

CITY OF MERRILL
REGULAR BUSINESS MEETING
Tuesday October 8, 2019 6:00 P.M.

MEETING CALLED TO ORDER:

Mayor Carlson called the Tuesday, October 8, 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 (absent), 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.

Mayor Carlson noted with sadness the passing of City Clerk Jensen's father.
No public comment followed.

CONSENT AGENDA:

- **Meeting Minutes:**
Councilor Johnson made a motion to approve the Meeting Minutes for September 10, 2019. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor.
Councilor Johnson made a motion to approve the Work Session Minutes for September 17, 2019. Councilor Hinton 2nd the motion. The motion passed 3-0 in favor.
- **Phone Poll:**
- **Business License Renewals:**
Mia and Pia's Weekend Business License (Potato Festival and Class Reunion): Councilor Smith made a motion to approve the Weekend Business License. Councilor Johnson 2nd the motion. The motion passed 3-0 in favor.
- **Business Licenses:**
- **Accounts Payable:**
Councilor Smith made a motion to approve the September 2019 water transfer for \$6,080. Councilor Johnson 2nd the motion. The motion passed 3-0 in favor.

STAFF REPORTS:

- **Police:**
 - Marshal Bicknell reported on a dog attack by four pit bulls, which succumbed to injuries and passed away. Klamath County Animal Control led the investigation. With the assistance of Public Works Director Matthews, two of the four dogs were detained and transferred to Klamath County Animal Control. A third pit bull was voluntarily surrendered to Klamath County Animal Control. The owner paid the outstanding fines, and the dogs were released into the owner's custody. The offending dogs escaped again. Three canines were destroyed by Klamath County Animal Control. The fourth dog remains missing. Public Works Director Matthews commented on the shame of destroying the pit bulls due to lack of responsibility from the owner.

Marshal Bicknell reported on a mentally disturbed individual the Merrill Police Department has dealt with on numerous occasions. Marshal Bicknell arrested the individual on a probation violation. The individual was transported to Klamath County Jail but was diverted to Klamath Community Corrections due to a large abscess on the abdomen. The individual returned to Merrill. The individual was arrested for trespassing. Unable to lodge the individual at the Klamath County Jail, the individual was transported to Sky Lakes Medical Center by Marshal Bicknell. The individual refused medical treatment for the abscess. A "mental hold" was placed on the individual after working in conjunction with Klamath Basin Behavioral Health. The individual allowed treatment. The individual's current location is unknown.

Marshal Bicknell and Officer Srch assisted other agencies in four service calls, including arrests; one welfare check; a domestic disturbance; a sink hole on West Front Street; investigated two suspicious circumstances; investigated a litter complaint resulting in citations and trespass; investigated a theft from Dollar General; handled a citizen complaint; two arrests on wanted subjects from other jurisdictions; and reported to a vandalized vehicle.

Councilor Johnson inquired whether convicted, irresponsible dog owners are allowed to possess a dog again once an animal has been euthanized. Marshal Bicknell stated ownership is based upon a judge's ruling. The owner in the above mentioned case had previously been convicted of animal neglect. The owner faces numerous citations. The owner chose to euthanize the animals due to associated costs if the dogs were kept. A judge may ban an owner from possessing a domesticated animal for a maximum of five years.

Councilor Smith favored the use of the white police vehicle recently. Marshal Bicknell stated the other police vehicle is currently broken.

- **Public Works:**

- Public Works Director Matthews read from submitted October 2019 report. Highlighted are the declining dumping revenues. City of Malin is charging five cents per gallon, which is fifty percent less than the City of Merrill. Public Works Director Matthews isolated a portion of water line and chlorinated due to the presence of coliform. West Coast Pipeline was filling the eight- and ten-inch lines with the six-inch lines too quickly. Dirt was introduced into the line, which created the positive test for coliform. The coliform was not E. coli or fecal coliform. Public Works located, isolated, chlorinated, and retested. The problem has been resolved. Public Works Director Matthews record of no marks through the State of Oregon for 18 years is null and void. Public Works Director reported on a failed sewage pump at the Lincoln and First Street Lift Station. The sewage pump was rebuilt and installed only to lose a coupler during the night resulting in 20 feet of sewage in the dry well over the pumps and motors. American Sanitation pumped the sewage. The City of Merrill received an \$1800.00 invoice for the service. The lift station is working off of one pump currently.

