

CITY OF MERRILL
REGULAR BUSINESS MEETING
Tuesday October 13, 2020 6:00 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Tuesday, October 13, 2020 Business Meeting to order at 6:08 p.m.

ROLL CALL:

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

FLAG SALUTE:

The Flag Salute immediately followed with Council President asking Councilor Smith to lead.

MAYOR STATEMENT:

Council President Smith 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:

Council President Smith 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:**
August 11, 2020 Council Meeting Minutes: Councilor Smith made a motion to approve the August 11, 2020 Meeting Minutes. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
September 8, 2020 Council Meeting Minutes: Councilor Smith made a motion to approve the September 8, 2020 Meeting Minutes (*Cancelled Due to No Quorum*). Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- **Phone Poll:**
Adoption of Qualified Retirement Plan (Councilor Picke 9:10 am Verbally Approved; Councilor Carleton 9:09 am Approved Via Text; Councilor Hinton 9:37 am Verbally Approved)
Letter of Support-Safe Routes to School (ODOT) (Councilor Picke 9:04 am Approved Via Text; Councilor Hinton 11:38 am Verbally Approved; Councilor Smith 9:31 am Verbally Approved)
Audit Engagement Letter (Councilor Carleton Verbally Approved 6:33 pm; Councilor Smith Verbally Approved 8:50 am; Councilor Picke Verbally Approved 8:53 am)
Rinnai EX38CWN Direct Vent Wall Furnace 38.4K BTU Natural Gas in White \$1959.00 (Councilor Picke 9:36 am Texted Approval; Councilor Smith 9:31 am Texted Approval; Councilor Hinton 2:35 pm Verbally Approved)
Mia and Pia's Weekend Business License (Councilor Hinton 12:33 pm Verbally Approved; Councilor Picke Texted Approval 12:42 pm; Councilor Smith Texted Approval 1:48 pm)
Councilor Smith made a motion to ratify the phone polls. Councilor Picke 2nd the motion. The motion passes 4-0 in favor.
- **Business License Renewals:**
- **Business Licenses:**
- **Accounts Payable:**
August and September 2020 Account Payables: Councilor Smith made a motion to approve the account payable. Councilor Carleton 2nd the motion. The motion passes 4-0 in favor.

August and September 2020 Water Transfer: Councilor Smith made a motion to approve the water transfer. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.

STAFF REPORTS:

- **Police:**

- Marshal Bicknell submitted a report to City Council and read. There has been a rise in criminal activity the past month. Two vehicles were stolen within a two day period, which were unlocked with the keys left in the vehicle(s). Marshal Bicknell asked residents to lock vehicles while warming up. Councilor Carleton inquired whether the vehicles were stolen during the evening or morning hours. Marshal Bicknell responded early morning hours, and one vehicle had GPS tracking. Both vehicles were located and returned to the owners within hours. Marshal Bicknell determined the suspect whom was arrested on unrelated charges with the assistance of Klamath County Corrections. An investigation was completed and sent to the Klamath County District Attorney's Office for review and prosecution. Marshal Bicknell thanked Klamath Falls Police Department for assistance during the initial investigation. The crimes were opportunistic and the suspect resides in Klamath Falls.
Marshal Bicknell has been maintaining relations with Merrill Elementary School to provide assistance during these unpredictable times.
Marshal Bicknell reported the past month statistics.
Marshal Bicknell provided assistance to Merrill Rural Fire District during the structure fire of Dan's Auto Body. Merrill Police Department offers thoughts and good wishes to Dan Pettit's recovery, whom has been a good business owner and supporter of the Merrill Police Department and City in general.
Marshal Bicknell elaborated on one of the burglaries. Marshal Bicknell had previously responded to a young lady at 3 a.m. who took the wrong path and abused methamphetamine. Her family called 9-1-1 due to comments relating to self-harm. Upon arrival, the young lady was reluctant to come to the door. She drank bleach and was attempting to drink more bleach. After 10-15 minutes, she eventually opened the door and sat on the stoop and discussed issues. Merrill Fire Department and Basin Ambulance eventually arrived. She was taken to the hospital for evaluation after encouragement. The incident was two months prior. The resident reported a burglary. Items stolen were a wallet with debit card and marijuana paraphernalia. The resident is a changed person. The night of the attempted suicide changed her life. By receiving proper help, she quit the flirtation with methamphetamines. She is proud to have gained weight from 97 to 122 pounds.
Unfortunately, the resident has not been able to rid herself of the people once associated with the methamphetamine. When the resident left the residence, the "friends" burglarized the household.

