforcement will focus on "Appliances and Other Junk" next.
- Approve Citation: The citation was dismissed through the court due to compliance.

- **Planning:**

- Report: Planning Commission has a committee working on updating the *Development Code*.
- Discuss Five Year Plan: Councilor Carleton discussed the direction of the City in the next five years. The City lacks Commercial Property. The Holl Property is in the Urban Growth Boundary. The Holl's have expressed annexation. Councilor Carleton expressed the City should pursue in the future.

- Merrill Commercial Parcel 2: Bill Carlson recused self due to economic conflict of interest to discuss the second parcel. Bill Carlson communicated with Klamath County Surveyor and made preparations to file Zane Fernlund's map creating the second parcel to Merrill Commercial. There has been full payment made to escrow. There will be closing costs, which will be determined by AmeriTitle. Bill Carlson anticipates the closing will be this week or next. Councilor Carleton inquired whether Bill Carlson copied Broker Margaret Moore on the second purchase. Bill Carlson affirmed with the intention to purchase the second parcel. "There is potential interest with a retailer coming to town. If there is, this retailer's interest could become solid. They will make an offer. We would negotiate, and if they have, that comes to closure, we would actually file a second parcel map. That would give them parcel one and two. They would probably want around an acre of land, and we will see how that pans out." The County Surveyor stated no more than three parcels in one calendar year. Councilor Carleton discussed addressing parcel one and parcel two. Councilor Carleton inquired whether the street will be private, or City owned. Bill Carlson stated the intention is to name the street Stukel Mountain Drive. The project can dedicate the street to the City of Merrill; therefore, the street would be owned and maintained by the City of Merrill. The other option would be a private road maintained by the Homeowners Association. Bill Carlson recommended a dedicated road. Public Works Director Matthews inquired to the specifics of creating new street within City limits. Bill Carlson stated the street would be 36 feet right-of-way. The surveyor would map the street dedicated to the City of Merrill. Councilor Carleton stated an easement would be required. Bill Carlson stated the street would be an access and utility easement. Resident Gary Robeson inquired to the financial aspect of responsible party. Bill Carlson stated the Developer would pay for water, sewer, and street construction. Gary Robeson inquired to the installation of sidewalks. Bill Carlson stated there would be no sidewalks due to 12-14 residences and low residency. Marshal Bicknell stated the annexation of the Holl's property would encapsulate HWY 39 automatically incorporating the highway within City limits; therefore, increasing the possibility of reduced speed limits. Discussion ensued.

PROJECT MERRILL:

LOST RIVER ARTS AND CULTURAL ALLIANCE:

- Report: Public Works Director Matthews reported Merrill Historical Society has secured funding for the Nathan Merrill Headstone. The Merrill Historical Society donated \$1,000.00; Oregon Community Foundation donated \$1,000.00 on behalf of the City of Merrill; Merrill Police Department donated \$200.00 from Event Sponsorship; and \$200.00 donated from Merrill Public Works Event Sponsorship. Public Works Director Matthews thanked the donors. A \$1,200.00 down payment has been made to Eric Brorby. The headstone will have a likeness of Nathan Merrill, and the headstone should be set in the beginning of summer. Nathan Merrill passed in 1929 and has been without a headstone for 90 plus years. Nancy Merrill has the largest headstone in the cemetery. On the southside of Nancy Merrill, the locator detected a burial. The assumption the burial is Nathan Merrill beside Nancy Merrill. Lost River Bluegrass Festival is proceeding forward for July 9-10.

NEW BUSINESS:

- Appoint Council President: Councilor McCollam nominated Councilor Carleton as Council President. Councilor Picke 2nd the nomination due to City Council experience. Mayor Carlson stated a motion has been made and 2nd to appoint Councilor Carleton as the Council President. The motion passed 4-0 in favor.
- Discuss Appointment of Commissioner(s): Councilor McCollam has been appointed Street Commissioner. Councilor Carleton recommended Councilor Baley as Code Enforcement Commissioner. Councilor Baley was appointed Interim Code Enforcement Commissioner. Councilor Picke expressed interest as Police Commissioner.
- Discuss ODOT Safe Routes to School (SRTS) Grant Planning: Mayor Carlson directed attention to the map on the television screen. The map depicted extended curbs designed to reduce speed and increase pedestrian visibility. Public Works Director Matthews stated Mayor Carlson, Councilor McCollam, Marshal Bicknell, and self, met with Oregon Department of Transportation (ODOT) addressing crosswalks and extended curbs. The extended curbs would substitute for painted curbs. Washington Street, Jefferson Street, and Main Street would be redesigned. Parking would be lost; however, parking would be lost if the