Councilor Smith inquired to the progress of the Water Project. Councilor Smith stated the rumor is the City of Merrill has no remaining funds for the Water Project. Public Works Director Matthews stated all the piping is buried. The pipe runs from Jefferson Street and is looped through Polk Street. Fourth Street is looped from Jefferson to Polk Street. First Street is not looped. The City went down Second and Third Street. The next step is the tank. Once the tank is built, all connections can be made in the alleys where all the valves are. The City of Merrill has funds remaining for the project. Rocky Mountain paved the portion of street where piping is completed. Councilor Smith inquired about Water and Wastewater certification for Utility Worker Taylor. Public Works Director stated the certification is in progress and the City of Merrill has a Mutual Aid Agreement with City of Malin in case of emergencies. Before certification, the employee must have worked a minimum of one year for treatment and collections.

- **City Recorder:**

- City Recorder Hernandez reported on Audit Testing completion on September 25, 2019. The test was successful. September 19, 2019 the City of Merrill had the Workman's Comp Audit. The Volunteer Resolution requires amendment and Public Works timecards requires more detail. City Recorder Hernandez has taken CIS trainings. City of Merrill received the Small Cities Allotment Grant reimbursement and interfund loans have been reimbursed per Resolution 2019-802. Councilor Smith inquired to the detailed financial packets. City Recorder Hernandez stated the financials reports are part of the new accounting software creating transparency.

- **Lawyer:**

- **Code Enforcement:**

- Councilor Hinton reported on four written notices all abated; two verbal notices with one abated. The second abatement will be resolved on two separate dates. The resident has 30 days. Six notices were never abated after the third notice. Councilor Hinton sought approval from City Council to reissue the abatements with a first notice. No objections followed.
- City of Merrill Code Enforcement Policy: Two options were discussed and defined during the September 17, 2019 Workshop: Code Enforcement under the umbrella of the Merrill Police Department versus a stand-alone organization. The first option would result in Councilor Hinton and Marshal Bicknell working projects together. The second option would result with Councilor Hinton working as a stand-alone organization. Mayor Carlson put forth the question of further discussion or voting upon an option. Councilor Smith and Councilor Johnson stated having reached a decision. Councilor Hinton stated the same opinion as in the September 17, 2019 Workshop; however, Councilor Hinton stated acting upon the majority. Councilor Smith stated the City of Merrill should at least attempt combining Code Enforcement with Law Enforcement. Teresa Perry (425 Grant Street): "So, I am opposed to this happening because of the fact if we are handling things at the lowest possible level initially, and it escalates up the chain of command, and it has to be enforced in the end with the notices being given, that's not happening with this model."

Mayor Carlson sought clarification with which model.

Teresa Perry: "It should be two separate entities. It's not going to be handled at the lowest level possible if you have the Police Department enforcing it right from the get-go."

Councilor Smith stated Code Enforcement is in the process of creating Policy and Procedures. Marshal Bicknell and Officer Keith will note violations. City Clerk Jensen will perform all clerical work. Marshal Bicknell and Officer Srch will follow policy and procedure.

Teresa Perry: "You are still making it a part of their job description (*inaudible*) duty, and that is where I have a problem. It is not being handled at the lowest level possible. Having someone do that footwork first, then it gets expedited up the chain of command to the point it has to be enforced, and then it goes to the Police Department."

Councilor Smith agreed to disagree. Marshal Bicknell is in favor of the merge, which is Marshal Bicknell's Department.

Teresa Perry: "I read the minutes."

Councilor Smith reiterated statement adding in the Work Session.

Teresa Perry: "Well someone can say they feel like it is a good idea because they are probably going to be forced to do it and the outcome."

Marshal Bicknell was asked to state opinion in an open forum. Marshal Bicknell stated Code Enforcement is a must. Code Enforcement leads to public safety, public appearance, property values, and a necessary function of an incorporated City. Enforcement is a major factor. The City of Merrill lacks the personnel, paid personnel, and City Council objects to volunteers. Eight paid staff remain. Marshal Bicknell has managed Code Enforcement for six years and does not want Code Enforcement to disappear; therefore, Marshal Bicknell has no objection to self or other personnel performing Code Enforcement if the goal is to have a functioning Code Enforcement Program. Marshal Bicknell stated a strong opinion to have the Police Department run Code Enforcement once parameters have been approved. Abatements are a case by case basis.

Discussion of staff, volunteers, and budget ensued.

Polly Tickner (405 Water Street): "I am a City of Merrill resident. We live in a neighborhood with a constant, continuous Code Enforcement problem. It never goes away. I am not blaming anybody, but it hasn't worked right for six years and we constantly have to write letters to the City Council and look like the bad guys. Something is not working. So, if it wasn't working like it was then maybe it is time to make a change."