- **Public Works:**

- Public Works Director Matthews submitted a report to City Council and read: Checked lifts, took water and sewer samples, the well level is at 80 feet, completed DMR, read meters, performed multiple locates, cleaned restrooms, fixed one sewer plugs, mowed and watered park lawns, mowed commercial property, lagoon, and PPI, pumped off Willow Street, hauled branches, rebuilt Lincoln lift station and installed new motor, replaced two water meters, performed shoulder work on multiple streets, and dumping loads have increased. Public Works Director Matthews reported the new water system performed to standards during Dan's Auto Body structure fire. The water level was at 43 feet and was reduced to 33 feet. The old tower would have been emptied. Public Works Director Matthews continued monthly report: a new heater was installed in the shop, hired Part-Time Laborer Juan Carlos Roman to replace Part-Time Laborer Zaidyn Nicolet whom earned an apprenticeship with Pelican Electric, ODOT surveyed sidewalks ramps for handicap compliance, cleaned metal pile, met with CIS insurance agent for appraisal, Utility Worker Taylor is building a shed for equipment, stopped leaks at Dan's Auto Body, and updated the City Council on the conversation regarding the encroachment of Malin Co-op and donations to local non-profits as a negative. City Council sought clarification. Mayor Carlson stated a building that has historically encroached upon City property. Washington Federal has approached the City to waive interest on the property, which is asking for free land. The City would look more favorably upon the waiver with charitable contributions to local non-profits such as Project Merrill and Lost River Arts and Cultural Alliance. The bank is not interested.

The Potato Festival is in full swing. All events will be outside and on the field. City Councilor Smith asked Public Works Director Matthews to discuss curb striping. Public Works Director Matthews stated the curbs will need to be painted red. No parking is red, yellow is loading and unloading, and green is minimal parking. The curbs at the crosswalks need to be red 20 feet from the intersection on either side. Councilor Smith inquired to eliminating parking spaces during painting. Public Works Director Matthews and Marshal Bicknell affirmed. The number of eliminated parking spaces ensued. The City of Merrill will need to enter into an Intergovernmental Agreement with ODOT for the paint striping, which lists Ordinances, Resolutions, and mapping.

- **City Recorder:**

- City Recorder Hernandez submitted report and read: submitted audit and corrections to correspond with the old accounting system; mailed Notice of Decision Letter and notifications; requested quarterlies from Hunter Communications and received a check to refill deposit; faxed Northwest Retirement six year renewal; have had software issues; ODOT webinars; compiled and submitted ODOT grant application; submitted Letter of Commitment to ODOT; mailed O'Connor's Land Lease; City Clerk Northcutt is now a notary; and other administrative duties.

- **Lawyer:**

- Report: Mayor Carlson consulted City Attorney Schade in regards to private encroachment onto public lands. City Attorney Schade was in favor of a charitable contribution for the land.

- **Code Enforcement:**

- Report: Specific items are being addresses. Merrill Fire Department requested the City not send abatements for vegetation due to the high level of fire danger. Marshal Bicknell reviewed Code Enforcement activities. Code Enforcement has been focusing on junk vehicles, which began as a citizen complaint. 20 abatements on junk vehicles were issued. Marshal Bicknell introduced Wayne Powell who was given four junk vehicle abatements and sought a request from City Council.

Wayne Powell (401 Water Street): "Two of the vehicles are gone. Basically, three still current. Red '79 Chevy. I do not know how much of the notes you have, a '69 Bug and a '64 Jeep."

Marshal Bicknell asked whether the vehicles were projects.

Wayne Powell (401 Water Street): "Correct. They're actually my retirement projects. We got them at a really good price. They're kind of rare."

Marshal Bicknell stated Mr. Powell has a solution to present to City Council.

Wayne Powell (401 Water Street): "Basically, we are wanting, on the side where the vehicles were pictured, we were going to put in a greenhouse. A greenhouse. A free standing greenhouse. I do not know if you have ever seen them. It's just kind of like uh PVC where you actually put rebar in the ground and such. I'd attached to one side of my shop and the other just into the ground. Of course, it's far enough away from the fence and basketball court that is there. I do not know what easement I have there."