curbs were painted 20 feet in each direction. Enhanced crosswalk signals were discussed as well. A planter on the eastside of town would be an option to reduce speed. Falvey Road redesign was discussed with ODOT. The Safe Routes to School are for sidewalks on the eastside and westside of town. Public Works Director Matthews stated the overall project is estimated to be realized in 2025 due to engineering, right-of-way, and ODOT. Whereas the ADA ramp construction will begin in 2021 and the sidewalks on Front Street may be sooner due to a statewide lawsuit.

- Bank Authorization Letters: City Recorder Hernandez stated two letters are being presented to City Council for bank authorization to sign on all accounts on the City behalf: Councilor McCollam, Councilor Baley, Councilor Carleton, Councilor Picke, and Mayor Carlson.
- Clarification in Code Enforcement Organization: Mayor Carlson stated the goal of maintaining a steady Code Enforcement Organization. Two officers were appointed as primary Code Enforcement Officers months prior. Mayor Carlson would sign a citation in the event neither officer was available. Mayor Carlson appointed City Clerk Northcutt a Clerical Code Enforcement Officer authorized to sign citations as a witness, processing files, and maintaining records, which is the primary evidence presentation in court and provides credibility. City Clerk Northcutt would not patrol, solely clerical. Mayor Carlson appointed Councilor Baley as a Code Enforcement Officer.

OLD BUSINESS:

- Enforcement of Conditions of Approval for Merrill Solar: Councilor Carleton stated on March 15, 2021 the solar company will begin installing slats in the fence. The slats will be 6 feet in height. Bower's Fencing is the contractor and has been paid a deposit. The materials were ordered January 26, 2021. The screening condition of approval has been met. The letter with the appropriate water agency is non-compliant. Signed documentation between the solar company and water authority must be submitted to maintain Water Rights. Water not used in five years results in the permanent loss of Water Rights. Councilor Carleton suggested directing the issue to City Attorney Jennifer Schade and fine the company. Mayor Carlson stated the City fined the solar company and payment has not been received. The City of Merrill is seeking a signed water agreement between the developer and water agency, and the developer has an outstanding fine. Discussion ensued. A letter was mailed on October 13, 2020. City Attorney Jennifer Schade stated an email was received January 26, 2021 where the solar company has submitted documents to retain the Water Rights. City Attorney Jennifer Schade stated verification of the issues involved. A meeting will be scheduled with City Attorney Jennifer Schade. Discussion of the responsible party ensued.
- Discuss Resident Easement Letter to City Council (Bement's Presenting):
Carol and Don Bement (431 Water Street): "My name is Carol Bement. My name is Don Bement. And we would like Gary Robeson to speak for us."
Gary Robeson (405 Water Street): "The situation with the easement and the infringement is rather recent, and the problem with the infringement is described as a big steel, cargo container that is usually used in shipping, 40 feet long, 8 ½ feet tall, 8 feet wide, and it was located on the property. The Bragg Property. On the eastside. And subsequently, recently, within 90 days, they moved it to the west. And so, what we recognize, in the neighborhood, is that the proper (inaudible) of the container to the easement on Land Partition 56-97 was in question. So, we mapped, had it surveyed by Tru-Line of their property line and the easement. And the survey stakes are out there. So, the City can measure it, or Code Enforcement, Planning Commission, and reveals that the shipping container is 18 feet away from the west boundary of the easement, or 18 ½ feet. It varies. It's not perfectly straight. So, it is infringing on that easement by approximately two feet, in general terms. And it is non-exclusive public easement. Well, to stop fuel trucks from coming in and do propane gas services and/or fuel. Waste Management comes in weekly and uses the easement to pick up the garbage service, and of course, it needs to be available, the easements, and not be infringed upon whether it be a fire truck or an ambulance. And also, we need to point out, the easement isn't really wide enough for two-way traffic, and, so, our whole neighborhood is made upon two easements. One, Scronce's when they did it and Roller's when they did it. The easement on the eastside of the property is 16 feet wide, the westside is 20. So, why would we say anything? We depend upon those easements for the only access to our property. So, unlike an ally, an alley, there's lots of alley's in Merrill. And the Code Enforcement says an alley, there's a two-foot set-back, but the alleys are just used between residences. They're not really the purpose to serve residences. So, they are provided a two-foot set-back, but when you do this City of Merrill Code, there is not subject about set-back. There is for alleys. There is for other purposes. And so, what we are saying is, silence or no statement on the existence of a set-back for an easement isn't covered, doesn't mean that there is zero. If it were meant to be zero, then the City Code

