

**CITY OF MERRILL  
SPECIAL BUSINESS MEETING (ORS 192.640(3))  
AND  
EXECUTIVE SESSION (ORS 192.660(2)(a))**

Friday, May 17, 2024

5:00 P.M.

**Meeting to be held at the Merrill City Hall, 301 E. Second Street, Merrill, OR**

**MEETING CALLED TO ORDER:**

Mayor Guthrie called the Friday, May 17, 2024 Executive Session and Special Business Meeting to order at 5:00 p.m.

**ROLL CALL:**

Roll call was taken with the following members of Council and others being present: Mayor Guthrie, Councilor Johnson, Councilor McCollam, Councilor Gatliff, Councilor Baley, and City Recorder Hernandez. Others Present: Sergeant Hetherwick.

**FLAG SALUTE:**

The **Flag Salute** immediately followed with Mayor Guthrie taking the lead.

**EXECUTIVE SESSION:**

- Discuss the Performance of a Public Employee

**ADJOURN Executive Session:**

The meeting adjourned at 5:12 p.m. and opened to Special Business Meeting.

**MAYOR'S STATEMENT:** "To avoid meeting disruptions, please place cell phones on silent mode during the meeting. All meetings are recorded. When addressing the City Council, please state your name and speak clearly."

**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 five minutes per person.

No public comment followed.

**CONSENT AGENDA:**

Any item on the Consent Agenda will be removed and considered as a part of the regular agenda upon the request of any member of the City Council or public.

- Discuss Police Department(s) Mutual Aid: Sergeant Hetherwick stated mutual aid was originally set-up by the Klamath County Sheriff's Department, which consists of agencies assisting agencies in a time of need, etc. The most mutual aid received for Merrill will be Klamath County Sheriff's Department, Malin Police Department, Tulelake Police Department, and Oregon State Police. In a catastrophic event, mutual aid would be from Oregon State Police, Bureau of Land Management (BLM), or Department of Forestry. Sergeant Hetherwick has relied heavily on the Klamath County Sheriff's Department since beginning of employment. When Klamath County Sheriff's Department has been on call in event of days off or training, there have been times when they cannot respond. Then Malin Police Department is called. The called is then transferred to prioritization when officers from various agencies cannot immediately respond. Sergeant Hetherwick discussed calls the Klamath County Sheriff's Department responded to while Sergeant

Heath Haywood yes (*sic*)”

Police Commissioner McCollam stated looking from the outside in, the appearance of the Merrill Police Department is negative. Councilor Baley stated he made a huge mistake. The comment should have included all departments. Police Commissioner McCollam stated Councilor Baley used to be the Police Commissioner; however, Councilor Baley is no longer the Police Commissioner and Sergeant Hetherwick is not over seen by Councilor Baley and never has. Councilor Baley affirmed. Police Commissioner McCollam reiterated that the comment is unfavorable to the Merrill Police Sergeant and the City of Merrill to whomever read the post. Councilor Baley stated agreement with no ill will against Sergeant Hetherwick. Councilor Johnson stated the City of Merrill has one officer. The officer should not be expected to respond to every call. Sergeant Hetherwick has days off and days when he is out of town. Sergeant Hetherwick has always communicated plans for when he is unavailable through the Klamath County Sheriff's Department or the Malin Police Department to cover during his absence. Sergeant Hetherwick takes the initiative to ensure the community's safety. Councilor Johnson inquired whether the call for assistance was placed through 911 dispatch. Councilor Baley was unsure how the process worked. Sergeant Hetherwick stated a police officer must have “thick skin”. The post was not perceived as a personal attack necessarily but there was concern about the image of the Merrill Police Department and the City of Merrill. Gossip spreads like wildfire. The post was brought to Sergeant Hetherwick's attention by a deputy from Klamath County Sheriff's Department. Language can be misconstrued; however, when posted on a social platform, words must be chosen wisely. Councilor Gatliff suggested thinking before writing on social media because there is no taking it back. City Recorder Hernandez stated comments about employees in a public arena can lead to lawsuits from a Human Resources perspective, which is also one of the highest liabilities. Councilor Johnson stated the City Council must support the Merrill Police Department. Councilor Gatliff was in agreement. Councilor Johnson stated Sergeant Hetherwick could answer Councilor Baley's questions when asked. Mayor Guthrie believes Councilor Baley that the comments were a mistake. This is a good learning session for all of us. There can be difficulties differentiating between personal and business personas.

