

CITY OF MERRILL
REGULAR BUSINESS MEETING
Wednesday, November 9, 2022 5:30 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Wednesday, November 9, 2022 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, Mayor Carlson, and City Recorder Hernandez.

FLAG SALUTE:

The Flag Salute immediately followed with Mayor Carlson requesting Councilor Johnson 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:

- **Meeting Minutes:**
- Approve October 12, 2022 Meeting Minutes
Councilor Gatliff made a motion to approve the entire consent agenda. Councilor Baley 2nd the motion. The motion passed 4-0 in favor.
- **Phone Poll:**
- **Business License Renewals:**
- **Business Licenses:**
Alicia De Dios Rental Business License
Refer to Meeting Minutes for motion.
- **Accounts Payable:**
October 2022 Account Payables: *Refer to meeting minutes for motion.*
October 2022 Water Transfer: *Refer to meeting minutes for motion.*

STAFF REPORTS:

- **Police:**
 - Report: Councilor Baley stated Marshal Broussard reported for the month of October 2022 the Malin Police Department made a DUII arrest, one narcotics arrest, wrote approximately 15 speeding tickets, and responded to a couple of 911 callouts.
- **Public Works:**
 - Public Works Director Matthews submitted report and read: Checked lifts; gathered water samples needed for Total Kjeldahl Nitrogen Test and received the results (quarterly); well level is 87 foot with pump running; completed and submitted Discharge Monitoring Report; hung pink tags; performed eight locates; allowed outside dumping, which has resulted in approximately \$42,000.00; cleaned restrooms; fixed one sewer plug; wrote article for newsletter; removed tree at Merrill Elementary; replaced meters at 405 Garfield Street and Martin's Food Center; removed

flower baskets; filled test bottles for volatile chemicals, inorganics and delivered; cleared snow; worked on Christmas lights; held Klamath Basin Potato Festival and cleaned after; performed multiple water shut-offs in coordination with Bob's Excavating; rerouted traffic due to Ed Staub's construction; and Public Works Director Matthews thanked off staff and public works crew.

- **City Recorder:**

- City Recorder Hernandez renewed notarization and is awaiting new stamp; received Small City Allotment Grant for reimbursement and transferred funds to Water Sewer Reserve per Resolution on November 9, 2022; awarded Klamath County Tourism Grant for \$10,000.00; attended required Marketing 102 for grant compliance. DPSST required F4s forms instead of F4 as previously submitted, a letter, and other email correspondence to disband the Merrill Police Department. City Recorder continued report: received executed Waste Management Ordinance; obtained signature for Land Partition in Lakeview; Workman's Comp communications with State of Oregon Bureau of Labor and Industries (BOLI) and City Insurance Services (CIS); New Energy Solar Certified Letter was returned November 2022 that was mailed December 2021; and other daily administrative duties. Councilor Johnson inquired to the next steps with New Energy Solar since the letter was returned. City Recorder Hernandez stated research as the property may have been sold once again.

- **Lawyer:**

- Report: None.

- **Code Enforcement:**

- City Clerk Northcutt reported on foul odors on Front Street that has been abated.

- **Planning:**

- Report: *Refer to itemized discussions.*
- Discuss Zoning Discrepancy: Tabled.
- Discuss Truck Parking Signage Amendment: Truck Parking Signage Amendments are in progress.
- Discuss Fence Application Policy and Procedures: Councilor Gatliff described the processes to ensure compliance. Councilor Johnson made a motion to approve Fence Application Policy and Procedures. Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor.

LOST RIVER ARTS AND CULTURAL ALLIANCE:

- Public Works Director Matthews reported Lost River Arts and Cultural Alliance received a \$10,000.00 Klamath County Tourism Grant. Public Works Director Matthews thanked Linda Woodley, Tonia Ulbricht, and Rayna Hernandez. The funds will be transferred to Discover Klamath for advertising the Lost River Bluegrass Festival. The funds may also fund posters for the event. Multiple bands are applying to perform at the Lost River Bluegrass Festival. The Klamath County Historical Society will be hosting a Modoc War Tour Saturday, November 12, 2022. The Merrill Historical and Modoc War Museum will be the first visited location. Marie Green, residing in Michigan, contacted Public Works Director Matthews to donate items relating to Charles Carter, City of Merrill Mayor circa 1935. The 14th Annual Merrill Christmas Program will be held at 6:00 p.m. at the Merrill Civic Center. Public Works Director Matthews highlighted the talent for the program.