would say easement no set-back. Alleys two feet. Everything with obstruction to property (*inaudible*), but nothing on easements. So, we are saying if there is no set-back on easements (*inaudible*), the meeting we had in October or November, we said, 'draw it up'. The Mayor said, 'If there is a lack in the City Code section, we probably rely on the County'. So, I went to the County, and I presented the letter after that for the City Council consideration. And the County people went anything they do (*inaudible*) would at least dictate two feet. Normally it would be five, but when there's different cross purposes, it is a two-foot set-back on easements. And so, that has been why we're on this subject. Our position is, for example, if you...where Paul Friebe's property, Vyrna's property, my property, in between us is Friebe's property, and he is planning on building there. So, if you start bringing in trusses, concrete trucks, any of these things, these easements need to be protected, and not in favor of anybody at any level. And also if the set-backs need to be appropriate to maintain a reasonability (*inaudible*) for two-feet. (*Inaudible*) and that is what we are asking the City to consider. In fact, we are asking the container to be moved back two feet to the east, and also a set-back of two-feet. So, the reason the container is setting exactly where it is when the Bragg's, there backyard portion is enclosed, they wanted to park there between there and the container. So, the container is out far to allow for parking, and on that big lot, they want to park right there. I think that has mostly been their motivation that it infringes upon the easement. (*Inaudible*) so that is all we are asking. Mayor Carlson inquired if the private easement is on private property. The public would have an interest in an alley due to an alley being public land. Does the public have an interest on private property? Gary Robeson (405 Water Street): "It's an easement provided on your deed for the land partition. So, it is more important than an alley. Alleys aren't used to access residences. So, the public purpose is to provide our residences with garbage service, ambulance service, fuel truck service, and anything else that may come up. And it is not even approved for two-way traffic. So, often when we go in because of how people park, and maybe they are doing some odd project, they park in one of the easements, and it restricts, so we just use the other easement. So, the two easements combined, we always want to make sure we have one route in-route for any means on a daily basis."

Mayor Carlson recognized City Attorney Jennifer Schade.

City Attorney Jennifer Schade: "Can I ask you a couple questions just so that I understand? I do not know people's names or the property, but was the property owned by like a landowner or in that area?"

Gary Robeson: "Ted Roller."

City Attorney Jennifer Schade: "Ted Roller. Okay. So, he granted an easement to lots behind his property?"

Gary Robeson: "In order to do the land partition, he had to provide an easement."

City Attorney Jennifer Schade: "Okay. So."

Gary Robeson: "It was required in order to get the land partition."

City Attorney Jennifer Schade: "Okay. So, he provided an easement on his land to the lots that are partitioned behind him?"

Gary Robeson: "Roller wanted to develop the property. So, they provided the easement. Not Bragg, and Bragg was dictated by the easement when he paid for the property."

City Attorney Jennifer Schade: "Okay. Well, that is what I am saying. So, there is a landowner who granted an easement to another landowner so they can get to their property?"

Gary Robeson: "Yes. For our entire neighborhood."

City Attorney Jennifer Schade: "Okay."

Gary Robeson: "So, Roller's easement, excuse me, land partition went all the way down the (*inaudible*) to none of the residences. So, there's Bement's on one-side, Bragg's on the other side, (*inaudible*) but still exists as an access. (*Inaudible*) goes north and south all the way down to the river, and so there's another (*inaudible*) Roller land partitioned and provided access to that property. It's called a non-exclusive public for utilities and for pub....not for any one individual. It's for the property for the owners in the area for their access. Otherwise, it would be (*inaudible*).

Councilor Carleton inquired whether the easement was on private property. One private party granted an easement to a second private party. Is that correct?"

City Recorder Hernandez drew a sketch of the discussed property for City Attorney Jennifer Schade.

Carol Bement (431 Water Street): "To the public."

