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**REGULAR BUSINESS MEETING**

Tuesday March 9, 2021 6:00 P.M.

**MEETING CALLED TO ORDER:**

Mayor Carlson called the Tuesday, March 9, 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:**

No Flag Salute followed.

**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:**  
March 9, 2021 Council Meeting Minutes: Councilor Carleton made a motion to approve the March 9, 2021 Meeting Minutes and entire consent agenda. Councilor McCollam 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- **Phone Poll:**
- **Business License Renewals:**
- **Business Licenses:**  
El Jefe Restaurant- *Refer to meeting minutes for motion.*
- **Accounts Payable:**  
February 2021 Account Payables: *Refer to meeting minutes for motion.*  
February 2021 Water Transfer: *Refer to meeting minutes for motion.*

**STAFF REPORTS:**

- **Police:**
  - Marshal Bicknell submitted a report to City Council. Marshal Bicknell reported self and Officer Srch have received several hours of online training. Police are required to receive 80 hours of training every two years and other mandatory trainings in Use of Force, CPR, and Ethics. Marshal Bicknell completed editing the Merrill Police Department Policy Manual. Each section is being reviewed, signed, and an electronic record. Daily training bulletins on policies is next. No crimes have been reported this year. The Merrill Police Department has assisted other agencies outside City of Merrill jurisdiction. The Merrill Police Department has been proactive by patrolling heavily and deterring criminal behavior. The Merrill Police Department has been working on the Oregon Department of Transportation (ODOT) Grant by targeting high speed violations on Highway 39, which has resulted in multiple 80 mph plus citations. One citation was written for 111 mph. Visibility along Front Street has been a priority.

Marshal Bicknell listed activities for the month.

Councilor Baley inquired whether the 111 mph speeding ticket could constitute jail time. Marshal Bicknell stated the speed could have been articulated as reckless driving; however, due to COVID, the individual cannot be arrested. There is a specific statute for 100 plus mph, which states \$1,150.00 fine and a mandatory 30 day suspension. The driver also has no insurance.

Councilor Baley inquired whether the speed trailer was working. Marshal Bicknell responded with a negative.

Marshal Bicknell updated the City Council on Officer Srch's vehicle repair.

Councilor McCollam inquired whether the South Merrill Road issued has been addressed. Marshal Bicknell responded with a negative; however, South Merrill Road was patrolled occasionally since the February 9, 2021 City Council Meeting.

- **Public Works:**

- Public Works Director Matthews was absent with no report submitted.
- Water Quality/Consumer Confidence Report submitted for the record.

- **City Recorder:**

- City Recorder Hernandez submitted report and read: City Recorder Hernandez stated the audit was submitted September 2020 and contacted the auditor January 4, 2021. The auditor has been unable to reconcile the new accounting software with the old accounting software; therefore, the 19/20 fiscal year is also being entered into the old system. An extension was filed and approved with a submission deadline of March 31, 2021. The auditor will not be able to begin the audit until April 2021 because of tax season. City Recorder Hernandez stated mailing and posting the Annual Water Report; contacting Hunter Communications for Quarterly Franchise; invoicing the scheduled PILT dues; emailed the encroachment letter to the City Attorney; City Clerk Northcutt and Marshal Bicknell attend the CIS Conference; attended FEMA teleconference; and other administrative duties.
- Appoint Budget Committee and Budget Officer (Teresa Perry, Jesus Fernandez, David Wade, Vacancy): Councilor Carleton made a motion to appoint the Budget Committee. Councilor McCollam 2<sup>nd</sup> the motion. The motion passes 4-0 in favor.  
The vacancy has been posted in the *Merrill Tidings* and a couple of residents have been contacted with no results. The Budget Committee lost Councilor Baley and Councilor Picke was residents once voted into office.

- **Lawyer:**

- Report: The City Attorney is working on the Fourth Street Encroachment.

- **Code Enforcement:**

- Report: No activity to report.