Marshal Bicknell was knowledgeable with the issues; however, the City of Merrill is bound by procedure. The resident in question has paid fines of \$1000.00. Code Enforcement is civil, and persons cannot be physically forced to comply.

Polly Tickner: "I know, but what about other people's property values. He is absolutely in the center of our neighborhood."

Marshal Bicknell stated the dynamics may change due to unrelated events mentioned earlier in Police Report. The Merrill Police Department must obey all laws. Marshal Bicknell cannot force

an individual to comply, and the City of Merrill cannot pay to have the location cleaned. The City of Merrill is allowed to issue warnings and fines, which is the route taken. Marshal Bicknell gave the example of a thief who is arrested for theft and is released. The next day the thief is once again arrested and released with the pattern repeating. The laws are black and white, which only allow certain actions.

Polly Tickner: "Okay, so he brings in a bunch stuff again."

Marshal Bicknell noted the violation.

Polly Tickner: "...until, that took about a year. Okay, so now it has been a year. Now do I need to write a nasty gram again? And it is hard on us because (*inaudible*) around town. Whiners."

Marshal Bicknell stated Code Enforcement was dismantled approximately a year ago. The City of Merrill has not been proactive.

Councilor Hinton state job descriptions will need to be amended if The Police Department and Code Enforcement are merged. Councilor Smith stated City Clerk's job description must be amended as well. Councilor Hinton inquired about notification processes. Councilor Smith stated the policy will define the processes. Mayor Carlson created the action plan to have a policy for November 12, 2019 City Council Meeting.

Teresa Perry: "Volunteer Resolution on the second page. Help me understand where it says number four non-public safety volunteers applicable: volunteer Code Enforcement abatement; moving police vehicles; volunteer clerical; volunteer water."

City Recorder Hernandez stated the Workman's Comp Auditor stated the resolution needed to be amended to remove Budget Committee to save \$2500.00 annually; however, the volunteer portion must remain as is.

Teresa Perry: "And I do agree that no one like to be micromanaged. So, if you set a policy to enforce, let the people who run it, run it, and don't micromanage the situation. All it does is makes things fall off at the wheels. Thank you."

Councilor Smith made a motion to combine Code Enforcement with Law Enforcement. Councilor Johnson 2nd the motion. Councilor Hinton opposed the motion. The motion passed 2 in favor, 1 opposed.

Councilor Johnson inquired whether Councilor Hinton is allowed to vote due to conflict if interest. Mayor Carlson allowed Councilor Hinton to vote, though Councilor Hinton has an active interest, the interest is not a personal gain but a public policy.

Marshal Bicknell stated *Charter, Code of Ordinances, & Council Rules* states City Council is Code Enforcement and may appoint a representative of City Council to perform tasks.

Councilor Smith made a motion to appoint Brian Bicknell as Code Enforcement Officer.

Councilor Johnson 2nd the motion. Motion passed 3-0 in favor.

City of Merrill Code Enforcement Procedures: Mayor Carlson created the action plan to have a policy for November 12, 2019 City Council Meeting. Tabled.

- **Planning:**
 - No report

PROJECT MERRILL:

LOST RIVER ARTS AND CULTURAL ALLIANCE:

- Klamath County Historical Society and Merrill Historical Society hosted "Night at the Cemetery" at the Old Merrill Cemetery October 4, 2019 and October 5, 2019 with success. The production was enacted sixteen times with 300 plus overall attendees. A portion of the proceeds benefit the Merrill Flag Fund. Public Works Director mentioned the cast with appreciation.
Polly Tickner (405 Water Street): "I just want to say Klamath Water Users Association, I had given Scott (*inaudible*) a little invitation to the event and told him about it, and he made sure the entire group got worried about that in the newsletter that in their newsletter (*sic*). They were so happy that....Someone told me that they thought it was going to get political and someone would start griping. I said I don't think so."

NEW BUSINESS:

- *Charter, Code of Ordinances, & Council Rules* §90.05 and §90.23: Tabled.

