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**CITY OF MERRILL**  
**REGULAR BUSINESS MEETING**  
Tuesday May 12, 2020 6:00 P.M.

**MEETING CALLED TO ORDER:**

Mayor Carlson called the Tuesday, May 12, 2020 Regular Business Meeting to order at 6:00 p.m.

**ROLL CALL:**

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

**FLAG SALUTE:**

The Flag Salute immediately followed with Mayor Carlson asking Councilor Smith to lead.

**MAYOR STATEMENT:**

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

**PUBLIC COMMENT:**

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

No public comment followed.

**CONSENT AGENDA:**

- **Meeting Minutes:**  
Councilor Smith made a motion to approve the Meeting Minutes for March 10, 2020, March 17, 2020, and April 30, 2020. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- **Phone Poll:**
- Utility Shut-off Suspension (Councilor Johnson and Councilor Smith approves via text, Councilor Carleton and Councilor Hinton approved verbally) Approved 4-0 in favor.
- Purchase water meters from Ferguson Waterworks for \$1752.00 (Councilor Smith, Councilor Hinton, Councilor Johnson, and Councilor Carleton approved verbally) Approved 4-0 in favor.
- Project Merrill Beautification Funds Revision (Councilor Hinton approved verbally, Councilor Smith and Carleton approved via text) Approved 3-0 in favor.
- City Hall Closure (Councilor Johnson, Councilor Carleton, and Councilor Hinton verbally approved). Approved 3-0 in favor.
- Business License Renewal Approval- Betos Novedades Delivery Business License; Bigg M Properties Rental Business License, Tacos ala Mexicana Business License, La Michocana Business License (Councilor Johnson approved verbally, Councilor Smith approved written, Councilor Carleton approved via email) Approved 3-0 in favor. The business has been notified on multiple occasions for months. Councilor Carleton inquired to why the business has not been cited. Marshal Bicknell stated Code Enforcement ceased operations the last 6-8 weeks for citations and notifications. Contact has been verbal instead of written. Councilor Carleton stated citing the offenders. Marshal Bicknell stated the processes to issuing a citation and the City of Merrill has only issued verbal with the loss to personnel. Councilor Smith and Councilor Carleton were of the opinion a business should receive a business license due to the violation being separate to business operations; however, a business should be fined and cited by Code Enforcement. Marshal Bicknell stated a business will comply in a timelier manner if a business license is withheld. Councilor Hinton was in disagreement due to the longevity of violations. Councilor Smith stated the business would be required to cease operations. Councilor Carleton inquired to why the business has not been cited if the violations have been continuous over the years. Marshal Bicknell stated the owners have been cited, fined, and convicted. Councilor Hinton stated the behavior is repeated despite repercussions.

Mayor Carlson stated Councilor Hinton has stated an objection to the phone poll. Discussion of code and non-renewal of business licenses authority and procedures with possible revision ensued. Marshal Bicknell stated obtaining tools to gain compliance. The City is approving the operation of a business. The business is in violation of City Codes. There is a contradiction. There is a legal standing of why a business license would not be renewed. Non-renewal would be instantaneous compared to the 90 day process for Code Enforcement. Councilor Smith stated creating a policy that would allow the City of Merrill to revoke a business license at any time because the business has already received the license. Marshal Bicknell expanded upon the idea by allowing a business owner the chance to contest the revocation with due process.

Councilor Hinton stated a business should have to correspond with City Codes for Business License Renewal. Tacos a la Mexicana and La Michocana are in violation with junk vehicles. Marshal Bicknell stated businesses should not be licensed who are in violation of code.

- Rural Klamath Connects RE: Protective Face Masks Partnership \$300-\$400 (Councilor Carleton approved verbally, Councilor Johnson approved verbally, Councilor Smith approved written) Approved 3-0 in favor.
- Resolution 2020-813: Adopting Novel Coronavirus/COVID-19 Emergency Leave Policy and Paid Sick Leave for COVID-19 Issues (Councilor Smith and Councilor Carleton approved via email, Councilor Johnson approved verbally) Approved 3-0 in favor.
- Reynold's Ag Service Invoice for Tractor Repair: \$1343.00 (Councilor Smith approved verbally (9:35 a.m.); Councilor Carleton approved verbally (9:30 a.m.); Councilor Johnson approved verbally (9:51 a.m.) Councilor Hinton approved verbally (10:55 a.m.) Approved 4-0 in favor.  
Councilor Smith made a motion to ratify the phone polls. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- **Business License Renewals:**  
Henry Hernandez Business License (Seasonal/Lawn Care): Councilor Smith made a motion to approve the Business License Renewal. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- **Business Licenses:**
- **Accounts Payable:**  
Payables for Approval: Councilor Smith made a motion to approve the Accounts Payables. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.  
Water Sewer Transfer Approval: Councilor Smith made a motion to approve the Water Sewer Transfer. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.