- **Planning:**

- Report: (*Mayor Carlson recused self due to conflict of interest*) Dawn Trotman is the Planning Commission Chairman. The Planning Commission is working with Developer Bill Carlson on the Merrill Commercial Property. A preliminary plat has been submitted for review by City Engineer Darryl Anderson. The Planning Commission is working on updating the Development Code with assistance from Klamath County Building Code Enforcement Officer Earl Perry. The purpose of the Planning Commission is to review Development Code before City Council presentation and stated the desire for City Council to compliment Planning Commission's decisions instead of opposing them from past history. Bill Carlson stated the Planning Commission has been spending countless hours reviewing the Development Code.

**PROJECT MERRILL:**

**LOST RIVER ARTS AND CULTURAL ALLIANCE:**

### NEW BUSINESS:

- Discuss Ronald Holmes/Kathleen Haner Potential Business Plans: No action as Ronald Holmes and Kathleen Haner were absent.
- Police Patrols Outside City Limits: Marshal Bicknell stated there has been no change since the February 9, 2021 City Council Meeting. Teresa Vaughan inquired whether the issue has been discussed about implementing a Fire District. Teresa Vaughan stated the speeding has become worse. Marshal Bicknell inquired whether Teresa Vaughan has discussed the speed issue with the Sheriff's Office, Lieutenant Swan for extra patrol. John Walling stated contacting the Sheriff's Dispatch Office last year whom stated that the office did not have the staff for extra patrol. Marshal Bicknell stated the situation has changed and suggested revisiting the issue. Councilor Carleton inquired whether the citizens could unite and contract with the City of Merrill. Marshal Bicknell stated absolutely. The citizens would have to form a special district and initiated by the citizens. The citizens would approach the City with descriptions and financials. Teresa Vaughan stated the citizens need to know how much money will purchase how many hours. Councilor Carleton stated the issue is liability. City of Merrill Police Department only responds outside of City Limits for mutual aid. Marshal Bicknell stated taking all expenses into consideration, police patrol would average \$125.00 per hour. Teresa Vaughan inquired whether the citizens need to contract the City of Merrill Police Department to sit at the bridge. Marshal Bicknell stated negative; however, the bridge is a terrible area. The speeding is occurring before the railroad tracks and the radar does not extend that distance. Teresa Vaughan stating not seeing Marshal Bicknell patrol the area. Marshal Bicknell stated morning hours. Teresa Vaughan inquired the to the location Marshal Bicknell wrote the 111 mph ticket on Highway 39. Marshal Bicknell stated Merrill Pit Road. Teresa Vaughan inquired whether Merrill Pit Road is inside of City Limits. Marshal Bicknell stated negative; however, Oregon Department of Transportation for thousands of dollars to patrol as match grant. The Merrill Police Department normally does not patrol outside of City Limits. City Council consensus is receptive to a citizens proposal but will not initiate.
- Obtain Real Estate Agent or Real Estate Lawyer: (*Mayor Carlson recused self*) Mayor Pro Tem Carleton resumed the meeting. The City of Merrill does not have a real estate agent. Merrill Commercial Property is unlisted. Bill Carlson is in the process of development. Council President Carleton stated the uncertain legalities of another real estate agent could list Merrill Commercial Property. Bill Carlson has a contract with the City of Merrill to purchase Merrill Commercial Property and ensure the contract is adhered too. The suggestion from neutral real estate agents is to obtain a real estate lawyer. Councilor Baley suggested tabling the issue. City Recorder Hernandez stated the City of Merrill needs to obtain an individual to ensure the contract is adhered too as the contract is already in place. The City of Merrill only requires the assistance of an expert. Councilor Picke inquired whether a lawyer is more expense than an agent. City Recorder Hernandez assumed the expenses would be commission verses hourly. Council President Carleton stated researching the issue further. Councilor McCollam and Councilor Picke stated the property is under contract and cannot be relisted. Council President Carleton stated Fisher and Nicholson pulled the listing. Councilor McCollam restated the property is under contract to be sold. Council President Carleton affirmed. Councilor McCollam suggested hiring a real estate attorney. Council President Carleton assumed Developer Bill Carlson wanted transparency that property is available to be sold. Bill Carlson: "If you're asking Dick, uh, in my opinion it's...there's a contractor, there's, one of the issues, there's different terms and conditions within the same contract. I think that can be all worked out amicably, and I have no pref...I don't really want to weigh in. I think, just dollars and cents, I am thinking it would be cheaper than a real estate agent at this point." President Councilor Carleton stated the opinion of tabling the issue and hire an attorney when the need arises. Councilor McCollam agreed. Councilor Picke stated confusion. The property is already sold to Developer Bill Carlson. Council President Carleton stated a negative. Developer Bill Carlson has an option to buy the property. Developer Bill Carlson has purchased one acre. Councilor Picke inquired whether Developer Bill Carlson has first "dibs". Council President Carleton stated the property is under contract to purchase for the next two years between the City of Merrill and Developer Bill Carlson. Councilor McCollam stated Developer Bill Carlson cannot sell the property because he does not own the property unless there is a clause in the contract not seen or understood. Council President Carleton stated there is an option to sell before purchase and is legal. The term is Double Escrow. Council President Carleton stated researching the option with a couple real estate agents and the title company. Council President Carleton stated the opinion of not wanting to pursue Double Escrow and explained the process. Council President Carleton discourages the process due to public funds. Bill Carlson: "I have no intention of selling anything before I take title before I would transfer title to anybody else. If Nike Incorporated wanted to move to Merrill and made a great offer, I would pay for the land and then sell to Nike

