

**CITY OF MERRILL**  
**REGULAR BUSINESS MEETING**  
Tuesday September 10, 2019 6:00 P.M.

**MEETING CALLED TO ORDER:**

Mayor Carlson called the Tuesday, September 10, 2019 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, Councilor Carleton, Councilor Hinton, Mayor Carlson, and City Recorder Hernandez.

**FLAG SALUTE:**

The Flag Salute immediately followed with Mayor Carlson asking Councilor Hinton 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.

**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 August 13, 2019. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- **Phone Poll:**
- **Business License Renewals:**
- **Business Licenses:**
- **Accounts Payable:**  
Councilor Smith made a motion to approve the August 2019 account payables. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.  
Councilor Smith made a motion to approve the August 2019 water transfer for \$5,760. Councilor Johnson 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

**STAFF REPORTS:**

- **Police:**
  - Marshal Bicknell and Officer Srch had 14 traffic stops, responded to two disturbances and property alarm calls, one dog transported to the Humane Society, one assist to Parole and Probation, two domestic property crimes, and two incidents of travelers requiring local merchant assistance for vehicle repair. The City of Merrill presented a heavy presence on Front Street due to Burning Man and Tulelake-Butte Valley Fair traffic. Marshal Bicknell assisted Tulelake Police Department with the Butte Valley Parade. The Radar Speed Sign has been installed with the generous assistance of Fireserve. Fireserve provided the boom truck and personnel for installation at the direction of Marshal Bicknell. The City of Merrill has two guests, Law Enforcement Officers, from Austria. Marshal Bicknell asked to be excused to visit with the guests. Permission was granted.
- **Public Works:**
  - Public Works Director Matthews read from submitted September 2019 report. Public Works Director Matthews. The City of Malin has reopened the sewage ponds for dumping. The City of

Merrill's business has decreased dramatically. Discussion of dumping revenue ensued. Utility Worker Taylor installed new lighting in the City Hall Council Chamber at the request of the public. A meeting was held on September 10, 2019 with Public Works Director Matthews, Mayor Carlson, Councilor Carleton, and City Engineer Darryl Anderson to discuss the completion of the Water Improvement Project. Mayor Carlson stated conversing with Bob's Excavating to discuss the status of closing the minor issues with the water tank. The response was completion by the end of current week. The City of Merrill's intention is to give Bob's Excavating a deadline of September 13, 2019. Actions may be taken, including hiring another contractor and bill Bob's Excavating upon the completion of the project. Bob's Excavating is no longer incurring penalties. West Coast Pipe tested the water pressure with success, chlorinated and dechlorinated pipes, and will gather water samples. Councilor Hinton inquired to the issues with the Willow lift station. Public Works Director Matthews stated the Willow lift station has a probe, which requires scheduled maintenance and works on two air compressors instead of a float system.

- **City Recorder:**

- City Recorder Hernandez reported on meeting with Todd Andres Regional Business Manager of Pacific Power in regards to the Blue Sky Program mentioned during the August 2019 City Council Meeting. The Blue Sky Community Project enables the installation of renewable energy projects such as solar panels. A benefit is to be a Blue Sky Customer, which City of Merrill is not. City Recorder Hernandez stated training for ClerkBooks and implementation with a few issues to be worked out. The Polk Street Grant reimbursement is in process and may take a minimum of two weeks to receive. City Recorder Hernandez and City Clerk Jensen met with Karen Buell from City Insurance Services. A meeting was held with Dirk Degroot regarding 401K retirement. The City of Merrill sent a sympathy bouquet to Malin City Recorder Neumeyer for the loss of her mother whom was a City Council member. City Recorder Hernandez attended an advanced notarization training. Reported were other administrative duties.

- **Lawyer:**

- Mayor Carlson and City Recorder Hernandez met with City Attorney Schade to discuss the Code Enforcement Policy and Executive Sessions.