NEW BUSINESS:

- Review Police Contract (3rd Month): Verbiage in the Police Contract stated the City of Merrill would review the contract to determine whether to continue. City Recorder Hernandez reviewed the FY 22 23 Budget and determined patrols could continue for 2 more months if desired. The transfer of funds has been included in tonight's resolutions if the City Council authorizes to continue with the contract. Mayor Carlson inquired to when the next fiscal year funds become available. City Recorder Hernandez stated July 1, 2023. City Recorder Hernandez stated other avenues to reappropriate the budget; however, research would be necessary to ensure legalities. Although, the City Council is at a point where an Officer may be recruited. City Council consensus was to continue patrols for a minimum of two months. Councilor

McCullam stated agendaizing police budget discussions for the upcoming December 14, 2022 City Council Meeting.

- Review FEMA's Letter of Decision: City Recorder Hernandez read FEMA's decision received via certified letter:

"We have determined that changes to the preliminary FIRM and preliminary FIS report dated April 30, 2020 are warranted and should be revised based on the submitted data. FEMA will revise and reissue the preliminary FIRM and FIS report to include the changes. After revised preliminary products are issued, we will initiate a second 90-day appeals period to allow for comments and appeals on the revised preliminary comments to be submitted."

FEMA is moving forward with all of the hard work put forth.

- Discuss Invoice #8213 Parks and Ratliff, P.C. Dated: 09/02/2022: Councilor McCollam directed a statement to Mayor Carlson about a charge resulting from Mayor Carlson consulting with City Attorney Ratliff. Mayor Carlson affirmed. Councilor McCollam inquired what the discussion was about. Mayor Carlson stated two discussion points. Mayor Carlson is fully in support of the Neighborhood Watch; however, Mayor Carlson consulted regarding posting requirements due to the members creating a quorum. City Attorney Ratliff stated the posting for Neighborhood Watch meetings is a gray area. Mayor Carlson stated using force and government makes people sensitive. Mayor Carlson recommended, based upon discussion with City Attorney Ratliff, is to create a policy to embrace the idea of Neighborhood Watch, allow the City of Merrill to utilize the resource of noticing and City Hall, and have the City Attorney endorse the policy. The other issue was compliance with the City Charter. Mayor Carlson stated making feelings known and has communicated making feelings known. Mayor Carlson state being hands off if someone else "wants to take it" and reiterated making feelings known. The last item was brought up by the attorney. There is a conflict in the City and stated everything be done legally, and we all agree on that. Councilor McCollam inquired whether personnel was discussed of the City of Merrill with the attorney. Mayor Carlson responded as the discussion was Charter compliance. The discussion was a gray area. Mayor Carlson stated discussing the conversation with Councilor McCollam and the City Attorney. Public Works Director Matthews inquired whether he was mentioned or discussed with the City Attorney. Public Works Director Matthews stated yes or no. Mayor Carlson stated personnel was not discussed by name, then reversed comment. Public Works Director Matthews inquired whether the Public Works Department was discussed or Public Works Director's conduct. Public Works Director Matthew's stated Mayor Carlson is setting the City up for a lawsuit if Public Works Director Matthew was discussed or department without representation from Councilor McCollam, Councilor Gatliff, and notifying self. Mayor Carlson stated talking about the items the City has been discussing. Public Works Director Matthews inquired to which items. Mayor Carlson stated following the Charter and the Mayor's options. Mayor Carlson stated being responsible while holding the mayoral seat. The Charter violation is placing the City at risk. Mayor Carlson opined the right to ask the City Attorney questions. Public Works Director Matthews stated the Mayor cannot ask the City Attorney questions about self or including self without notification. Mayor Carlson reiterated meeting with the City Attorney, Councilor McCollam, and involving Public Works Director Matthews. The invitation should have occurred prior to the aforementioned meeting. Public Works Director Matthews reiterated that supervisors must be included. Public Works Director Matthews stated the Mayor talked about his job. Mayor Carlson stated discussing Code compliance. Councilor Gatliff inquired to the definition of Charter compliance. Mayor Carlson stated, as an example, before the City commits funds to a public improvement... Councilor Gatliff asked the City Council as a whole? Mayor Carlson stated negative. Mayor Carlson stated the City of Merrill has \$466,000.00 of public funds being spent on "this project". There are rules to follow before releasing the funds. Councilor McCollam inquired whether Mayor Carlson was referring to the annexation. Councilor Gatliff wanted to understand what Charter compliance is. Mayor Carlson stated "that" as specific concern. Councilor McCollam stated the City Council has agreed to spend certain monies certain ways and sought affirmation. Mayor Carlson affirmed. Mayor Carlson suggested Councilor Gatliff and Public Works Director Matthews meet with the City Attorney for co-compliance. Mayor Carlson sought a report listing benefits, beneficiaries, and options on the land. Public Works Director Matthews stated the project has been voted upon multiple times to proceed forward. Mayor Carlson stated specific concern is that there is a "shall" before the City commits funds that are going to benefit people like they are being benefitted, the City Council *shall* be presented with a report by the City Engineer. Mayor Carlson stated attempting to communicate concerns through Public Works Commissioner