Gary Robeson (405 Water Street): "To the public. It's a non-exclusive."

Councilor Carleton inquired whether the easement was on public or private property.

Gary Robeson (405 Water Street): "It's created public property by the easement."

Carol Bement (431 Water Street): "To the (*inaudible*) sign."

Gary Robeson (405 Water Street): "It's not a private driveway. It's a non-exclusive public easement utility for ingress and egress, and that includes our services."

Councilor Carleton referred the matter to City Attorney Jennifer Schade.

City Attorney Jennifer Schade: "Okay. So, I do not know for sure so do not quote me on this, but based on his description that he said, it's not a City issue cause it's not City property that they granted easements on or has an easement too. What it is, is a civil issue between neighbors. It is an easement that was granted, and if that is encumbering on you to use that easement, then you basically have to sue your neighbor to stop impeding your use to use that easement."

Gary Robeson (405 Water Street): "So, let me ask you this question. So, say we think, say we nonconclusive, how would we appeal that? Do I have to go to a court? How do I proceed?"

City Attorney Jennifer Schade: "Well, that's a very good question. To be honest with you, I do not know the exact procedure of that. You could attempt to go into the court. The issue is also (*inaudible*) with an easement, it's whether your use is prohibited. If your use isn't prohibited from it, your claim is unchartered. Your still able to access the easement, and your still able to drive on it, I don't think...I have to be honest. I'd have to research setbacks. I am unaware of when people grant easements or driveways that there's actual setbacks provisions. So, I would have to look into the language of the easement, if it became a City issue, but I don't believe based on what you're telling me that it is a City...it wasn't an easement that the City granted that the City has any authority to enforce. It's a private easement that was provided by the individual who developed the area, so it's among the neighbors."

Gary Robeson (405 Water Street): "I would just like to have note how to appeal if it becomes a City issue. I would like the City to tell us how we appeal if that's our course."

Councilor Carleton stated City Attorney Jennifer Schade provided the information. The easement is not a City issue.

Gary Robeson (405 Water Street): "Well, I am going to make it a City issue. I'm going to investigate. I'm not threatening anybody. I'm...it's not an acceptable answer. So, there's a public easement, and the City says, 'We have nothing to do with it, it's, uh, not our deal, not our jurisdiction'. Is that basically what's being said?"

City Attorney Jennifer Schade: "Correct. An easement is not a public easement simply because the public can use it. It was a private property, but the gentleman granted easements to individuals who purchased the property. It was never owned by the City, and the City never granted an easement or are using it, and it's not the City asking for an easement, so they have to maintain it. It's my understanding of what you told me, and obviously I do not have the documents in front of me. I do not have exact images of the deeds, but that's my understanding of what you have described."

Mayor Carlson stated the action item to have the City Attorney research the easements. Mayor Carlson asked Resident Gary Robeson to supply the easements to the City Attorney.

Gary Robeson (405 Water Street): "I can do that. Thank you very much."

- Discuss Fourth Street Encroachment: Mayor Carlson stated the building on the south-side, east-end of Fourth Street is encroaching into the public right-of-way by approximately 10 feet. A significant encroachment. The property is seeking to be sold and owned by a bank. The bank approached the City prior to recognize the encroachment. The City proposed mitigation, which was unacknowledged. Discussion has been to have the property surveyed, negotiate to have the property released, and include a monetary exchange. Councilor Carleton stated the City may not release the encroachment. The first step is to provide a survey. The City needs to know the extent of the encroachment. City Attorney Jennifer Schade stated the proper step would be to contact the owner about the encroachment, provide a survey; otherwise, discussions would involve moving the building or purchasing the portion the building is encroaching upon. The action item was taken for Mayor Carlson and City Recorder Hernandez to develop a letter and have City Attorney Jennifer Schade approve. City Attorney Jennifer Schade would release the letter. City Council unanimously supported the action items.

ORDINANCES:

- Bill 2029-Amending Development Code Chapter 2.2.400 (B) Residential Districts-Special Use Standards; Agricultural Uses: City Recorder read Bill 2029 into the record and sought recommendations on the first reading. City Attorney Schade suggested defining bee colony. The action item was made for Planning Commission to define bee colony for the Development Code. City Council agreed to the first reading.
- Bill 2030-Amending Chapter 155.022 (3) Residential Zone; Merrill Land Use: City Recorder read Bill 2030 into the record and sought recommendations on the first reading. City Attorney Schade suggested

defining bee colony. The action item was made for Planning Commission to define bee colony for the Code of Ordinances. City Council agreed to the first reading.