#### **STAFF REPORTS:**

- **Police:**  
Marshal Bicknell submitted report and read. Marshal Bicknell stated City of Merrill has been functioning well even with the COVID-19 pandemic. Marshal Bicknell discussed traffic activity related to business operations. Merrill Police Department has increased patrol on Front Street as a deterrent due to transient issues in Klamath Falls. One transient was trespassed and encouraged a few others to relocate. Governor Brown has issued a few new executive orders regarding social distancing and regulations. Merrill Police Department is using common sense and protocols accepted statewide by law enforcement agencies by not arresting or issuing citations in regards to the new orders. The Merrill Police Department has communicated to the public that Marshal Bicknell and Officer Srch priority is to assist and serve the residents, businesses, and visitors during and after the pandemic. Merrill Police Department abides by the Mission Statement even when and especially during the current State of Emergency.
- **Public Works:**  
Public Works Director Matthews submitted report and read: Checked lifts, water and sewer samples, completed DMR, read meters, multiple locates, cleaned restrooms, flushed hydrants, resolved three sewer plugs, mowed park lawns, plowed snow on March 18<sup>th</sup>, burned at the lagoon, sprayed at the lagoon and other areas within City limits. Utility Worker Taylor leveled three to four acres of thistle and nettles. Utility Worker Taylor moved resident Nowak's mainline and rerouted the line by Lost River. The metal and junk pile were also moved. The Lincoln Lift Station blew apart, which filled the dry well and had to be rebuilt. Public Works Director Matthews continued submitted report: leveled loads of dirt on the north-side of lagoon, sprayed PacifiCorp parcel, cut limbs, replaced hardware in restrooms, scheduled streets to be swept, removed anodes at two residences to resolve odor problem, assisted resident repair water leak in

private supply line, installed new meter boxes, replaced riser, meter and meter box at 415 Front Street, worked on budget, Reynolds Ag Service replaced injector pump on Case, broke rocker arm on Case, repaired sprayer motor, replaced electric motor on spray rig, closed burn pile due to abuse, hired Zaidyn Nicolette for seasonal work, and West Coast Pipe is tying in the water lines. There will be water service disruption in various sections of the City for the next two weeks. Marshal Bicknell and Public Works Director Matthews were approached by a truck driver passing through town who complimented both on the City of Merrill due to friendliness.

- **City Recorder:**

- City Recorder Hernandez highlighted the hiring of City Clerk Northcutt and stated “thank you” and “welcome”. The first Budget Meeting is Thursday, May 14, 2020 at 6:00 p.m. There will be dinner and “thank you” mementos. Orientation was held for Budget Committee Member Steve Baley as the only new member to prevent a group gathering of 10 or more. The Payment-in-lieu (PILT) revenue has been received. City Recorder Hernandez highlighted the usefulness of the electronic card system especially with the closure of City Hall as mentioned by Councilor Smith.

- **Lawyer:**

- Mayor Carlson stated no communications with City Attorney Jennifer Schade.

- **Code Enforcement:**

- No report was submitted.