Marshal Bicknell referred Mr. Powell's residence as the old Scronce Residence on Water Street with the shop.

Councilor Hinton sought clarification as the residence next to the court.

Marshal Bicknell affirmed.

Wayne Powell (401 Water Street): "And I was just going to go ahead and use that as cover the vehicles for just right now until I get the garage cleaned out. We had Mid-Town Eatery. My entire business is in my shop right now. I have no room. We were planning this summer to do a yard sale, and then, as we all know, COVID hit. We were not willing to bring that many people into our home. I was hoping to get maybe a little bit of leeway. I have some drawings if you guys aren't quite understanding what I was trying to explain as far as the freestanding greenhouse. They will be covered and out of sight. Basically, it will be capped at both ends."

Councilor Hinton inquired to what will be inside the greenhouse.

Wayne Powell (401 Water Street): "Inside the greenhouse? Herbs, and um lettuce, tomatoes. All that kind of stuff. I actually have a garden on the front side of the property that we have been working on. A bunch of pumpkins. A ton of them that I need to get rid of."

Councilor Hinton sought clarification to the location of 401 Water Street by referring to Phil Bragg's residence.

Marshal Bicknell stated across the street.

Councilor Hinton inquired to the number of project vehicles.

Wayne Powell (401 Water Street): "Currently, the red Chevy actually runs and drives. I am getting that tagged hopefully this upcoming week. It is harvest time. I just moved into Pape Machinery down there and everybody is digging and stuff. I do not have much time to go into town. I work 7:30 am to 5:30 pm Monday through Saturday.

Councilor Hinton reiterated the question.

Wayne Powell (401 Water Street): "Two. Two technical actual project cars that aren't currently running, which is the '69 Bug, which has no motor in it, which was pictured in that, and then the white Jeep Gladiator Pick-up. It's actually two project vehicles. The Chevy runs and drives. I actually moved it to get the white Chevy out and gone and a blue Chevy out and gone."

Councilor Hinton inquired to the length of time for completion of the project vehicles.

Councilor Smith stated Mr. Powell stated the project vehicles were a retirement plan.

Wayne Powell (401 Water Street): "Well they are not going to stay in the greenhouse. What I am saying is that as soon as some of this craziness let's up, I am having a huge garage sale. Those are going in the garage. They are going to be in the shop. So, I am hoping within the year I can at least get them in there.

Councilor Hinton inquired whether Mr. Powell was seeking an extension.

Wayne Powell (401 Water Street): "If possible. I wanted to make sure before I started a project covering those that it would be okay with you for me to do that. I didn't want to violate any coding or anything like that."

Marshall Bicknell inquired whether the vehicles would be covered and within a shelter.

Wayne Powell (401 Water Street): "Yeah. They would be covered and out of sight."

Marshal Bicknell stated until the vehicles can be moved into the garage to affirm the request by Mr. Powell.

Wayne Powell (401 Water Street): "Yes."

Councilor Carleton stated no objection.

Councilor Hinton stated no objection with the stipulation the vehicles are concealed.

Wayne Powell (401 Water Street): "I mean it is going to be clear plastic. You won't... They will be covered, but it's not clear... you know greenhouse plastic the half opaque stuff. That's what it will be. They will be visible but not visible."

Mayor Carlson stated authorizing Code Enforcement to work with Mr. Powell.

Councilor Picke inquired whether this solution would pertain to other residents desiring the same outcome.

Marshal Bicknell affirmed. City of Merrill Code states vehicles must be within a building but serves the purpose of a building.

Discussion of the removable greenhouse ensued as a plastic and PVC construction. Councilor Smith stated for the record that City Council has denied residents in the past.

Wayne Powell (401 Water Street): "Correct. It's a non-permanent structure, and I do have a solution. I could on each side make it, on either side, truly make it not attach. I was thinking snow would make it better."

Councilor Hinton stated past incidences across the street.

Wayne Powell (401 Water Street): "Yes. That's going to be the plan. Hopefully, this weekend I am actually going to get them moved over towards the shop. The Jeep is actually going to have a car cover on it so it's not as visible, and I am going to tarp off the Bug during construction. Cause it is going to take more than one week to put it together unfortunately."