- Introduction to Mural Project: Mayor Carlson, Councilor Carleton, and Public Works Director Matthews invited Artist Chris Young to Merrill to discuss a mural featuring Stonebridge with oxen on the butcher shop siding. The price is reasonable with funds from grants, Solar Funds, and the like. Rodney Green was in favor of using Solar Funds toward the mural. Janet Herman, owner of Polar Bear, was thanked for allowing the City of Merrill the use of the butcher shop wall. Public Works Director Matthews stated a smooth stucco will need to be applied to the butcher shop wall. Public Works Director Matthews is awaiting a return telephone call from Modoc Contracting Co. Inc. of Klamath Falls, Oregon for a quote. An easement would be requested for the mural if the building were to be sold. Councilor Smith inquired about a mural on the side of Martin's Food Center. Public Works Director Matthews stated the size and condition are better suited for the butcher shop. Chris Young stated the estimated cost to paint the mural would be \$4000.00. Councilor Smith inquired to the Bucket Brigade Project. Mayor Carlson stated the goal was Potato Festival Weekend October 19, 2019. City of Merrill support has been offered.
- Options for Merrill Commercial Property: The Merrill Commercial Property has been on the market since May 16, 2019. There has been one inquiry. One option would be to reduce the price. Option two is a request for proposals from developers. Councilor Smith inquired whether interested persons have contacted Realtor Margaret Moore to negotiate price. Mayor Carlson stated negative. Councilor Johnson inquired about Raul Garcia with the manufactured homes. Mayor Carlson Raul Garcia may have established a business at another location. Councilor Smith suggested approaching developers before reducing the price. The consensus was to leave the price listed.
- Report on LOC Conference in Bend: A scholarship was awarded to make the LOC Conference in Bend possible to attend. The conference allows direct access to State Regulators, State Department Heads, and other cities. Mayor Carlson attended seminars on Municipal Bond Law, Imminent Domain, and other topics.
- Polar Bear Land Lease (Owner Transfer): Kallie Herman requested to transfer to Polar Bear Land Lease from Janet Herman to self. Councilor Smith stated the land lease will need to be re-evaluated and voted upon by City Council. Discussion ensued. Tabled.

OLD BUSINESS:

- Traffic Congestion at A&M Shell Station: Councilor Hinton, Councilor Carleton, and Public Works Director Matthews met with Brad Staub Monday, October 7, 2019. Brad Staub is planning on moving the pumps to the Shell Station at 102 W. Front Street. The Shell Station will require City of Merrill's permission to connect the gas lines across N. Main Street. Brad Staub intends to build a new convenience store on the far end of the north side of the lot. The new gas pumps will be at the front of the building. More space will be created, and the traffic congestion will be resolved.
- Discuss Semi-Truck Parking Options on Main Street in Front of Residences: Councilor Hinton spoke with Resident Lee Harris. The City of Merrill cannot stop public parking in front of the resident's property. The solution would be to create a designated driveway. Vehicles are not allowed to park in front of a designated driveway. Mayor Carlson stated option one as no defined enforcement due to lack of designated driveway. Option two as creating a defined driveway with City of Merrill enforcing illegal parking. Polly Tickner: "Can I just make a comment about where I think is a really dangerous issue is when they park on the westside of Martin's driveway. On the eastside of Garfield, you cannot see to pull out. It is just..." City of Merrill has attempted to address the issue including installing no truck parking signs. Oregon Department of Transportation removed the signage. Trucks are allowed to park along the highway.
- Front Street and Washington Safety Measures (Crosswalks, Signage, and/or Lights): Councilor Hinton inquired whether every crosswalk within the City of Merrill should have a crosswalk sign? Public Works Director Matthews stated favor to more signage. Discussion of painted curbs, parking spots, enforcement, and footage ensued. Mayor Carlson sought proposals from City Council for the November 12, 2019 City Council Meeting. Tabled.
- Washington Street Parking at Umpqua Bank and Merrill Post Office: Public Works Director Matthews stated the only solution to resolve the issue is to create Washington Street as a one-way. Councilor Hinton stated Washington Street is a hazard. The drivers are allowed to break the law as a necessity to exit the street. Councilor Smith stated the same issue exits at the Dollar General. Drivers must cross a double yellow line to enter. Marshal Bicknell inquired to the status of the 30 m.p.h. extension on highway 39. Mayor Carlson stated Jarrod Johnson of Oregon Department of Transportation is mid-process of a traffic assessment, which takes a year to complete. Public Works Director Matthews reiterated favor to create

Washington Street as a one-way. Councilor Hinton stated a one-way would create exiting from the new Shell Station easier. Mayor Carlson sought public opinion to create Washington as a one-way or leave Washington Street as is.

Minda Christiansen (235 Roosevelt): "My name is Minda Christiansen. I was wondering the alleyway, between the back of the Post Office and the laundromat, all I could think of was drycleaners, how come that has to stay open?"

Marshal Bicknell stated the property in question is private. The owners have control.

Minda Christiansen: "Because I was thinking that if you close that off, that would keep a lot of traffic from coming off Main Street, down that street, and then turnin'. There's many times that I have been walking down that street to go to the Post Office and there's trucks comin' from both directions and (*inaudible*)."