- **Planning:**

- Margaret Moore presented the Merrill Commercial Property Offer. Margaret Moore emailed information to the City Recorder’s Office, which was forwarded to City Council for review. The offer was for \$25,000.00 for two acres from the 5.12 acres. The City of Merrill is pass the response date. The buyer is offering \$500.00 earnest money. Margaret Moore discussed the terms of the contract. The verification of funds with be provided within 10 business days after acceptance. The buyer is asking 40 days after acceptance for due diligence. Margaret Moore stated 40 days is excessive and suggested countering with 10 business days. Councilor Hinton inquired to the standard. Margaret Moore stated each transaction is unique with no standard. Five to fifteen days would be more acceptable and 10 should be sufficient as the buyer desires to consult with a lawyer and accountant. Margaret Moore inquired whether City Council desired to accept, deny or counter the \$25,000.00. Mayor Carlson inquired to the land use. Margaret Moore stated storage sheds. A tentative plan and map was submitted. Councilor Carleton inquired whether the buyer would install an entry on the north-side of the property. Councilor Carleton stated the buyer needs to contact Oregon Department of Transportation and inquire about an entrance. Margaret Moore stated planning is between the buyer and the City of Merrill. Councilor Carleton stated the buyer needs to know whether and entrance is permitted so the property does not remain vacant due to inaccessibility. Margaret Moore inquired whether City Council wants to address the entry in the offer. Mayor Carlson stated an entrance to the property, approved by Oregon Department of Transportation, would increase the value of the property. Councilor Hinton inquired about access to the remaining three acres. Councilor Carleton stated a buyer would have access from each direction with the installation of an entrance. Discussion about access ensued. Margaret Moore asked the City Council why the issue of entry with Oregon Department of Transportation permitting was never discussed prior to an offer. Councilor Carleton stated the City never knew which parcel a buyer would want to purchase. Mayor Carlson stated the purchase would be advantageous to the City if a buyer installed an entrance that another buyer could access. Councilor Smith stated the offer should be contingent upon the approval of an entrance from Highway 39 within one year. Otherwise, the property must revert back to the City of Merrill at the original purchase. Further discussion of access ensued. Public Works Director Matthews inquired to partition of the remaining three acres. Mayor Carlson stated concern of land-locking. Margaret Moore suggested not partitioning the remaining three acres, which would devalue the property. One of the main features is access off of Highway 39. Councilor Carleton stated the remaining three acres can be accessed by the Les Schwab entrance. The three acres would be limited if the City chose not to partition the property. Public Works Director Matthews reiterated land locking

the property and easements. Councilor Carleton stated the buyer needs to meet with the Planning Commission. Margaret Moore stated the addendum states the purchase is contingent upon approval from the City, which would include the ODOT access. Councilor Carleton stated a negative. Margaret Moore sought clarification on why the City would approve the purchase without access from Oregon Department of Transportation. Councilor Carleton stated access would be from Fourth Street. Margaret Moore is attempting to simplify the response to the buyer. City Council referred to the buyer's proposed plan. Councilor Carleton reiterated the buyer schedule a meeting with the Planning Commission. Councilor Smith reiterated the steps the buyer is required to follow. Mayor Carlson stated the buyer must also demonstrate the business will not devalue the property. Margaret Moore read addendum A to City Council as the document already addresses the issues discussed. Margaret Moore is seeking a vote on the terms of the offer. The purchase offer. The price is \$66,000.00 for two acres. The buyer is offering \$25,000.00 for two acres. Discussion of comparisons ensued. Councilor Smith made a motion to counter the offer at \$50,000.00 for two acres. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor. The buyer is asking 40 days for due diligence for a personal business plan. City Council countered with 14 calendar days, 10 business days with a recommendation to meet with the Planning Commission. The buyer has 7 calendar days to respond. Mayor Carlson will submit a Letter of Statement in lieu of the Vacant Land Disclosure.

#### **PROJECT MERRILL:**

#### **LOST RIVER ARTS AND CULTURAL ALLIANCE:**

- Public Works Director Matthews reported on the cancellation of the Bluegrass Festival. Public Works Director discussed the intent of placing flags on veteran graves at the Merrill Cemetery. A few of the deceased had fought in the Civil War.

#### **NEW BUSINESS:**

- Utility Shut-off Suspensions: Tabled.
- Merrill Commercial Property Purchase Offer: *Refer to Planning.*
- Discuss Extension of Merrill Commercial Property Contract: City Council extended Merrill Commercial Property Contract with Margaret Moore for one year. Mayor Carlson will coordinate directly with Margaret Moore.
- Open City Council Position Due to Resignation: Councilor Johnson resigned. The City Council is opening the position to all interested persons. Appointment will be June 9, 2020.
- Appoint City Clerk as Code Enforcement Officer: Councilor Hinton inquired whether City Clerk Northcutt requires the title Code Enforcement Officer for clerical duties. Councilor Smith inquired whether City Clerk Jensen was appointed as Code Enforcement Officer. Marshal Bicknell and City Recorder Hernandez affirmed for clerical duties. Councilor Hinton stated Code Enforcement is listed in the job description for filing, reporting, and mailing. Marshal Bicknell stated also for back-up in the event the Code Enforcement Officer is required to appear in court to testify. The City of Merrill needs two officers. Councilor Hinton inquired whether the two employees be Officer Srch and Marshal Bicknell. Marshal Bicknell stated the other option could be Marshal Bicknell and City Recorder Hernandez. Marshal Bicknell favors a recorder keeper as a Code Enforcement Officer. Councilor Hinton inquired to enforcement in the field. Marshal Bicknell stated field work consists of taking pictures. All other duties are clerical. Discussion involving clerical duties and field work duties ensued. City Council consensus was appointing City Clerk Northcutt as Code Enforcement Officer solely for clerical duties. Councilor Hinton sought clarification of not appointing City Clerk Northcutt as Code Enforcement Officer. City Clerk Northcutt will solely perform the clerical duties. The Code Enforcement Officers are Officer Srch and Marshal Bicknell. Marshal Bicknell stated being the sole Code Enforcement Officer. At a prior meeting, City Council prohibited Officer Srch as a Code Enforcement Officer. Councilor Hinton stated Officer Srch has filed Code Enforcement complaints. Marshal Bicknell stated any person may file a complaint form. Councilor Hinton affirmed. Marshal Bicknell stated the City Charter states the City Council must appoint a Code Enforcement Officer to enforce the codes. Marshal Bicknell reiterated City Council prohibited Officer Srch as a Code Enforcement Officer. Mayor Carlson stated the second appointee will be City Clerk Northcutt with limited duties to clerical. The enforcement mechanism will be Marshal Bicknell and employee.

