
CITY OF MERRILL
REGULAR BUSINESS MEETING
And
SUPPLEMENTAL BUDGET HEARING
Tuesday September 14, 2021 6:00 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Tuesday, September 14, 2021 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 Picke (absent), Councilor Carleton, Councilor Baley, Councilor McCollam, Mayor Carlson, and City Recorder Hernandez.

FLAG SALUTE:

The Flag Salute immediately followed with Mayor Carlson requesting City Recorder Hernandez 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.

SUPPLEMENTAL BUDGET HEARING:

- Approve Supplemental Budget: The City of Merrill has received ARPA Funds in the amount of \$94,900.74. The funds are allowed to be deposited into an interest bearing account. The funds must be dedicated to a project by December 2024 and the project must be completed December 31, 2026. City Recorder Hernandez proposed depositing the funds into the Water Sewer Reserve and appropriating the funds to Sewer Infrastructure to benefit the majority of residents verses a select few. Public Works Director Matthews proposed upgrading the Willow and Lincoln Lift Stations. Councilor Carleton made a motion to approve the Supplemental Budget. Councilor McCollam 2nd the motion. The motion passed 3-0 in favor.
- Resolution 2021-855 Appropriations of ARPA Funds: City Recorder Hernandez read Resolution 2021-855 into the record by title. Councilor McCollam made a motion to approve Resolution 2021-855. Councilor Baley 2nd the motion. The motion passed 3-0 in favor.

CONSENT AGENDA:

- **Meeting Minutes:**
August 10, 2021 Council Meeting Minutes: Councilor Carleton made a motion to approve the August 10, 2021 Meeting Minutes and entire consent agenda. Councilor McCollam 2nd the motion. The motion passed 3-0 in favor.
- **Phone Poll:**
- **Business License Renewals:**
- **Business Licenses:**
- **Accounts Payable:**
August 2021 Account Payables: *Refer to meeting minutes for motion.*
August 2021 Water Transfer: *Refer to meeting minutes for motion.*

STAFF REPORTS:

- **Police:**
 - Officer Srch reported for the calendar month: 24 calls for service, 4 vehicle stops, 4 citations, 7 outside assists, 2 crimes reported (bank robbery and alleged arson both on going active investigations). While Officer Srch was on vacation, Malin Police Department and Klamath County Sheriff's Department responded to 2 disturbances, several animal complaints, and responded to a domestic violence and assault. Officer Srch met with Malin Police Department and Klamath Falls Police Department in regards to installing mobile data terminals.
 - Councilor Carleton suggested hiring private security to supplement the absence of police. Officer Srch stated the suggestion is an excellent idea and has researched the alternative. The difference between the obligations and the swearing and the physical requirements of the job between civil security and sworn police officers create an incredible liability issue that the City would not want to bear. Civil security is not allowed to carry weapons, not allowed to actively engage, and not allowed to perform the tasks of a police officer. Councilor Carleton stated a physical presence would be a deterrent. The other option would be to hire a temporary police officer. Officer Srch has been in contact with Marshal Broussard. Officer Srch requested City of Malin's Reserve Officers patrol City of Merrill. Councilor McCollam inquired to budgetary constraints. Councilor Carleton and Councilor McCollam suggested hiring a temporary police officer. Officer Srch stated any potential employee's must have a thorough background check, pass an ORPAT (Oregon Physical Abilities Test), pass a physical, and pass a physiological evaluation. The requirements are a financial burden for the Police Department Budget. The Reserve Officer is \$1,000.00 or more for the process. The consensus is to research the potential for a temporary police officer and agenda findings for October 12, 2021 City Council Meeting. Officer Srch stated reporting positive and negatives next month.