- **Code Enforcement:**

- Councilor Hinton stated the decals have been removed from the 2009 Dodge Charger (white). Councilor Hinton suggested performing Code Enforcement duties personally and City Clerk Jensen performing the clerical duties. Councilor Smith stated the want to voice opinions on Ordinance 2023- City of Merrill Code Enforcement Policy as Executive Sessions and Work Session have been "boycotted and put off". Mayor Carlson reagentized Bill 2023 to Code Enforcement.
- Bill 2023-City of Merrill Code Enforcement Policy: Councilor Smith stated agreement with Councilor Carleton's necessity of a Work Session. Councilor Smith stated City Council specifically stated City Clerk Jensen was not to perform field work. The policy states City Clerk Jensen will perform field work. Councilor Smith read, "City Code Enforcement shall be the responsibility of the Code Enforcement Commissioner, a member of the City Council appointed by the Mayor". Councilor Smith stated the member, unless elected, shall be voted upon by City Council. The decision belongs to City Council instead of the Mayor. Councilor Smith stated all statements are personal opinion. The paperwork is in City Clerk's job description. "Code Enforcement and the Police Department are separate and distinct departments." Councilor Smith stated the sentence is irrelevant as the sentence is only to prove a point that the departments are two separate entities. Code Enforcement is in the Police Job Description as the police enforce the codes and ordinances for the City of Merrill. Councilor Smith stated, "I do not know why this has been such a battle. I've never seen a department try to get out of doing something before. It has truly been a six month battle. It has been insane". Councilor Smith stated the belief the Police Department has the time to perform Code Enforcement. There was time made for Code Enforcement. The difference is there is no longer a volunteer. Councilor Smith stated witnessing patrol vehicle(s) empty for hours in front of merchant businesses. The decals have been removed from the 2009 Dodge Charger, which is great; however, with the Police Department patrolling for Code Enforcement, the removal would not have been necessary. The City of Merrill would save money on uniforms and name badges with the Police Department performing visits. Code

Enforcement is a safety issue and should be performed by a trained professional to confront the situations. A person must remain in the office and City Clerk Jensen patrolling would be a hardship. A person should not be pulled out of the office eight hours per week. Marshal Bicknell and Officer Srch are patrolling with a low crime rate. 14 traffic stops is not heavy. The job is dangerous, but there is time for Code Enforcement. In previous meeting minutes, the statement was made that patrolling for Code Enforcement required approximately four hours per week and four clerical hours. Mayor Carlson stated the origin of Ordinance 2023-City of Merrill Code Enforcement Policy was a collaboration between Code Enforcement Commissioner Hinton, City Clerk Jensen, City Recorder Hernandez, and Mayor Carlson. Councilor Carleton stated the belief the Police Department has the ability to document Code Enforcement violations while patrolling, and City Clerk Jensen not patrol. City Clerk Jensen should perform the clerical portion of Code Enforcement as already knowledgeable with the code from planning. Councilor Hinton inquired whether City Council was of the belief Code Enforcement and the Police Department be combined. Councilor Carleton stated while patrolling, the Police Department has the time to document Code Enforcement violations. Councilor Smith affirmed. Councilor Hinton stated combining Code Enforcement and the Police Department will not work as history has proven. Historical ordinance stated Code Enforcement and the Police Department must remain two separate entities. Councilor Smith stated disagreement. The Police Department must learn to perform an unwanted task. Councilor Hinton stated Klamath County merged Code Enforcement and the Police Department without success. Code Enforcement and the Police Department are completely different. The processes are procedures are handled differently. Councilor Hinton elaborated, "If you are going to run Law Enforcement, then run Law Enforcement. If you are going to run Code Enforcement, then run Code Enforcement. It depends on how much turmoil you want within the community. You put them together and you will not function properly. You will have nothing but turmoil." Councilor Smith stated residents will need to learn to come together as a community. Personnel should exhibit a decent demeanor when speaking to the public. Councilor Hinton stated Code Enforcement and the Police Department are two separate entities altogether. Councilor Smith stated disagreement. Mayor Carlson suggest inviting the Klamath County Code Enforcement Officer. Councilor Smith stated opposition and compared population of Klamath Falls and City of Merrill. Code Enforcement is in the job description of Ron Broussard of the City of Malin. The City of Merrill does not require the input of other towns with a Work Session. Councilor Hinton stated Ron Broussard invited Code Enforcement Officer Hinton (self) to assist the City of Malin with Code Enforcement issues years past. Code Enforcement with the Police Department was not working. Earl and Gail of Klamath County were enforcing Code Enforcement as a team. Earl is employed in the Planning Department. The City of Merrill was invited to show Klamath County the model for Code Enforcement, but Klamath County Code Enforcement merged with the Police Department. Code Enforcement "fell apart". Councilor Johnson inquired to the Code Enforcement model of the City of Merrill. Councilor Hinton gave an example of enforcing codes with Earl on two occasions. Councilor Johnson inquired whether Code Enforcement Hinton was part of the Police Department. Councilor Hinton stated never being part of the Police Department. Councilor Johnson inquired whether persons may give Code Enforcement the information of a violation being a small community. Councilor Hinton affirmed. Councilor Smith stated the problems with past Code Enforcement Officers and the liabilities for the City of Merrill, which is unacceptable. Appoint a volunteer, assume expectations, knowledge of rules, basically titling a volunteer as an employee, and comments of persons taking leave of absences in a volunteer position, placing the City at risk, and consulting an attorney are issues at hand. Councilor Hinton stated the necessity for a Work Session. Councilor Hinton will be Interim Code Enforcement Officer until October 8, 2019 City Council Meeting.