Councilor Smith inquired whether there is a difference between Commercial property and Residential property in regards to shipping containers. The City of Merrill had Resident Dawn Maupin remove a shipping container from property. Marshal Bicknell stated the removal was of a trailer. Councilor Smith signed an application approving a storage building not realizing the building was a shipping container. Marshal Bicknell was unsure. Councilor Smith stated not asking Code Enforcement on codes for containers. Marshal Bicknell stated containers would require a ruling because containers are technically a temporary structure, which does not require a permit. Court Drive has a trailer and Resident Dawn Maupin requested a semi-trailer, which were

denied and abated. Councilor Hinton and Marshal Bicknell reiterated shipping containers are portable.

Councilor Hinton stated an immediate abatement for a barking dog was issued and abated.

- Discuss Development Code Verbiage for Junk:

Gary Robeson (405 Water Street): "My name is Gary Robeson and (inaudible) my communications with the City Council and the Marshal. It started with the September Tires (*sic*) Letter that was sent out with our utility bill. It raised questions in my mind. So, September 4, after receiving that, I wrote a letter to the City Council. So, it was a good article and picked apart the part that Brian wrote and it says: 'Vehicles that are not able to operate, unlicensed vehicles, vehicles not currently insured, junked vehicles are not allowed in the City. This includes on private property, unless they are stored indoors, such as a garage or shop.' So, I think one question that came up is, when I looked at the property that was mentioned earlier, at the Bragg property, the picture I had, shows these two vehicles."

Councilor Smith inquired whether Mr. Robeson was the only person with the picture referred to.

Gary Robeson (405 Water Street): "Yes. I am willing to pass it around. So, I guess my....(*inaudible*). Would a licensed car, like the one in the photograph, I witness being called out to the property, not operable, had it jack knifed same day it arrived from the passenger side, with the wheel off and tire, not operable, never started, did not come onto the property with its own power, but it had a license plate on it good 'til 20-21. So, it appears, as I understand the code section, under 90.24(B)(2), be allowed and stay there simply because it had a license plate. 'Cause a license plate can be only good for an operable vehicle where you can drive it around and it's legal and it wouldn't abate the section 90.24 (B)(2) would be stored in a garage or building or like outside in some manner. If they are not operable, they are junk. If they're not. And the parking preview. That was the other issue, parking. So to get to my house on Water Street, I've got to drive by those two vehicles every day. Several times a day if I go anywhere. So if that's (*inaudible*). My question for Code Enforcement is if that has a current license plate on it, is that abatement? If it has the license plate on it? Should it be removed or be in a building?"

Marshal Bicknell stated the vehicle should be moved or in a building. Marshal Bicknell gave the example of purchasing a brand new vehicle, registering the vehicle for four years, parking the vehicle on the side of the road, place the vehicle on blocks and take the tires off, the code would apply.

Councilor Hinton stated if the vehicle is inoperable, then the vehicle must be removed.

Gary Robeson (405 Water Street): "Six months ago, in that photograph, the black vehicle was brought. It has no drive shaft. There's two drive shafts on the ground."

Marshal Bicknell stated Code Enforcement is strategy. There are multiple and a wide range of violations throughout the City of Merrill. First, abate the obvious and move to the next violation.

Gary Robeson (405 Water Street): "That basically answers all my questions that I had. The only other comment that I had was your description here doesn't conform with 90.24 (B)(2)."

Marshal Bicknell stated it does conform to State law verbiage regarding an unregistered, uninsured vehicle parking on the street. There is a policy currently in force from Oregon Chiefs of Police, The Oregon Association of Sheriffs, and The Oregon State Police that law enforcement is not enforcing registration due to difficulties with Department of Motor Vehicles during COVID-19.

Councilor Smith stated personally attempting to register a vehicle and being denied.

Marshal Bicknell stated persons have the inability to resolve certain enforcement. The City of Merrill issued 20 abatement notices in two days. The majority were on the streets and becoming a hazard, a nuisance, and unsightly. Abatements are limited due to responses from the owners without overwhelming the Recorder's Office or self.

Councilor Carleton and Officer Srch responded to an abatement at the Merrill Mobile Manner. A double wide trailer was removed and created three existing pads. The water and sewer were existing, but electricity was rewired to each site. Pacific Power placed a meter on the pole. Earl Perry with Klamath County Code Enforcement inspected the wiring. The wiring was not permitted. Any commercial work must be permitted. Merrill Mobile Manner is in the process of permitting and correcting the issue.