- Bill 2031-Amending Development Code 5.2.300-Non-Conforming Developments (B) Destruction; Non-Conforming Uses and Developments: City Recorder read Bill 2031 into the record and sought recommendations on the first reading. City Recorder Hernandez stated the verbiage is from Klamath County Code. The topic arose during the sale of a residence zoned commercial. City Council agreed to the first reading.
- Bill 2032-Amending Development Code 2.2.120-General Residential Zone R-1 Development Standards Table 2.2.120 Dimensional Standards for the R-1 Zone: City Recorder read Bill 2032 into the record and sought recommendations on the first reading. Marshal Bicknell opposed the change of front fence height from 4 foot to 6 foot due to security reasons. Councilor McCollam was in favor of the change. Councilor Picke stated opposition and asked for the Bill to be revisited at a future date. City Attorney Schade also stated opposition to the front fence height due to Code Enforcement and Klamath County Code. Resident Teresa Perry researched Klamath County Code as 4 foot in front and 7 foot in rear. City Council consensus was to have the Planning Commission review the fence height.
- Bill 2033-Amending Development Code Chapter 2.2.230 Residential District Building Orientation B (2) Building Orientation Standards for all Development: City Recorder read Bill 2033 into the record and sought recommendations on the first reading. City Council agreed to the first reading with the removal of non-essential verbiage.
- Bill 2034-Amending Development Code Chapter 2.2.230 Residential Districts-Building Orientation Standards for Site Design Review C (1); b (4): City Recorder read Bill 2034 into the record and sought recommendations on the first reading. City Council agreed to the first reading with the removal of non-essential verbiage.
- Bill 2035-Amending Development Code Chapter 2.2.300 Residential Districts-Architectural Design Standards Design Standards C (3): City Recorder read Bill 2029 into the record and sought recommendations on the first reading. City Council agreed to the first reading.

RESOLUTIONS:

- Resolution 2021-835: Authorizing Signatures on Bank Accounts: Councilor Carleton made a motion to approve Resolution 2021-835 Authorizing Signatures on Bank Accounts. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2021-838: Transfers to Comply with Budget Law Requirements: Councilor Picke made a motion to approve Resolution 2021-838 Transfers to Comply with Budget Law Requirements. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2021-839: Adopt COVID-19 Statement: Councilor Picke made a motion to approve Resolution 2021-839 Adopt COVID-19 Statement. Councilor McCollam 2nd the motion. The motion passed 4-0 in favor.

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.

Gary Robeson (405 Water Street): "Regarding the fences, one thing I think is important is visibility. Someone puts up a cyclone fence is totally different than a solid fence. Especially in the front yard, and if you allow some people to have six feet, five feet, four feet. Some people like a four-foot picket fence. You see right through there. I think Brian's comments on, Marshal, law enforcement official in this area, the idea that someone put up a six-foot fence and possibly obscure vision, really does affect the community's security and his job, and makes it more danger for him to approach some residences. Especially if it is a domestic problem."

Councilor Carleton inquired whether Resident Gary Robeson was addressing the front fence height.

Gary Robeson (405 Water Street): "Yes. Only the front fence, but I do think visibility is a validation because a cyclone fence gives you a lot of visibility, picket fence gives you a lot of visibility, but when you are

approaching that, and if you have a staggered community, where someone builds a five foot fence, someone builds a four foot fence, someone builds a six foot fence, I think the adoption of a four foot, for example, should remain.”

ADJOURN MEETING:

Councilor Picke made a motion to adjourn the January 26, 2021 Meeting. Councilor Carleton 2nd the motion. With all in favor, the meeting adjourned at 7:54 p.m.

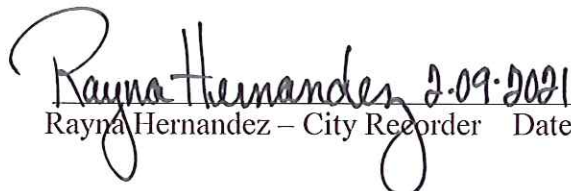
Respectfully Submitted,



Bill Carlson - Mayor

09 FEB 21

Date



Rayna Hernandez – City Recorder Date