- **Planning:**
  - No report

**PROJECT MERRILL:**

**LOST RIVER ARTS AND CULTURAL ALLIANCE:**

- Public Works Director Matthews stated working on The Lost River Bluegrass Festival 2020. Eight bands have been booked. Only two bands from the previous festival will return. The band budget was minimally increased. Interested persons in volunteering or sponsorship may contact Greg Matthews. Lost River Arts

and Cultural Alliance, through The Lost River Bluegrass Festival, is donating \$500.00 to the Merrill Flag Fund, which was an original goal of the non-profit. The non-profit donated \$300.00 to the Running Raiders Girls Youth Basketball from the pie and ice cream booth at the Lost River Bluegrass Festival. Klamath County Historical Society is enlisting the Merrill Historical Society to present two nights of bus tours at the Merrill Cemetery. There will be the ghosts of the past to give insight of whom, what, and how they came to be. The dates will be October 4<sup>th</sup> and 5<sup>th</sup> with times to be determined. New Modoc maps and glass for the kiosk have been ordered.

**NEW BUSINESS:**

- Approve Intergovernmental Agreement in Support of a Community Development Block Grant from the 2019 Community Development Block Grant Program Administered by the Oregon Business Development Department, Infrastructure Finance Authority: Betty Riley presented. The purpose of Betty Riley's presentation was to seek authorization from City Council to approve Mayor Carlson's signature on the Intergovernmental Agreement (IGA). Klamath County agreed to apply for Block Grant funds, which are state funds purposed for communities. Only the jurisdictions can agree to have services provided within. Klamath County may be the applicant, but may not provide the services within the City of Merrill unless the City agrees and acknowledges for them to participate. The program is a Housing Rehabilitation Grant fund. \$300,000.00 of grant funding is being applied for through the Klamath Lake Regional Housing Center (Betty Riley is the Executive Director). The funds are purposed for income eligible homeowners (low income) requiring safety needs such as electrical, roofing, and mold. The funds may be used for homeowners tying into the local water and sewer system, which would be homeowner's expense. The grant will benefit approximately 15 homeowners with a maximum limit of \$25,000.00. Asbestos and lead based paint evaluations are performed before repairs. Klamath County will administer the grant and be the recipient of the funds. City of Merrill residents will not qualify unless City of Merrill approves to participate. Mayor Carlson inquired the requirements needed from the City of Merrill. Betty Riley stated City Council approval for the Mayor to sign the IGA. There are no fiscal implications for the council. Councilor Johnson inquired whether the 15 homeowners would be chosen from the City of Merrill. Betty Riley responded with 15 homeowners from Klamath County. A priority list is currently being compiled of qualified homeowners. Bogatay Construction performs the home inspections, which is a HUD inspection (8 pages). Only critical repairs will be made and must be a health or safety issue. In home modifications may qualify for aging or disabled persons. Half of median income or less will be prioritized. Many seniors and widows live on \$1,000.00 monthly. There is no fiscal commitment besides possibly identifying qualified persons for the priority list. Councilor Carleton inquired whether the \$25,000.00 was per individual. Betty Riley stated per home. Councilor Hinton inquired whether a licensed asbestos contractor performs the testing. Betty Riley affirmed. Councilor Hinton inquired whether the contractor is licensed to remove the asbestos. A company from Ashland, the only licensed company in the vicinity, works with Klamath County on blight property removal. Betty Riley runs an EAP Browns Field Program in Lake County. Councilor Hinton inquired whether the testing provides the data for the asbestos to be removed or encapsulated. Betty Riley affirmed. Betty Riley provided the following examples: vinyl floors and popcorn ceilings. Councilor Johnson inquired if rental properties qualified. Betty Riley stated the grant restricts qualified applicants to homeowners with current taxes. The homeowner may not be in foreclosure or bankruptcy. Councilor Johnson inquired if the homeowner must be residing in the residence. Betty Riley affirmed with no intent to sell the home after repairs. Mayor Carlson sought downfalls to the City of Merrill participating in the Community Development Block Grant. Betty Riley stated the possibility of applying for the grant every other year for an average of 10 homes per year. Betty Riley has partnered with Oregon Human Development Corporation whom has a waiting list of 200 people for roof repairs and other services. Councilor Johnson inquired whether a committee determines qualified applicants. The Board of Directors is Diane Otero (Head of Klamath County Housing Authority), Nathan Chipeski (Housing Board), Department of Human Services Representative, Leonard Norris (Tribal Organization of Forgotten Americans), and the inspectors report determine the recipient. The homeowner chooses the contractor. The program has three or four contractors familiar with the project. Councilor Smith stated City Council is curious about the selection process. Betty Riley stated the board has a priority worksheet. Immediate health and safety is prioritized. Help has been received through an Urgent Fund in the past. Councilor Carleton made a motion to authorize Mayor Carlson to sign the Intergovernmental Agreement. Councilor Hinton 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- Approve Bid for Custom Flashing (City Hall): Utility Worker Taylor obtained three bids for the City Hall flashing. The bids are: Merrill True Value Lumber \$830.10; The Home Depot \$877.68; and Diamond