- Discuss Business License Approval Based Upon Compliance to Code: *Refer to phone polls.*
- Determine Sequence of Reopening: The plan for reopening is Friday, May 15, 2020. The recommendation is waiting to reopen until Friday, May 15, 2020. No objection followed.

**OLD BUSINESS:**

- Update on U.S. Census: City Recorder Hernandez stated the State of Oregon has the highest return rate; however, the City of Merrill return rate is 3%.
- Tourism Improvement Area (TIA): City Recorder Hernandez mailed letters to businesses the Tourism Improvement Area (TIA) would impact. The Wild Goose Lodge was the sole respondent and submitted a letter. Regina Picke, owner of The Wild Goose Lodge, stated a desire not to participate in the TIA; however, the business is for sale. If the City of Merrill wishes future businesses to participate, the vote should be in favor of TIA. Discussion of transient tax percentage rates, the additional fee, and the benefit to the City of Merrill ensued. Councilor Smith made a motion not to move forward and support the TIA. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- Solar Plant Landscaping Maintenance Update: Mayor Carlson thanked Andrea Walker for bringing the issue before City Council. The City has communicated with Mr. Henderson, who represents the Solar Plant that the City of Merrill is dissatisfied with the maintenance and expects of presentation to a subcommittee consisting of Mayor Carlson, Councilor Carleton, and Andrea Walker about the situation and solution. The due date is June 1, 2020. The subcommittee will report to City Council.

**ORDINANCES:**

- Bill 2026 Hunter Communications, Inc. Franchise Ordinance: Third Reading: Hunter Communications clarified the usage for the \$1,000.00 deposit, which the City of Merrill received. City Clerk Hernandez read the change into the record: (Section 8 Subsection 3) "A deposit of \$1,000.00 shall be made by April 30, 2020. Once the deposit is depleted, it must be renewed no later than 10 days. The City shall take the estimated franchise fee based on the previous quarter from the \$1,000.00 deposit without penalty or interest to the Grantee. The Grantee shall have 30 days to renew the deposit once it has been depleted." Councilor Hinton made a motion to approve Bill 2026. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.

**RESOLUTIONS:**

- Resolution 2020-812: Tourism Improvement Area Consent Agreement: *Refer to Tourism Improvement Area (TIA): Councilor Smith made a motion not to move forward and support the TIA. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.*
- Resolution 2020-814: Transfer 19/20 FY Payroll Taxes Per Budget Law: City Recorder Hernandez stated Resolution 2020-814 is for the transferal of police payroll taxes to reimburse the water/sewer fund in the amount of \$19,811.23. Councilor Carleton made a motion to approve Resolution 2020-814. Councilor Smith 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- Resolution 2020-815: Transfer Funds to Comply with Budget Law Requirements: City Recorder Hernandez stated Resolution 2020-815 is for the transferal of funds to comply with budget law and read the denominations and reasons into the record. Councilor Smith made a motion to approve Resolution 2020-815. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 3-0 in favor.
- Resolution 2020-816: City Council Signature Authorization (Bank Authorization Letter): Resolution 2020-816: City Council Signature Authorization removes Councilor Johnson from the Bank Authorization Signature Card. Councilor Carleton made a motion to approve Resolution 2020-816. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 2 in favor with Councilor Smith abstaining due to conflict of interest as an employee of Umpqua Bank.

**FUTURE AGENDAS:**

Klamath Irrigation District Water Rights: Councilor Carleton stated the City owes an outstanding water bill due to the statement mailed to ET Capital. KID will not change the mailing address. The City of Merrill may have to have the address added to the deed.

**PUBLIC COMMENT:**



