

CITY OF MERRILL
SPECIAL BUSINESS MEETING
(ORS 192.640(3))
Thursday, June 30, 2022 5:30 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Thursday, June 30, 2022, Special Business Meeting to order at 5:30 p.m.

ROLL CALL:

Roll call was taken with the following members of Council and others being present: Councilor Johnson, Councilor Gatliff, Councilor Baley, Councilor McCollam (telephone), Mayor Carlson, and City Clerk Northcutt.

FLAG SALUTE:

The Flag Salute immediately followed with Mayor Carlson requesting Councilor Gatliff to take the 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 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.

CONSENT AGENDA:

NEW BUSINESS:

- Discuss Police Organization: City County Insurance advised personnel issues to be completed before organizational issues are discussed. Personnel issues are effectively complete, which may not be discussed except in Executive Session. The City of Merrill discussed contracting with Klamath County, which is a non-option. Klamath County will not contract due to limited personnel. Mayor Carlson thanked Marshal Broussard and the Malin Police Department for their services; however, the City of Merrill must compensate the Malin Police Department for long-term services. Another unfavorable option is operating the Merrill Police Department without proper supervision. Police Commissioner Baley has performed well with the assistance of Mayor Carlson, but both are not certified police officers, and to continue the Merrill Police Department without such creates liability. Councilor Baley opined disbanding the Merrill Police Department and reorganizing at a later date. Councilor Johnson inquired to the repercussions of disbanding with personnel on administrative leave. Mayor Carlson stated the officer is no longer on administrative leave. Councilor Johnson inquired whether the City of Merrill would be obligated to rehire former personnel if the City of Merrill decides to reorganize. Mayor Carlson attempted to respond until Councilor Baley inquired to who was no longer on administrative leave. Mayor Carlson stated the officer. Councilor McCollam inquired to further details on disbanding and personnel statuses. Mayor Carlson stresses the importance of not discussing personnel issues; however, Officer Srch is released from administrative leave. Councilor Johnson inquired who determines the date of return. Mayor Carlson stated self. Councilor Johnson inquired to supervision. Mayor Carlson stated Officer Srch is not a Police Chief. Mayor Carlson stated two options. Option two is disbanding and contracting with Malin Police Department. Councilor Johnson directed the question of contracting to Marshal Broussard. The contract would have to be approved by Malin City Council. Marshal Broussard updated City Council on the activities of Malin Police Department, within the City of Merrill, by self and Officer Hoy that pose no bearing upon the City Council

decision. Malin Police Department has been in the City of Merrill daily. There was a homeless problem, traffic, among other issues. Marshal Broussard stated the City of Merrill would be in a mess without the Malin Police Department. There was a fight the evening of June 29, 2022. Individuals with substance abuse dependency are starting to migrate into the City of Merrill and toward City of Malin. City of Malin is funding Malin Police Departments patrols to City of Merrill. Marshal Broussard listed other calls for service. Beginning August 1, 2022, Basin Transit Service will begin routes to City of Merrill and City of Malin. 20-30% of occupants are good citizens with seniors as the majority. The other percentage is the potential criminal element. There are limitations on the homeless due to legislation. If the Malin Police Department fails to respond to calls in City of Merrill, due to statute, there would be failure to perform duties. The situation is not bettering, but the situation is under control by responding to service calls. Officer Hoy stated the City of Malin will lose Marshal Broussard in December 2022 with no replacement. Officer Hoy refused further application processes with City of Malin. There is a push to limit the patrols of Malin Police Department within City limits. Members of City Council do not want contracts. In December, the efforts of Malin Police Department may no longer assist City of Merrill. Officer Hoy has a personal interest in City of Merrill. Contracting is not a guarantee, and the City of Merrill should consider the long term. Public Works Director Matthews praised the Malin Police Department and reiterated the service calls. Resident Cindy Taylor reiterated Public Works Director Matthews praise. Discussion of homelessness ensued. Marshal Broussard stated the City Council may continue law enforcement assistance. A City Councilor suggested assigning Officer Hoy to the City of Merrill Contract. Mayor Carlson suggested options Officer Hoy as Interim Marshal as the police supervisor or disband the Merrill Police Department and contract with the City of Malin. The City of Merrill has \$20,000.00 budgeted for contracting services for 15 hours per week for 3 months. The City of Malin previously offered services for \$100.00 per hour. Councilor Johnson requested an Executive Session to discuss personnel issues. Dates for Executive Session ensued. Councilor Baley addressed the \$7,000.00 set aside for Malin Police Department Contracting that has not come to fruition. Councilor Baley voiced frustration. Mayor Carlson suggested increasing the contract to \$125.00 per hour if the City Council chooses to disband. Resident Cindy Taylor inquired to the position of the employee released from administrative leave. Mayor Carlson stated that if there is no Police Department than there are no police. Marshal Broussard offered the City of Merrill Police Department free supervision. A Police Department cannot exist without supervision. Councilor Johnson inquired whether the Malin Police Department will have to employ Officer Srch as another public entity if the City of Merrill decides to contract. Marshal Broussard state the Malin Police is not taking over the Merrill Police Department. Instead, the Malin Police Department would be contracting for services. Marshal Broussard stated the City of Merrill could hire Officer Hoy as an Interim Marshal to guarantee police presence. Officer Hoy discussed other agencies hiring practices. Marshal Broussard stated the Marshal must authorize employees to work on days off for another agency. Marshal Broussard stated assigning Officer Hoy as the primary officer to City of Merrill if the City of Malin agrees to a contract. Contracting and absorbing employees ensued. Mayor Carlson stated a third option after discussions is disbanding the Merrill Police Department and contracting with an individual officer from an outside agency. Resident Cindy Taylor questioned what happens to the employee employed by the City of Merrill once the department is disbanded. Mayor Carlson stated there would not be a Police Department. Resident Cindy Taylor stated the employee is "coming back". Mayor Carlson stated only if the Police Department is maintained. Councilor Johnson questioned the future of City of Merrill if City of Malin decides not to contract. Councilor Gatliff questioned the direction once the \$20,000.000 in three months has been expended. Mayor Carlson stated that a \$200,000.00 budget exists for the Police Department. Councilor Johnson inquired to the limit before reinstating the Police Department. Marshal Broussard stated historical reinstatement and reiterated discussions. Councilor Johnson inquired whether disbanding is similar to a layoff. The answer was unknown. Marshal Broussard recommended contractual procedures with the City of Malin. Mayor Carlson recommended disbanding the Merrill Police Department and contract with the City of Malin for three months at a rate of \$100.00 per hour. Officer Hoy stated the City of Malin pays a fifth lower than the City of Merrill. Officer Hoy works few hours with the City of Malin to supplement income. Officer Hoy would have to negotiate wages under \$20.00 per hour. Councilor Gatliff sought clarification and reiterated the discussions as heard. Mayor Carlson affirmed. Marshal Broussard discussed mutual aid, contracting, and professional expectations. Councilor Gatliff inquired to insurance coverage. Marshal Broussard stated the City of Malin would coverage insurance. Councilor Gatliff stated opposition to the first option, but the City of Merrill needs a back up plan. Councilor Gatliff praised the efforts of Malin Police Department. Councilor Gatliff favored contracting with the City of Malin and expressed