- Letter from Resident Robeson: *Refer to Discuss Development Code Verbiage for Junk.*

- Approve Code Enforcement Complaint Form: Marshal Bicknell stated the complaint form was redesigned for the general public. No objection followed to adopting the new revised Code Enforcement form.
- **Planning:**
 - Report (Solar Panels, Temporary Use Permit): Councilor Carleton stated there have been three Land Use Compatibility studies for roof mounted solar panels. Resident McCollam was issued a Temporary Use Permit (180 days) for trailers that are not allowed to be moved due to probate and must remain on the property. Councilor Picke stated an issue with the location of the trailers on the property in regards to the property line. Councilor Carleton inquired whether the road is considered a street or an alley beside the property. Marshal Bicknell stated an alley. Councilor Carleton stated the set-back for an alley is two feet and is in compliance. Councilor Smith inquired to the complaint regarding a sewer smell. City Clerk Northcutt stated the complaint was submitted to Klamath County and referred the complaint to City of Merrill. Klamath County did not find anything conclusive.
 - Approve Planning Commissioners Terms of Office: Tabled.
 - Land Use Compatibility-Five Residential Houses Tax Lot 4110-00200-01101: *Mayor Carlson recused self due to conflict of interest with City Council President Smith presiding.* Councilor Carleton stated the Planning Commission held a meeting October 13, 2020 to review Land Use Compatibility-Five Residential Houses Tax Lot 4110-00200-01101. The Planning Commission approved the project and recommended to the City Council approve the project. Developer Carlson discussed the preliminary plat/zone change approved two months prior by the Planning Commission and City Council. Developer Carlson proposed a subdivision map to create six residential lots for the new residential zoning and a Developmental Agreement. The Development Code requires four items. Developer Carlson has twenty-four months to complete the project. Otherwise, the City of Merrill has the authority to exercise the bond to complete the project. Established engineer estimates for Phase 1 of \$88,400.00 and Phase 2 of \$29,200.00. For the five acres, all improvements shall be made with exception to the paving until the third certificate of occupancy issued, which propels the project forward. In addition to the minimum portions of the Development Agreement, new homes and commercial sites shall pay full hookup fees and utility rates. All public infrastructure under construction shall be subject to inspection by the City of Merrill. The City of Merrill and the developer shall be joint owners after the first closing and shall agree upon a maintenance plan for vegetation. Should this agreement be made, the designated City signer of the final plat is only authorized to sign once the financial guarantees listed in item three are received in-hand. Developer shall file the Phase 2 Final Plat within twenty-four months of the filing of Phase 1 Final Plat. There is an administrative difference of opinion between Developer Carlson and Broker Margaret Moore. Broker Margaret Moore will propose an addendum to the agreement documenting a change in acreage. The original purchase was for 1.08 acres increased to 1.11 acres. There is no objection to the documentation. Councilor Carleton reiterated Planning Commissions approval and recommendation to City Council for approval. Councilor Carleton made a motion to approve Stukel Mountain Development Project on the recommendation of the Planning Commission. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor.
 - Consider Development Agreement to Support Final Plat: *Refer to Land Use Compatibility-Five Residential Houses Tax Lot 4110-00200-01101. Mayor Carlson recused self due to conflict of interest with City Council President Smith presiding.*
 - Discuss Non-Conforming Use: The Planning Commission reviewed Klamath County and City of Merrill Development Code Non-Conforming Use with no decision made. 415 W. Front Street is a residence on a commercial zone. The new buyer inquired whether the house can be rebuilt if destroyed by a natural disaster. Councilor Hinton stated the property reverts to commercial. Councilor Carleton quoted the Developmental Code: should such non-conforming development or non-conforming portion of the development be destroyed by any means to an extent more than 80 percent of its current value as assessed by the Klamath County Assessor, it shall be reconstructed only in conformity with this Code. Klamath County Code reads: Repair or replacement of a non-conforming use or structure damaged by fire or other natural disaster shall be permitted in the same location and manner provided the work commences within 1 year and is completed within 2

years. Councilor Carleton sought the opinion of City Council whether to adopt Klamath County Code or allow the current Development Code to govern, which led to City of Merrill's five year Development Plan. A five year Development Plan does not exist. The Planning Commission's plan of action is to study the code, make a determination at the next meeting, and make a recommendation to City Council. All Front Street and Main Street residences are non-conforming. Councilor Hinton stated the opinion of allowing a resident to rebuild a residence on commercial property. Councilor Picke stated if the resident rebuilds, then the City loses commercial property. Councilor Smith stated the resident would lose a home they resided in for so many years. Councilor Picke stated a buyer must have due diligence before purchasing property.