to have the City Engineer sign "it". Mayor Carlson has not seen the report from the City Engineer. Mayor Carlson addressed Public Works Director Matthews as the issue being non-personnel. Public Works Director Matthews inquired whether conduct was discussed or whether the Public Works Director was benefitting from the project. Mayor Carlson stated no comment. Public Works Director Matthews inquired why as the answer is a simple yes or no. Mayor Carlson stated the question is a personnel question in open session. Public Works Director Matthews stated the personnel question is about self. Mayor Carlson stated approaching Public Works Director Matthews previously and was rebutted. Public Works Director Matthews reminded the Mayor that he would not speak without Councilor McCollam being present. It is not the position of the Mayor to "write up the Public Works Director" for performing job duties. Councilor McCollam's position is to reprimand the Public Works Director. Councilor Gatliff's position is to reprimand the Public Works Director. Mayor Carlson stated checking in with boss before doing that and will not discuss anymore. Public Works Director Matthews stated the assumption of Mayor Carlson discussing more about self with the City Attorney. Insinuations have been made about job performance. Is that fair to say? To the attorney. Mayor Carlson stated no comment and reiterated meeting with the City Attorney. Public Works Director Matthews inquired to why meet with the attorney when boundaries have already been crossed by meeting with the attorney. Public Works Director Matthews refused meeting with the attorney and the Mayor and reiterated chain of command. Public Works Director Matthews stated the responsibility of the Mayor is to run a meeting and break a tie vote. Mayor Carlson disagreed stating the Mayor is responsible for all. No further discussion followed.

- ARPA State and Local Fiscal Recovery Funds (SLFRF) SR2303 Contract: City Recorder Hernandez stated, speaking of funds, the City is in the final process to receive the funds via executing the contracting, signing signature cards, and authorizing the deposit option notification. The contract is for the \$275,000.00 legislative funding mandated for a Water Improvement Project. Mayor Carlson inquired to the purpose of the contract. The contract is for the \$275,000.00 legislative funds. The contract is the final process before the project is put out to bid on the Swisher Road Project and Fourth Street Improvement Project. Councilor Gatliff made a motion to approve Mayor Carlson to sign the ARPA State and Local Fiscal Recovery Funds (SLFRF) SR2303 Contract. Councilor Johnson 2nd the motion. Mayor Carlson stated not signing the contract tonight as Mayor Carlson wants to review the contract first. Mayor Carlson does not anticipate any issues; however, Mayor Pro Tem may sign. Mayor Carlson stated the project has grown in scope and inquired whether the project is exclusively the water line. The funds have to be for a Water Improvement Project by legislation. The \$275,00.00 is the full budget for the project? City Recorder Hernandez stated the \$275,000.00 is legislative funding funneled through Business Oregon. The City of Merrill has to meet requirements and processes to reach this step. The other funds for the project are ARPA funds the City Council specifically designated for water sewer infrastructure. The deadline for designation was April 2022. Fourth Street/Alley are included in the project in conjunction with the Swisher Road/Annexation Water Project. The funds are federal dollars. The project is comparable to the 3.3-million-dollar Water Improvement Project. Same process. Public Works Director Matthews stated the project has not grown in scope. The project has always included the Swisher Road Project, the Fourth Street Project, and the Alley Project. Mayor Carlson sought clarification that improvements are happening in the City. City Recorder Hernandez affirmed. Discussion of signature authorization ensued. Councilor Johnson made a motion to have the ARPA State and Local Fiscal Recovery Funds (SLFRF) SR2303 Contract signed, the Signature Cards Project Number SR2303 signed, and the Deposit Option Notification Project Number SR2303 signed. Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor. (*Mayor Carlson stated signing the contract on November 10, 2022 after reviewing the contract.*)
- Authorized Signature Cards Project Number SR2303: *Refer to ARPA State and Local Fiscal Recovery Funds (SLFRF) SR2303 Contract for motion.*
- Deposit Option Notification Project Number SR2303: *Refer to ARPA State and Local Fiscal Recovery Funds (SLFRF) SR2303 Contract for motion.*

OLD BUSINESS:

- Police Department Expenditure Report: Councilor McCollam requested an itemized expenditure report for Officer Srch from the time he was placed on paid administrative leave to the disbanding of the Merrill Police Department, which equated to \$38,000.00 and change (*sic*). Councilor McCollam inquired whether Mayor Carlson, acting as Police Commissioner, which Councilor McCollam questioned the legality of, expunge personnel files or remove anything from the personnel files. Mayor Carlson questioned whether the question could be answered in a public forum. Councilor McCollam stated that if items were removed from

personnel files, then options would have been reduced as a City Council. Councilor McCollam reiterated the question. Mayor Carlson stated needing to seek the City Attorney's opinion of whether the question could be answered, but suggested meeting one-on-one so not to put anyone at risk. Personnel files are sensitive.