Home Improvement \$765.72. Councilor Smith made a motion to approve the Diamond Home Improvement supply bid for \$765.72. Councilor Johnson 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

- Formally Appoint Councilor Hinton as Police Commissioner: Councilor Carleton approved with no opposition.
- Front Street and Washington Safety Measures (Crosswalks, Signage, and/or Lights): Councilor Hinton stated the simplest start to correct illegally parked vehicles on crosswalks is to paint the curbs. Discussion of examples of illegal parking ensued. Councilor Hinton stated Project Merrill volunteered to paint the curbs for the City of Merrill and presented a worksheet describing colors and distances. There would be no cost for The City of Merrill. Mayor Carlson inquired to State Permits. Public Works Director Matthews stated work performed on a State Highway must have approval from Oregon Department of Transportation. The City of Merrill would paint the curbs. Drivers not stopping for pedestrians and illegal parking must be enforced. City Council endorsed City of Merrill authorized personnel to paint the curbs. Public Works Matthews will contact ODOT and coordinate with Councilor Smith.
- Washington Street Parking at Umpqua Bank and Merrill Post Office: Councilor Hinton submitted pictures of illegal parking. A full sized pick-up truck legally parked, forces a vehicle entering or exiting Washington Street to enter or exit in the opposite lane. Councilor Hinton suggested a professional engineering solution. Discussion of traffic congestion and examples of solutions ensued. Councilor Carleton stated Oregon Department of Transportation has offered to work with the City of Merrill on a Transportation Plan on numerous occasions. Public Works Director stated the simplest solution would be to make Washington Street a one-way. Councilor Hinton stated the welfare, safety, and concerns fall upon the City. The City of Merrill would not need ODOT's approval as Washington Street belongs to the City. The action item to invite citizens to participate in the October 8, 2019 City Council meeting to voice opinions through the newsletter on options to correct the safety of Washington Street will be mailed with water bills. Councilor Smith, Public Works Director Matthews, and Mayor Carlson will meet to view Washington Street and suggest the option of a one-way street or keep Washington Street as is.
- Discuss Semi-Truck Parking Options on Main Street in Front of Residences: Tabled.
- Vector Control Amendment/Extension of Contract: The City of Merrill has a three year contract (2018-2020) with Vector Control for \$3200.00 annually. Vector Control submitted an amended contract for 2020-2022 with an increased annual amount for \$3750.00. The increase cost is subject to part D. of the contract. An effective larval control program reduces, and sometimes eliminates the need for adult mosquito control program. With the City of Merrill, a vast majority of the adult mosquitoes migrate in from the outskirt irrigated fields. Strategically planned adulticiding, will not eliminate all the mosquitoes in this situation, will reduce the mosquitoes to tolerable level. Working with the fields in the outskirts will produce better results. The amendment also corrects the fiscal year for the City of Merrill. City Council approved Mayor Carlson signing the amended Vector Control Contract.
- Executive Session Compilation by Attorney Jennifer Schade: City Attorney Jennifer Schade submitted a document regarding Executive Session Meetings. Review at Work Session.