PROJECT MERRILL:

LOST RIVER ARTS AND CULTURAL ALLIANCE:

- Report: Public Works Director Matthews stated Lost River Arts and Cultural Alliance applied for a \$5,000.00 grant from SCOEDD for the Bluegrass Festival. Lost River Arts and Cultural Alliance is working on an Inspire Museum Grant of \$5,000.00-\$50,000.00 for an audio-visual room for the museum. Lost River Arts and Cultural Alliance also applied for a \$7,000.00 grant from Oregon Arts Commission for a mural.

NEW BUSINESS:

- Authorization to Open Merrill Commercial Reserve Account: City Council President Smith stated auditors prefer each department is to have a separate account. Mayor Carlson will remain a signer on the signature card, does not make the deposits, and a voice on how the funds are spent. Councilor Carleton made a motion to move forward to open Merrill Commercial Reserve Account. Councilor Picke 2nd the motion. The motion passes 3-0 in favor. (*City Council President Smith presided as the funds will be from Developer Bill Carlson*).
- Discuss Intergovernmental Contract with ODOT: The paint striping of the curbs require an Intergovernmental Agreement with Oregon Department of Transportation with details described. City Recorder Hernandez sought City Council approval to move forward with the agreement. Mayor Carlson inquired to any negative impacts with the agreement. The City of Merrill staff will agree to stripe and maintain the curbs within City jurisdiction. Councilor Picke made a motion to proceed with the Intergovernmental Contract with ODOT. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.
- City Clerk Notarial Journal Agreement: The Notarial Journal Agreement states if City Clerk Northcutt is no longer employed with the City of Merrill, the journal is the property of the City. Councilor Smith made a motion that the Notarial Journal is to stay with the City of Merrill is City Clerk Northcutt leaves City employment. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- Discuss Acknowledgment and Acceptance of Encroachment Tax Lot 7300/Parcel A: Tax Lot 7300/Parcel A is a property under contract to be sold. During the property transfer, it was discovered Tax Lot 7300/Parcel A encroaches on public lands. The City has been asked to acknowledge the encroachment and waive rights to the property, in Mayor Carlson's opinion, to clean-up the title. Mayor Carlson conferred with the City Attorney regarding compensation for relinquishing rights to the property, and the City Attorney stated the request is reasonable. Mayor Carlson suggested soliciting charitable contributions to non-profits such as Lost River Arts and Cultural Alliance and Project Merrill in exchange, which the City Attorney stated as favorable. Charles, the representative of the bank, entertained the idea. After Public Works Director Matthews' conversation with the representative, the charitable contribution did not come to fruition. Mayor Carlson sought authorization from City Council to state: The City of Merrill recently came to an understanding of an encroachment into public lands. The City notes its disappointment and strongly encourages the project to address the problem. Councilor Carleton inquired to the amount of land involved. Mayor Carlson is unaware. Councilor Smith desired further details. Councilor Carleton stated in the event the value is over \$500.00, it has to go out to bid. Mayor Carlson stated the action item to coordinate with Councilor Carleton to develop question for the seller. Report to City Council November 10, 2020. Discussion of location ensued. Broker Margaret Moore of Fisher Nicholson Realty, LLC inquired whether the seller is going to have the property surveyed to legally adjoin the City property to the private property. Broker Margaret Moore had a

similar situation where the property was encroaching onto another property. An agreement was reached to gift the property, but the property was required to be surveyed to be shown on the title. The property owner paid for the survey, and needs to be the property owner's responsibility. Councilor Carleton inquired whether the property encroachment was between two private properties. Broker Margaret Moore stated the private property was encroaching on public school property. The agreement must be partnered with a survey and titled.

Mayor Carlson sought authorization to communicate with the representative to formally address the encroachment through a surveyed land transfer and the City Attorney involved in the process. City Council approved to proceed forward. Report to City Council November 10, 2020.