compensating the Malin Police Department for their services. Councilor Johnson stated the City of Merrill attempted to at the refusal of City of Malin City Council. Mayor Carlson recommended contracting with the City of Malin at a rate of \$125.00 per hour for three months to show appreciation for excellent services. Marshal Broussard stated "a limited time" instead of three months. Disbanding the Police Department would end personnel positions. There is existing service from Malin Police Department that would continue and be augmented by the Neighborhood Watch. Offer City of Malin \$125.00 per hour to express appreciation for excellent service for the next three months. Reassess the situation in two and a half months and move forward. Councilor Baley recommended disbanding the Police Department and presenting a contract at the next City of Malin City Council Meeting. Discussion of Levels of Officers, certifications, wages and the like ensued. Councilor McCollam favored disbanding the Police Department and contracting with the City of Malin with discussions in the interim. Councilor Baley made a motion to disband the Police Department. Councilor Gatliff 2nd the motion. The motion passed 3 in favor, 1 against (Councilor Johnson). City Council discussed the budget and the number of hours to propose to City of Malin: \$125.00 per hour for next three months to 6 months for 15 hours per week. Councilor Baley reduced the amount to \$100.00 per hour. Marshal Broussard suggested 20 hours per week. Officer Hoy suggested a meeting with an Interim Marshal. Discussion of budget ensued. Councilor McCollam stated contracting for 15 per hour with verbiage that would allow for extra hours if needed. Councilor Johnson inquired to the number of hours City of Malin is averaging in City of Merrill. Marshal Broussard stated 70-100 hours per month not in addition to telephone calls. Chief Ken Summer answered questions in regard to disbanding and prefaced updates to the law. If an entity contracts with another agency at the same of disbanding, then the entity is required to absorb employees by statute. If an entity disbands and contracts at a future date or decide to resurrect, then the other agency is not obligated by statute to absorb employees. Councilor Johnson stated that since the City of Merrill disbanded the Police Department tonight, and a contract with City of Malin is not in place, the City of Malin does not have to absorb the employee. Chief Ken Summer's affirmed. Councilor Gatliff inquired to the timeframe the City of Merrill has before contracting. Chief Ken Summer's stated that would be a question for the City Attorney before free from the obligation; however, Chief Ken Summer's is of the belief that if the actions are not taken in unison, then the entity is free of the requirement because negotiations were not discussed previously. Councilor Baley stating discussing contracting previously with no follow through. Chief Ken Summer's opined no requirement but would be a question for legal counsel. Officer Hoy questioned whether the statute involves past employees or with the disbanding or reopening of a Police Department. Chief Ken Summer's stated the statute simply deals with one government entity taking over the obligations of another government entity. For example, if the Sheriff's Office was taking over law enforcement for the City immediately upon disbanding, then the entity would absorb the employee. If disbanding and contracting are tow separate acts, and there is not any declaration for absorbing employee's then the entity does not have to absorb employees. Officer Hoy inquired to an agency contracting as its own entity for a limited number of hours. Chief Ken Summer stated that would definitely be a factor. Whereas an entity has two full-time employees and is seeking contracting for lesser hours per week is a factor and circumventing any statute that would require the previous employees from being absorbed. Councilor Johnson inquired to the time frame between reinstating the Police Department and rehiring previously employees. Chief Ken Summer stated the question would be for legal counsel and recommended consulting with LGPI. Officer Hoy inquired to the acronym. Local Government Personnel Institute is a state agency that works with Police Departments and Cities or League of Oregon Cities. Marshal Broussard reiterated the question of contracting for 20 hours per week without taking over the Merrill Police Department whether the City of Malin would have to absorb an employee. Chief Ken Summer stated negative because the City is not closing down a Police Department and instituting another, the agency is simply contracting for a number of hours. Discussion of finances and Police Department reinstatement ensued. Marshal Broussard stated for the record that the City of Malin Police Department is in attendance for advice on police procedures and have no bearing on contracting nor decisions on City of Merrill employees. Mayor Carlson will communicate City Council decisions to employees in regard to disbanding the Police Department. Discussion about contracting ensued. The advice was to have the City Attorney compose the contracting proposal. Police Commissioner Baley will attend the July 2022 Malin City Council Meeting. Officer Hoy discussed public reception and press release of disbanding Merrill Police Department.