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Solar Farm recently. Discussion of warrants and processes were discussed. Mental holds are treated differently when admitted into a hospital. The perpetrator is considered in custody but not arrested and cleared by a medical professional before release. Councilor Gatliff inquired about the benefit of calling a cell phone versus Klamath County 911 Dispatch. Ultimately, it is preferable to call Klamath County 911 Dispatch to protect the reporting party and the officer. The recording provides details and prevents misinformation. The action item was made for Sergeant Hetherwick to encourage for reporting parties to call Klamath County 911 Dispatch.

Code Enforcement Officer Perry replied to the previous discussion regarding reporting parties calling cell phones. Code Enforcement Officer Perry used to respond to noise complaints in the evenings; however, Code Enforcement Officer Perry was directed not to respond to complaints due to safety concerns and the police department was re-established. Code Enforcement Officer Perry continues to receive phone calls and threatening phone calls even after advising the reporting party to cease the calls to Code Enforcement. Councilor Johnson inquired whether the offenders are reaching the decibel threshold to be in violation of noise ordinances. Code Enforcement Officer Perry stated negative. Code Enforcement Officer Perry has parked in numerous locations without observing noise violations. The complainant's window is adjacent to the garage, and the complainant leave the window open. Television warrants phone calls from the complainants from their perspective. Code Enforcement Officer Perry informed City Council that the complaints were responded to summer of 2023. One instance, on Mother's Day, the complainant was taking pictures of each vehicle in the offender's driveway at 6:30 p.m. The complainant made threats to take care of the problem himself and that it was not going to be good. Councilor Johnson and Councilor Gatliff were contacted regarding the infraction and past actions of responding officers. Code Enforcement Office Perry attested to past responding officers issuing verbal warnings though the complaints were incessant. Sergeant Hetherwick communicated with the parents and the offender. The offender was watching a movie. The complainant signed a ticket; however, the complainant rescinded the ticket after speaking with Sergeant Hetherwick. Sergeant Hetherwick was not going to issue the ticket because the noise did not reach the threshold of violating the law. Councilor Gatliff inquired whether Sergeant Hetherwick can act upon threatening phone calls and messages. Sergeant Hetherwick stated there is telephonic harassment. It is not an arrestable offense. Law enforcement is excluded from telephonic harassment. Councilor Baley also received a call from the complainant seeking advice. Discussion ensued regarding how to communicate with residents who approach multiple City Councilman individually. The consensus was to direct residents to attend City Council Meeting to discuss in an open forum to avoid Public Law Meeting violations. Code Enforcement Officer Perry reiterated that the threat of her job from the complainant was inappropriate, especially after communicating that Code Enforcement would not respond at certain hours due to safety concerns at the direction of Council. Councilor McCollam summarized the noise does not reach the decibel level to be a disturbance. The complainants are harassing City Council, police officer, and whoever else is being contacted. The complainant is the harasser. Councilor Gatliff asked Sergeant Hetherwick to address the harassment of Code Enforcement Officer Perry if the threatening calls and messages continue. Sergeant Hetherwick affirmed if the complainants continue harassing City Employees who have no authority to respond to the disturbance, the complainants can be charged with telephonic harassment. Only Klamath County 911 Dispatch may be contacted.

- Discuss Chain of Command: Sergeant Hetherwick stated the police direct supervisor is Police Commissioner McCollam. When Police Commissioner McCollam is unavailable, Mayor Guthrie is the reporting official followed by the other Council Members. City Recorder Hernandez stated Councilor Johnson is the Council President; therefore, she would be the next in the chain of command.

*Representatives of the media are prohibited from reporting on any of the deliberations during this executive session, except to state the general subject of the session as stated above.*

Matters for council consideration not scheduled on the Agenda can be addressed by the general public under the "Public Comment" section in the agenda. Testimony must be presented according to Council procedures. Items of non-emergency nature may be scheduled for future Council determination in order to provide sufficient time to analyze this issue.

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No public comment followed.

**ADJOURN Special Session:**

Councilor Johnson made a motion to adjourn the May 17, 2024 Meeting. Councilor Gatliff 2<sup>nd</sup> the motion. With all in favor, the meeting adjourned at 5:42 p.m.

Respectfully Submitted,

  
Terry Guthrie – Mayor

6/12/2024  
Date

  
Rayna Hernandez – City Recorder Date

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