- Review and Approve Revised Employee Handbook: The revised Employee Handbook is a compilation of the old City of Merrill Employee Handbook, the City of Malin Employee Handbook that contained past laws and regulations missing from the City of Merrill Handbook, new laws, and new and previous resolutions and policies. Tabled.
- Addendum to Real Estate Sale Agreement: *Mayor Carlson recused self due to conflict of interest Council President Smith presided.* Councilor Carleton made a motion to approve the addendum to transfer 1.11 acres. Councilor Smith sought discussion. Buyer Bill Carlson stated the original agreement states documenting a larger than minimum initial purchase. Broker Margaret Moore stated approximate. Approximately one acre would be the initial transfer. The front page of the sales agreement states the partition was to be determined, which has now been determined with the survey. The addendum is confirming and clarifying. The addendum gives instructions to the title company due to accountability of funds. The \$2,000.00 earnest money has been accounted for and deposited with the City. The initial purchase amount increased to \$23,530.00 instead of \$23,000.00. Councilor Picke 2nd the motion. The motion passed 3-0 in favor.
- ODOT Speed Study for June 2020: The City of Merrill has been in communications with ODOT in regards to a speed study. There would be a higher chance of reducing the speed limit with additional activity when the study is completed. Mayor Carlson proposed to direct ODOT to begin the study June 2020 (*sic*) when the City anticipates development with an increased chance to reduce the speed limit. City Council approved.

OLD BUSINESS:

- Review Solar Landscaping Response: Councilor Carleton stated fining the Solar Company. Emails state plans with no completion of work. The solar project has been transferred to New Energy Solar Manager. The City has had no correspondence with the nursery commissioned to replant the landscape buffer. The nursery should submit landscaping plans before approval by the City. Council Hinton affirmed. There has been no submission for the Water Rights Plan. Councilor Smith made a motion to move forward on fining the solar company. Councilor Hinton 2nd the motion. Councilor Picke sought clarification on the fine. Councilor Carleton stated the entity is fined for a period of time per violation. Discussion of the landscaping deadline and plantings ensued. The water rights is the violation currently finable. Councilor Carleton confirmed with a date to abate. If the violation is not abated, the violation is \$1,000.00 (*sic*) per day. The City of Merrill encouraged the solar company to send a representative for tonight's meeting. The representative is currently working on a project. City Council stated the landscape plans must be presented to City Council in 10 business days, \$1,000.00 fine for the water rights with 30 days for a written agreement, and a representative will attend the November 11, 2020 City Council Meeting. Mayor Carlson stated the solar company is exercising the Water Rights. The City needs a written agreement submitted. The motion passed 4-0 in favor. The letter is to be mailed October 17, 2020 with a deadline of November 1, 2020.
- Discuss Traffic Control on Front and Washington Street: Councilor Hinton stated the One-Way on Washington Street will be implemented spring 2021. Public Works Director Matthews stated the City of Merrill needs to notify residents prior to implementation, draw the plan, post on the City of Merrill website, in the newsletter, post around the City, and order signage. Councilor Hinton met with law enforcement and wanted to discuss conversation with Marshal Bicknell before agendizing. Councilor Hinton stated issues on Front Street are from local residents instead of travelers. Councilor Hinton inquired about a speed sign from ODOT. City Recorder Hernandez stated there is a \$2,000.00 grant at ODOT's discretion call Quick Fix. Marshal Bicknell stated Klamath County Sheriff's Office completed paperwork to donate a speed reader trailer to the City of Merrill. Marshal Bicknell will pick-up the trailer in the morning to restart the speed reading program.

- FEMA Open House Update: FEMA can attend the December 2020 City Council Meeting by teleconference. A pre-recorded video will be provided to project on the wall. FEMA will answer any questions thereafter for the upcoming Open House. Mark Miller needs to be contacted for an update on the flood plain status.

ORDINANCES:

- Bill 2027-Amending Chapter 90: Health and Sanitation: Nuisances §90.27 Violations; Remedies Subsection (B)-Second Reading*: Bill 2027 and Bill 2028 incorporates Code Enforcement Procedures previously approved by City Council. Councilor Carleton made a motion to approve Ordinance 2027 and Ordinance 2028. Councilor Hinton 2nd the motion. The motion passed 4-0 in favor.
 - Bill 2028-Amending Chapter 90: Health and Sanitation: Nuisances §90.26 Abatement; Procedures-Second Reading*: Bill 2027 and Bill 2028 incorporates Code Enforcement Procedures previously approved by City Council. Councilor Carleton made a motion to approve Ordinance 2027 and Ordinance 2028. Councilor Hinton 2nd the motion. The motion passed 4-0 in favor.
- * Councilor Hinton questioned the verbiage: to amend Charter, Code of Ordinances, & City Council Rules. The verbiage is used to describe which book the Ordinance is being amended from as the City Council has Charter, Code of Ordinances, & City Council Rules and Development Code. The Charter is not being amended.*