- **Public Works:**
 - Public Works Director Matthews submitted report and read: Checked lifts; took water and sewer samples; the well level is 94' with pump running; submitted Discharge Monitoring Report (DMR); hung pink tags and shutoff services; multiple locates; read meters; collected lead and copper samples; passed sanitary survey; tested irrigation backflow; outside dumping revenue is \$25,000.00 to date; cleaned restrooms; hauled skimming's from lagoon to burn pile; cleaned shop; fixed one sewer plug; cleaned at the old sewer plant; chopped weeds on Fourth Street; wrote monthly article for newsletter; check oil in Willow Street compressors; Utility Worker Taylor has been remodeling City Hall siding; Utility Worker Taylor and Utility Worker Roman Vazquez painted City Hall; Utility Worker Roman Vazquez has been mowing, watering, and spraying weeds; Chip Seal on Third Street is completed. Public Works Director Matthews applied for another Small City Allotment Grant for First Street. Public Works Director Matthews informed City Council that Tulalake, CA Public Works Department has been downgraded to a Level 1 Wastewater.

- **City Recorder:**
 - City Recorder Hernandez submitted report and read: Submitted Corrective Action Plan to Oregon Secretary of State and auditor; hosted South Central Oregon Economic Development District (SCOEDD); renewed Sam registration for Lost River Arts and Cultural Alliance, received APRA funds; submitted League of Oregon Cities (LOC); teleconferenced with SAIF Auditor; hosted Klamath County School District Staff (Malin, Merrill, Lost River); continuing ASYST data entry; and other administrative duties.

- **Lawyer:**
 - Report: Councilor Carleton stated the City of Merrill has no response from City Attorney. The City of Merrill has issues that require immediate response beyond City Insurance Services (CIS). Councilor Carleton met with Attorney Nathan Ratliff. In order to protect the City of Merrill and all individuals involved, the City of Merrill needs an attorney that is responsive. The City of Merrill can hire a temporary emergency attorney or hire a new attorney. CIS recommended a local

attorney for consultation purposes. Attorney Nathan Ratliff is knowledgeable in Municipal Law. Attorney Nathan Ratliff is the City Attorney for Bonanza, Oregon and Malin, Oregon. Discussion regarding multiple attorney's ensued. Councilor Baley made a motion to hire Nathan Ratliff for a reserve City Attorney. Councilor McCollam 2nd the motion. The motion passed 3-0 in favor.

- **Code Enforcement:**

- Report: No report.

- **Planning:**

- Report: Chairman Trotman reported on the August 9, 2021 Planning Commission Meeting. The Street Cut Permit was drafted based upon applications from five cities. City Clerk Northcutt will implement the revisions. Public Works Director Matthews and City Engineer Darryl Anderson will review the permit. Fees need to be resolved. Planning Commission will revisit the Street Cut Permit as a whole October 11, 2021. City Clerk Northcutt is seeking a grant for the Development Code to review and use the Model Development Code for Small Businesses template. The verbiage is correct. The Development Code needs to be revisited due to complications. Lastly, Partition verses Subdivision, the application states 3 or fewer lots is a partition, 4 or more lots is a subdivision. In the Development Code examples, the partitions and subdivisions must be applied for in a calendar year. The addition of "in a calendar year" needs to be reflected on the application. Discussion of what is a calendar year ensued. Calendar year needs to be defined in the Development Code. Councilor Carleton stated 3 or fewer lots is a Type 1 review and 4 or more lots is a Type 2 review. Chairman Trotman sought City Council opinion on the definition of calendar year. Councilor Baley suggested January 1 through December 31. Public Works Director Matthews suggested the calendar year start from the date the application was approved.
- Interest in Leasing City of Merrill Property: Tabled.
- Land Partition 319 McKinley Street, Lot #4110-001CD-01900: No discussion.

LOST RIVER ARTS AND CULTURAL ALLIANCE:

- Public Works Director Matthews stated Lost River Arts and Cultural Alliance has been helping the Potato Festival with vendors. The Merrill Historical Society hosted approximately 50 High School and Elementary staff. Steve Kandra donated a model and patent Potato Bulker in 1952 or 1953. Public Works Director Matthews updated City Council on the bands hired for the 2022 season.