- Oregon Department of Transportation Applicant and Roadway Authority: Public Works Director Matthews discussed the Falvey Road Project. There was no objection from City of Merrill having Public Works Director Matthews sign as the Roadway Authority.

- City of Merrill Audit Engagement Letter: City Council approved Mayor Carlson to sign as governance to proceed forward with the fiscal year 2021-2022 audit.

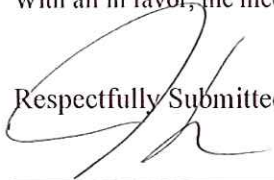
PUBLIC COMMENT:

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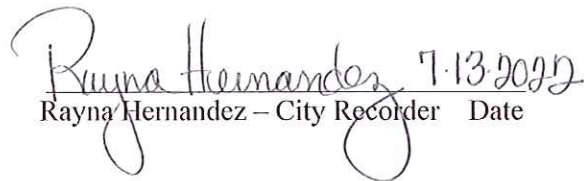
Public Works Director Matthews: Public Works Director Matthews stated concern over the Mayor injecting himself without authority. Public Works Director Matthews stated reporting to the City Council. Public Works Director Matthews assumed the Mayor attempted to issue a reprimand after Public Works Director Matthews refused discussions without representation three times. Disagreement between the Mayor and Public Works Director Matthews ensued regarding documentation. Annexation and Swisher Road Project will be brought to City Council for City Council approval. The accusation that Public Works Director Matthews met with City Attorney Ratliff is false. Mayor Carlson stated someone met with City Attorney Ratliff. Public Works Director Matthews stated City Engineer Darryl Anderson met with the City Attorney and those communications were emailed to the Mayor. Mayor Carlson stated Public Works Director Matthews was directed to have Mayor Carlson participate in those directions. Public Works Director Matthews stated there was no conversation that public works was included in. Mayor Carlson stated performing dozens of annexations, which is always a negotiation. Public Works Director Matthews stated City Engineer Darryl Anderson has performed more than a dozen and has finished. Public Works Director Matthews personally gained approval from each resident without heavy handedness. Public Works Director Matthews stated the Mayor attempted to circumvent the City Council. Agendize terms and conditions of the Annexation Agreement. Public Works Director Matthews stated the City Engineer will compose a Letter of Consent with a legal description, which will be brought before City Council for recommendation, not the Mayor. Public Works Director Matthews stated submitting the Swisher Road Water Project to City Council to vote upon. The Mayor does not have a vote. Mayor Carlson inquired what the rate payers are receiving in exchange for the annexation and Swisher Road Water Project. Public Works Director Matthews stated the money is \$275,000.00 Federal Grant funding. Mayor Carlson stated the funds could have been used to expand the existing water system. Public Works Director Matthews stated the funding is being used to expand the existing water system through the Swisher Road Project, extending Fourth Street, and upgrading the alley. Disagreement of funding ensued and chain of command. Street Commissioner McCollam had no comment.

ADJOURN MEETING:

Councilor Johnson made a motion to adjourn the Thursday, June 30, 2022 Meeting. Councilor Baley 2nd the motion. With all in favor, the meeting adjourned at 7:22 p.m.

Respectfully Submitted,

 Bill Carlson - Mayor

7/2/22
 Date


 Rayna Hernandez - City Recorder

7-13-2022
 Date

FOLDER A #39