ORDINANCES:

- 2054 Amend Chapter 90.23 Nuisances Affecting Public Safety-Second Reading: City Recorder Hernandez read Ordinance 2054 Amend Chapter 90.23 Nuisances Affecting Public Safety into the record by title. City Recorder Hernandez stated the sole change was the year 2021 to 2022 as requested by City Council. Councilor Johnson made a motion to approve Ordinance 2054 Amend Chapter 90.23 Nuisances Affecting Public Safety. Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor.
- 2055 An Ordinance Amending Merrill Title XV: Chapter 154-Land Usage Section 154.102 Fees-Second Reading: 2055 An Ordinance Amending Merrill Title XV: Chapter 154-Land Usage Section 154.102 Fees was read into the record by title for the second reading. No changes were suggested during the first reading. Councilor Gatliff made a motion to approve An Ordinance Amending Merrill Title XV: Chapter 154-Land Usage Section 154.102 Fees. Councilor McCollam 2nd the motion. The motion passed 4-0 in favor.
- 2056 *Development Code* 4.1.100 Purpose and Applicability of Review Procedures (C)-Second Reading: 2056 *Development Code* 4.1.100 Purpose and Applicability of Review Procedures (C) was read into the record by title for the second reading. No changes were suggested during the first reading. Councilor Johnson made a motion to approve 2056 *Development Code* 4.1.100 Purpose and Applicability of Review Procedures (C). Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor.

RESOLUTIONS:

- Resolution 2022-904 Transfer Funds to Comply with Oregon Budget Law: City Recorder Hernandez read Resolution 2022-904 Transfer Funds to Comply with Oregon Budget Law into the record. Councilor Johnson made a motion to approve Resolution 2022-904 Transfer Funds to Comply with Oregon Budget Law. Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2022-905 Formal Swisher Road Annexation Approval: City Recorder Hernandez read Resolution 2022-905 Formal Swisher Road Annexation Approval into the record. Councilor Gatliff made a motion to approve Resolution 2022-905 Formal Swisher Road Annexation Approval. Councilor Baley 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2022-906 Transfer Funds to Comply with Oregon Budget Law: City Recorder Hernandez read Resolution 2022-906 Transfer Funds to Comply with Oregon Budget Law into the record. Councilor Johnson made a motion to approve Resolution 2022-906 Transfer Funds to Comply with Oregon Budget Law. Councilor Gatliff 2nd the motion. The motion passed 4-0 in favor.

OTHER-FUTURE AGENDAS:

- Councilor Baley requested an amendment to Ordinance 133.901 on noise to include specific times. Former Code Enforcement Officer/Commissioner Stan Hinton stated the lack of specific times is because noise can become a nuisance or irritation the does not fall under decibels, just not during specified hours. The difference is noise restriction verses noise nuisance with no time limit. Examples are loud music, dog barking, and the like as stated in the *Code of Ordinances*.
- Police Department Safety Training Classes (Firearm Sales)

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.

Teresa Perry (425 Grant Street): Resident Teresa Perry suggested the City Council to exercise rights to fully understand and question what happened with the lawyer situation to proceed forward with facts.

Public Works Director Matthews: Public Works Director Matthews praised the staff and crew.

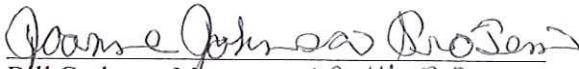
Councilor Gatliff: Councilor Gatliff thanked the City of Merrill staff in regards to the water shut off communications and the water meter check.

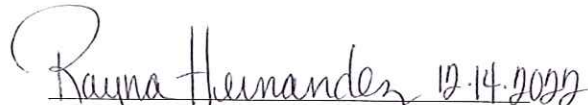
No further public comment followed.


ADJOURN MEETING:

Councilor Gatliff made a motion to adjourn the November 9, 2022 Meeting. Councilor Johnson 2nd the motion. With all in favor, the meeting adjourned at 6:29 p.m.

Respectfully Submitted,


Bill Carlson - Mayor 12-14-22 Date


Rayna Hernandez - City Recorder 12-14-2022 Date



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