#### **OLD BUSINESS:**

- Traffic Congestion at A&M Shell Station: Tabled

#### **ORDINANCES:**

- Bill 2019 Minimum Parcel Amendment: First Reading: Ordinance was originally presented July 10, 2019 with clarification required. Clarification reads as: A maximum of one dwelling unit is allowed per lot. No objections followed to the first reading.
- Bill 2020 Minimum Parcel Size: First Reading: Ordinance was originally presented July 10, 2019 with clarification required. Clarification reads as: A maximum of one dwelling unit is allowed per lot. No objections followed to the first reading.
- Bill 2021 Drainage Policy: First Reading: Tabled.
- Bill 2022 Amending Ordinance 2017-1010 Public Records Office Fees: First Reading: Oregon State has specific fees for Public Records Request. Oregon State specifies \$25.00 per hour for clerical, \$40.00 per hour for managerial, \$75.00 per hour for professional. Bill 2022 brings the Public Record Fees into compliance with Oregon State Law. Mayor Carlson inquired to professional services related to Public Record Requests and fees incurred. City Recorder Hernandez stated DOJ, special attorney and other applicable legal fees: at the actual hourly rate charges for Public Records Request-related services. Fees are subject to statutory limitations described in ORS 192.440(4)(b). Councilor Carleton inquired to the fees for

expedited Archive retrieval. City Recorder Hernandez stated the fees would be subject to the above listed for staff time. Councilor Smith made a motion to approve Ordinance 2022. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0.

- Bill 2023 City of Merrill Code Enforcement Policy: First Reading *refer to Code Enforcement*

**RESOLUTIONS:**

- Resolution 2019-805: Transfer Payroll Taxes: City Recorder Hernandez stated the taxes for the final payroll in the 18/19 FY from the General Fund of \$1162.03 and Street Fund of \$982.57 to the Water Sewer Fund to reimburse the account requires authorization. Taxes for the 19/20 FY to date to transfer from the General Fund to the Water Sewer Fund for reimbursement is \$6691.08. Councilor Smith made a motion to approve Resolution 2019-805. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- Resolution 2019-806: Transfer Payment from Water Sewer Fund to Water Sewer Reserve: The credit/debit card transactions automatically transfer payment into the Water/Sewer Fund. The U.S. Department of Forestry paid the Dumping Invoice with a credit/debit card. The dumping revenue is required to be deposited into the Water Sewer Reserve. A transfer to appropriate fund(s) of \$720.00 requires City Council authorization. Councilor Smith made a motion to approve Resolution 2019-806. Councilor Johnson 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.
- Resolution 2019-807: National Preparedness Month: City Recorder Hernandez read Resolution 2019-807 for the record recognizing September 1 through September 7 as National Preparedness Month. Councilor Smith made a motion to approve Resolution 2019-807. Councilor Johnson 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

**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.

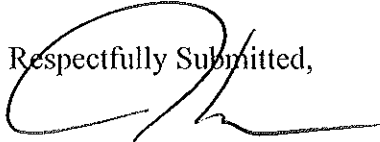
- Marshal Bicknell: Marshal Bicknell stated 18 years ago tomorrow, World Trade Centers were attacked. Over 400 first responders gave their lives to save the people in the towers. Marshal Bicknell asked for a moment of silence in recognition and for the 3000+ who perished that day. Mayor Carlson declared a moment of silence. Silence ensued. Mayor Carlson thanked Marshal Bicknell.
- Sarah Dragoon (600 W. Front Street): "I am Sarah. This is the first I have heard of the division between City Code Enforcement and Law Enforcement. I would absolutely agree with the comments of Hinton made as far as keeping it separate and all the specific issues, but in my personal job I see the difference between Law Enforcement and City Code; and as a member of the community, I would also agree that lumping that enforcement with Law Enforcement would have a negative impact, on me, for Law Enforcement. There are a lot of things we could go into, but a brief statement, I would agree on separating the two as a community member."

No further public comment followed.

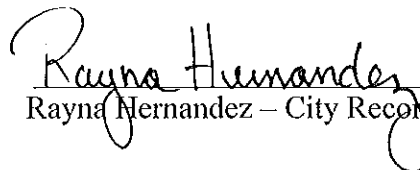
**ADJOURN MEETING:**

Councilor Hinton made a motion to adjourn the September 10, 2019 Meeting. Councilor Carleton 2<sup>nd</sup> the motion. With all in favor, the meeting adjourned at 7:23 p.m.

Respectfully Submitted,

  
Bill Carlson - Mayor

08 OCT 19  
Date

  
Rayna Hernandez - City Recorder

10.08.19  
Date