NEW BUSINESS:

- Audit Engagement Letter: City Recorder Hernandez stated the City of Merrill completed the 19-20 Fiscal Year Audit. To begin the 20-21 Fiscal Year Audit, the Engagement Letter requires a governance signature. Mayor Carlson and City Recorder Hernandez signed the contract.
- Requests for Proposals (RFP) Process: Councilor Carleton opined the City of Merrill seek a new City Attorney due to lack of response. Councilor Carleton stated the City of Merrill could publish a Request for Proposal in the newspaper. An alternative is to mail a Letter of Interests to three attorneys to submit a resume, which would be the most cost effective. Each City Councilor is to nominate a potential attorney for consideration for October 12, 2021. Councilor McCollam made a motion that each Council person select one attorney for consideration to become the City Attorney. Councilor Carleton 2nd the motion. The motion passed 3-0 in favor.
- Upgrade Communications Equipment: Tabled.
- Waste Management 2021 Rate Adjustment: Waste Management proposed a 3.7% increase. Mayor Carlson agendized the acceptance for the Waste Management 2021 Rate Adjustment for October 12, 2021.
- Discuss Non-Resident Council Position: Councilor Carleton stated, according to the Charter, a City Councilman must be a resident of the City of Merrill or within the City for 30 days without prior approval from City Council (*sic*), a Councilman may be removed. Councilor Carleton stated that Councilman Picke does not meet the requirements to be on City Council as a non-resident of City of Merrill. Planning Commission allows for two non-residents, but all City Council members must be residents. Councilor Baley agreed. Mayor Carlson stated the agendized item does not qualify for removal from office and may be reconsidered October 12, 2021. Qualifications for future service agendized for October 12, 2021.

OLD BUSINESS:

- Solar Plant Update: City of Merrill communicated to lien the Solar Plant site and questioned the status of the lien process. Mayor Carlson suggested authorizing a lien on the Solar Plant site. Councilor Carleton stated continuing to fine the Solar Plant and implementing other measures. The City of Merrill should turn the issue to the City of Attorney for the next process. The City of Merrill issued a Pre-lien Notice. A lien may be filed after a certain amount of time. Mayor Carlson opined the City of Merrill is capable of filing a lien without an attorney. The penalties to date are \$3,000.00. Councilor Carleton stated the Development Code allows penalties up to \$1000.00 per day until compliance. Water right discussion and expectations ensued. Councilor Carleton stated unless the City of Merrill takes affirmative action, the Solar Plant will continue to ignore requirements. Mayor Carlson requested permission from City Council to set the fine at \$5,000.00, and authorize Mayor Carlson to coordinate with the Klamath County to establish a lien. Councilor Carleton emphasized future fines. Councilor Baley suggested the letter be sent from an attorney verses a layman. Mayor Carlson stated a lien may be released at any time and substitute with a lawyer at any time. City Recorder Hernandez stated the deadline for response was September 1, 2021. No objections followed from City Council for Mayor Carlson to proceed to establish the lien process of \$5,000.00.

ORDINANCES:

- Bill 2046-Home Rule-Second Reading: City Recorder Hernandez read Bill 2046 in by title for the record with no corrections requested at the August 10, 2021 City Council Meeting. The intent of the ordinance is in the event a contested state or federal rule, the City Council could vote postpone the enforcement of the ruling until court cases are settled. Councilor Carleton made a motion to approve Ordinance 2046. Councilor McCollam 2nd the motion. The motion passed 3-0 in favor.

RESOLUTIONS:

- Resolution 2021-854 Transfer Funds to Comply with Budget Law Requirements: Mayor Carlson read Resolution 2021-854 in by title for the record. Councilor Baley made a motion to approve Resolution 2021-854. Councilor Carleton 2nd the motion. The motion passed 3-0 in favor.

OTHER-FUTURE AGENDAS:

- Councilor Position
- Process to Select City Attorney


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.

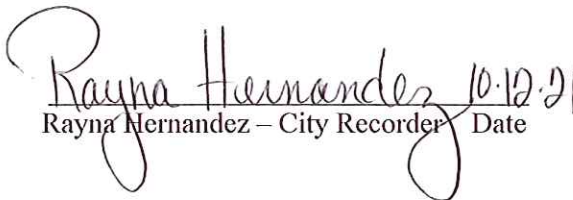
No public comment followed.

ADJOURN MEETING:

Councilor Carleton made a motion to adjourn the September 14, 2021 Meeting. Councilor Baley 2nd the motion. With all in favor, the meeting adjourned at 6:57 p.m.

Respectfully Submitted,


 Bill Carlson - Mayor Date



 Rayna Hernandez - City Recorder Date