- Incorporated. There is no intention to do anything else.” A company can proceed with the permit process before purchasing property as Dollar General did. Discussion ensued pertaining to permitting processes.
- Discuss Fire Rating: The issue brought before City Council pertains to the new water system and whether there is an insurance offset for residents due to the increased fire suppression. Marshal Bicknell stated personally contacting his insurance carrier and explained the Water Improvement Project. The result was a lower insurance premium. Marshal Bicknell asked Councilor Baley whether there is a rating system for communities as far as fire risks. Councilor Baley was unsure. The action item was for Councilor Baley to discuss a fire suppression rating for communities with Fire Chief John Heim and Mayor Carlson to contact an insurance agent. Tabled.
  - US Cellular Purchase Offer: City Recorder Hernandez read the Us Cellular Purchase Offer into the record. The City of Merrill currently receives monthly installments of \$1,310.00 for a land lease, which approximately is \$15,000.00 annually. The City has a 30 year lease. Councilor McCollam inquired to how many years the lease has been in effect. Councilor Carleton stated 10 years. Tabled.
  - Authorize Street Cut Permit: Tabled.
  - Private Use of a Public Asset: El Jefes’ Restaurant, next to A & M Shell Station, adjacent to an alley sought City Council approval to use the alley as a drive-thru. Vehicles are typically parked in the alley. Marshal Bicknell confirmed the area in question from Front Street to Third Street is an alley to Councilor Carleton. Councilor Baley stated the opinion that any alley should be blocked to allow the police and fire department to access. Councilor Picke thought a vehicle was limited to a maximum of 20 minutes in an alley. Marshal Bicknell stated the Merrill Police Department allows vehicles to utilize alleys as long as they are attended as a guideline. Mayor Carlson discussed painting the alley to support the local business. Councilor Carleton recommended researching the codes. Mayor Carlson directed the Planning Commission to agendize painting the alley with no parking.