Public Works Matthews stated a solution would be to install a sidewalk across the parking lot; however, Brad Staub does not want a sidewalk installed.

Minda Christiansen: "If you could shut that off, that would solve a huge traffic problem."

Councilor Hinton inquired about water lines in the alleyway. Marshal Bicknell and Public Works Director Matthews stated the property in question is not an alleyway. Discussion of all owners and owner's rights ensued. Councilor Hinton stated Marshal Bicknell will site offenders. Councilor Smith stated the only violation would be a U-turn. Marshal Bicknell stated a Class B violation of \$265.00. Marshal Bicknell stated enforcement is engineering instead of law enforcement. Persons who believe the law must be broken to park and so forth is an engineering issue instead a law enforcement issue. Washington Street is a serious public safety issue and must be re-engineered. Majority of vehicle crashes occur on Washington Street than anywhere else within the City of Merrill. Mayor Carlson sought a vote from public and City Councilor's by a raise of hands in favor of Washington Street as a one-way and a raise of hands for Washington Street to remain as is. The vote was an even split. Councilor Johnson suggested bank employees park across the property in question to prevent thru traffic. Marshal Bicknell stated that parking in the suggested area would be illegal as the location is considered a driveway. Tabled.

ORDINANCES:

- Bill 2019 Minimum Parcel Amendment: Second Reading: Limits accessory dwellings to one on a minimum of 10,000 square foot lot. No changes have been made or suggested after the first reading. Councilor Hinton made a motion to approve Bill 2019 and Bill 2020. Councilor Smith 2nd the motion. The motion passed 3-0 in favor.
- Bill 2020 Minimum Parcel Size: Second Reading: *Refer to Bill 2019 for motion.*
- Bill 2021 Drainage Policy: First Reading: Public Works suggested accommodating small drainage issues through legacy ponds within the City. Within the City boundaries, legacy ponding creates problems. To the extent possible, affected public and private landowners should seek to resolve these problems between themselves. If the neighboring property owners are unable to come to a resolution, then the City may hear the issue and develop a resolution. The property in question is in the City right-of-way. The policy does not prohibit combined flows. Mayor Carlson declared Bill 2021 read.
- Bill 2024 Delinquent Franchise Ordinance: Mayor Carlson stated Bill 2024 allows the City of Merrill to impose repercussions to franchisees whom are irresponsible with payments. No changes have been made or suggested after the first reading. The ordinance impacts franchises' the City of Merrill audits whom do not pay promptly, timely, or are not forthcoming in an investigation. Councilor Smith made a motion to pass Ordinance 2024. Councilor Johnson 2nd the motion. The motion passed 3-0 in favor.

RESOLUTIONS:

- Resolution 2019-808: Volunteer Resolution: Resolution 2019-808 amends section 2 by removing Budget Committee and saving the City \$2500.00 annually. The Budget Committee only meets 2-3 times per year. Volunteers are applicable on the resolution even if the City does not utilize the services. Councilor Smith made a motion to approve Resolution 2019-808. Councilor Johnson 2nd the motion. The motion passed 3-0 in favor.

FUTURE AGENDAS:

Marshal Bicknell stated three weeks prior to installing the speed sign, Oregon Department of Transportation was notified. There was no response. September 11, 2019 Oregon Department of Transportation e-mailed Marshal Bicknell stating the sign is not allowed. The sign is too high, wrong color, "thank you" is prohibited, a full engineering study must be performed, installation on an existing telephone phone does not meet safety regulations,

and an electrician must connect the solar panel. The sign will be removed. The Sheriff Department may donate a trailer.

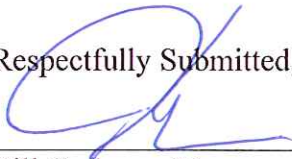
PUBLIC COMMENT:

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 further public comment followed.

ADJOURN MEETING:

Councilor Smith made a motion to adjourn the October 8, 2019 Meeting. Councilor Hinton 2nd the motion. With all in favor, the meeting adjourned at 7:21 p.m.

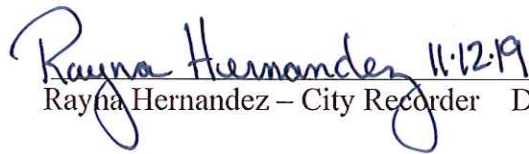
Respectfully Submitted,



Bill Carlson - Mayor

12 NOV 19

Date



Rayna Hernandez - City Recorder Date