RESOLUTIONS:

- Resolution 2020-823: Transfer Funds to Comply with Budget Law Requirements: City Recorder Hernandez read Resolution 2020-823: Transfer Funds to Comply with Budget Law Requirements into the record by title. The resolution is to bring budget lines into balance. A previous resolution was passed; however, corrections were made to the current accounting software to mirror the old accounting program resulting in the necessity of a revised resolution. Councilor Smith made a motion to approve Resolution 2020-823. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2020-825: Transfer Funds to Comply with Budget Law Requirements: City Recorder Hernandez read Resolution 2020-825: Transfer Funds to Comply with Budget Law Requirements into the record by title. The transfers are due to purchases with the credit/debit machine budgeted for the general fund, water sewer reserve, and a clerical error. Councilor Smith made a motion to approve Resolution 2020-825. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2020-826: Authorize Specific Purposes for Merrill Commercial Reserve: City Recorder Hernandez read Resolution 2020-826: Authorize Specific Purposes for Merrill Commercial Reserve into the record by title. City Recorder Hernandez asked the City Council to review the revenues and expenditures for the reserve account. City Council questioned the word contingency. City Recorder Hernandez stated contingency is listed on all reserve account resolutions for the City. The City may deem to use the funds for planning expenditures related to Merrill Commercial Development in the future. Councilor Smith made a motion to approve Resolution 2020-826. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2020-827: Reassign Light Industrial Address 106 E Third Street: City Recorder Hernandez read Resolution 2020-827: Reassign Light Industrial Address 106 E Third Street into the record by title. Klamath County no longer has an address for 106 E Third Street. The City of Merrill is reassigning the business per Mr. Waterberg's request. Councilor Smith made a motion to approve Resolution 2020-827. Councilor Carleton 2nd the motion. The motion passed 4-0 in favor.
- Resolution 2020-828: Disposal of Tax Lot 4110-002DD-07901 as Surplus Property: Mayor Carlson introduced Resolution 2020-828: Disposal of Tax Lot 4110-002DD-07901 as Surplus Property as interesting and tragic with timing. An Intergovernmental Agreement was discovered between the City of Merrill and merged Fire District from 20 years ago. If the merged Fire Departments vacate the building, Dan's Auto Body, the City has the authority to reassert ownership. The City could reassert ownership and win; however, the victory would create dissension. Resolution 2020:828 waives the City's interest in the property and create a clean title for Dan Pettit in the future. Dan Pettit desires to rebuild after the fire and exercise the lease to buy. There is no public interest in claiming the property. Councilor Hinton made a motion to approve Resolution 2020-828. Councilor Picke 2nd the motion. The motion passed 4-0 in favor.

OTHER-FUTURE AGENDAS:

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.

Gary Robeson (405 Water Street): "We appreciate what Mr. Powell is doing at 401 Water Street. I would like the City to reserve final acceptance of his structure to provide some closure based upon an inspection to see if it performs to see if it performs as it was stated verbally. Until that is done, I would not accept it. I do not know how you approve it. That is my recommendation. A land transfer subject, without a survey, nobody has clear title. If anything happens to that property, you could possibly be named as a defendant because it is in your boundary. Then you are going to have future lawsuits just like Tulelake does with the airport down in Stronghold. To keep yourself protected, have it surveyed, have everything defined, have clear title. I do not care how it is compensated, but I do think it's a necessity. For the Planning Commission, there are two single wide trailers on Merrill Motel, and I understand 180 day extension, if that is the correct two structures. Sometimes probate takes a year, sometimes sooner for others (*inaudible*). What is going to happen to the two structures once probate is over? Because when I talked to Earl today, he said once they are placed on any place on the property would require building permits and need a current stamp of validation."

ADJOURN MEETING:

Councilor Carleton made a motion to adjourn the October 13, 2020 Meeting. Councilor Picke 2nd the motion. With all in favor, the meeting adjourned at 8:00 p.m.

Respectfully Submitted,


Bill Carlson - Mayor

10 Nov 2020
Date


Rayna Hernandez – City Recorder

11-10-2020
Date