#### **OLD BUSINESS:**

- Fourth Street Encroachment Update Tax Lot 4110-001CC-07500: City Recorder Hernandez emailed a letter composed by Mayor Carlson and City Recorder Hernandez and have received no response. Mayor Carlson will contact City Attorney Jennifer Schade.
- Discuss Solar Plant Update: The fence slats are scheduled to be installed March 15, 2021 and payment received. Letters were submitted to City Council for review. October 2020, the solar company was assessed a \$1,000.00 fine. The proposal is to send a new letter to New Energy Solar and increase the fine to \$2,000.00. The suggestion is to lien the property if New Energy Solar does not respond. The City requires an Irrigation Plan the guarantees Water Rights are protected and the \$2,000.00 fine; otherwise, the property will be liened. Councilor Carleton stated the City could lien the property; however, the City will not receive the revenue until the property is sold. The City has the authority to fine the company \$1,000.00 per day. Then the City should lien the property. Councilor McCollam and Councilor Picke were in agreement. The consensus is to issue the letter. If New Energy Solar does not respond by April 13, 2021, the City Attorney will become involved. Marshal Bicknell stated the City would be required to appear in court daily for each code violation if fined daily to receive a ruling prior to that being applicable. Whereas, contract violations are the responsibility of the company to dispute. Councilor Carleton stated the Conditions of Approval are in violation.
- Discuss ODOT Intergovernmental Agreement: Tabled.
- Discuss FEMA Update: Councilor Carleton, Mayor Carlson, and City Recorder Hernandez attended a teleconference. No questions were answered. City Engineer Mark Miller requested a meeting for next week to discuss the FEMA Update. Mayor Carlson explained the historical efforts of the City to reduce or eliminate the City of Merrill from the Floodplain.

#### **ORDINANCES:**

- Bill 2032-Amending Development Code Chapter 2.2.120-General Residential Zone R-1 Developmental Standards Table 2.2.120 Dimensional Standards for the R-1 Zone: City Recorder read Bill 2032 into the record for the second reading with changes reflecting the amendments to the fence height of four foot on the front. Councilor Picke made a motion to approve Bill 2032. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

- Bill 2036-Amending Chapter 2 Section 2.2.120-General Residential Zone R-1 Developmental Standards Table 2.2.120 Dimensional Standards for the R-1 Zone: City Recorder read Bill 2036 into the record for the first reading. City Council agreed to the first reading.
- Bill 2037-Amending Title XV: Chapter 155.022 Land Usage Section (D) Subsection (6) Minimum Parcel Size: City Recorder read Bill 2037 into the record for the first reading. City Council agreed to the first reading.
- Bill 2038-Amending Development Code Chapter 2.2.400 (D) Residential Districts-Special Use Standards; Bed and Breakfast Inns: City Recorder read Bill 2038 into the record for the first reading. City Council agreed to the first reading.
- Bill 2039-Amending Development Code Chapter 2.2.400 (H); 5 (a) Residential Districts Special Use Standards; Manufactured/Mobile Home Parks: City Recorder read Bill 2039 into the record for the first reading. City Council agreed to the first reading.
- Bill 2040-Amending Development Code Chapter 1.3.300 Definitions: City Recorder Hernandez read Bill 2040 in by title and reviewed changes discussed during the February 9, 2021 City Council Meeting. City Recorder read Nucleus Hive Definition added to the Bill. Councilor Picke made a motion to approve Ordinance 2040. Councilor Baley 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- Bill 2042-Amending Development Code Chapter 4.8 Misc. Permits; 4.8.100 E Pre-Fabricated Metal Containers: City Recorder read Bill 2042 into the record for the first reading. Councilor Carleton requested item two be reviewed and verbiage reflect the Planning Commission Meeting resolution. Planning Commission requested the date on item five be amended from 2025 to 2022. City Council agreed to the first reading with changes.

**RESOLUTIONS:**

- Resolution 2021-840: Transfer to Comply with Budget Law Requirements: City Recorder Hernandez read Resolution 2021-840 in by title. City Recorder Hernandez stated the resolution is for reimbursement of purchases the Water/Sewer Fund made with the Debit Card, which is linked to the General Fund Checking Account. Councilor Carleton made a motion to pass Resolution 2021-840. Councilor Picke 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

**OTHER-FUTURE AGENDAS:**

- Research and Discuss Raising Tax Base

**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 Picke made a motion to adjourn the ~~February~~ <sup>MARCH</sup> 9, 2021 Meeting. Councilor Baley 2<sup>nd</sup> the motion. With all in favor, the meeting adjourned at 7:11 p.m.

Respectfully Submitted,

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Bill Carlson - Mayor

13 APR 21  
Date

\_\_\_\_\_  
Rayna Hernandez - City Recorder

4-13-21  
Date