

CITY OF MERRILL
REGULAR BUSINESS MEETING
Tuesday, December 8, 2015
6:00 P.M.

MEETING CALLED TO ORDER:

The meeting was called to order at 6:00 p.m. by Mayor, Tim Saunders.

ROLL CALL:

Roll Call was taken with the following members of Council and others being present:
Councilor Lesh, Councilor Smith, Councilor Carleton, Mayor Tim Saunders, City Recorder - Oma Rowley
Absent: Councilor Taylor

The flag salute immediately followed.

NEW BUSINESS:

- **Marijuana Grower –Rick Walsh from Fresh Green Organic Farms**

Mr. Walsh addressed Council by asking Council to consider allowing a grow site (marijuana grow) within the city limits of Merrill. Mr. Walsh discussed his background which includes 8 years employment by Liskey Farms and inside growing experience of herbs, vegetables and medical marijuana. The State Farm Bureau membership is behind this ag product. He reported that while Klamath County opted out of all marijuana related business it is allowed within City limits that would allow such activities. Mr. Walsh stated that Merrill has several potential indoor grow sites within the Industrial zone that are feasible. He does not want to wait for the next upcoming Klamath County election to determine if the marijuana business ban might be reversed as he has labeling and clientele to establish in Portland and bigger City areas.

Materials were distributed to Council that included a written proposal outline with three information Exhibit handouts addressing the following:

1. Hurdles to overcome (Exhibit A)
 2. Security (Exhibit B) and
 3. Tax income from the state (Exhibit C)
- A. Councilor Carleton asked if the marijuana grower is considered Ag or Commercial. Mr. Walsh stated that he would find out the designation and get back to Council. Marshal Bicknell researched the web and reported that the State is reluctant to determine the designation of Ag or Commercial due to water impact and that since to the Federal Government it remains to be an illegal product, the state does not want to designate as Ag and affect water. Councilor Carleton stated that since there is no designation yet, the Planning Commission would be unable to approve a grow site until the designation was known.
- B. A Land Use Compatibility Statement would need to be approved by the City of Merrill Planning Commission.

- C. Facility size would be 5,000 sq. ft. of canopy. The traditional strong, skunky smell would be controlled by indoor charcoal filters.
- D. Grower production would be taxed by the State of Oregon at \$35/ounce/flower (estimated retail tax revenue of 17%) and \$10/ounce/leaf (estimated retail of 12%). It is anticipated that 10% would be paid to Cities for the General Fund Police Department support. Mr. Walsh will research the anticipated revenue for the City of Merrill.
- E. Mr. Walsh anticipates that the grow operation would add approximately (10) Full-time employees: (1) front office, (2) growers, (4) harvesters, trimmers, (1) delivery (skip wholesaler and deliver directly to the retailer). Perhaps a processing facility would be added for oils, edibles, etc. Mr. Walsh stated that separate licenses would be required for cross licensing.
- F. Local businesses would be supported for purchasing grower supplies.
- G. Mayor Saunders stated that since 62% of the represented voters were against marijuana that he wants to represent the voice of the people.
- H. Councilor Smith stated that growers are different than retailers and that there would not be the foot traffic, smell should not be an issue by using the filters and that since Umpqua Bank is federal that it cannot allow banking from marijuana operations. Mr. Walsh stated that State banking will accept cash or checks from marijuana business.
- I. Councilor Carleton stated that he is not ready to make a decision on growers at this time.
- J. A work session or polling community to see what they think was suggested.
- K. City Attorney, Melvin Ferguson, stated that a grower would add to economic development by employing more folks but that the City of Merrill would want to balance revenue against risk.

- **Distribute Oster FY 13/14 Independent Auditor's report, Financial Statements, (2) supplemental letters.** This item of business is being postponed until the January 2016 meeting due to errors noted and revisions by Oster.
- **Origis memo to file from Mel Ferguson dated November 4, 2015 (based on a phone conversation with Michael Chestone), a cover letter to Council from Mel Ferguson dated December 7, 2015 and a letter dated December 1, 2015 (from Ellen Grover – Origis Energy Attorney) was distributed by Mel Ferguson to Council and to the City Recorder.**

City Attorney, Mel Ferguson asked that the memo and letter be read and discussed at the next Planning Commission/Council meetings on January 12, 2016.

Councilor Carleton instructed Mel Ferguson to bill direct Origis for phone conversations or other business. Origis November business was billed to the City and has been paid by the City. The City Recorder will seek reimbursement for this payment. Going forward, Mel Ferguson has agreed to direct bill Origis.

OLD BUSINESS:

- **Letter to Council about West Merrill Water Improvement District (Falvey Road) donation to City of Merrill ~ Tom Ongman**

Mr. Ongman's letter was distributed to Council. This letter is to be kept in the minutes and with the upcoming amendment to water rates by resolution as a paper trail to the agreement made. To recap: to not increase outside city limits 150% of city limit rates because in the early 1990's the West Merrill Water Improvement District (WMWID) disbanded (Falvey and part of Court Drive) and wanted to keep the system intact. The WMWID asked to swap the water system with the City of Merrill in exchange for receiving the same rate as the city limit customers plus an added \$2.50 maintenance fee. In the swap, the City of Merrill received a system that was engineered and up to code consisting of: meters, hydrants and water lines. Merrill expanded their current water customer base at zero cost and realized revenues over the last ~ 25 years of \$276K from the Falvey customers and \$34.5K in maintenance water fees.

Councilor Carleton made a motion to accept the letter submitted by Tom Ongman dated December 4, 2015 pertaining to the WMWID agreement. This letter is to be recorded in places that can be easily referred to at a later date. There was a 2nd by Councilor Smith. All other members present voted Aye and the Motion carried.

- **FEMA Flood proposal and floodplain map (Carleton).**

There is a phone conference scheduled for December 14, 2015 at 9:30. City Engineer – Darryl Anderson, will be involved. Darryl has briefly reviewed the information sent him by the City Recorder. Bonanza has engineering involvement and have found there are fallacies in the FEMA proposal.

- **Request for Proposal (RFP) for Auditing Services for FY 14/15.**

Since the current Auditors, Oster, are unable to continue audits for the City of Merrill due to staff shortages and long turn-around times of existing audits, the City Recorder prepared (5) RFP's and mailed to local Klamath Falls accounting firms of: Romig, Isler, Molatore and Rusth. There was no reply from local firms by the December 3, 2015 deadline. Next steps, the City Recorder will branch out the search to attract a firm that might be interested in performing the City of Merrill audit. Firms outside of Klamath Falls will need to be identified and mailed RFP's. Advertising in the LOC is an option. State of Oregon might need to be contacted for guidance.

- **Status of No U-Turn signs for Washington Street Between E Front and First Streets.**

The PW Director and the Marshall have discussed posting signs over the existing 2 hour parking sign location near the rear of the Post Office. Double yellow vs. broken yellow line not discussed this meeting.

- **Church utility rate analysis.** The Council has decided to flat rate all churches and church related dwellings to the basic rates of inside/outside city limits. This rate agreement will be added to the Resolution changes that amends water rates by \$4.00 and will now add the flat basic rates for the Churches and Church (one) dwellings. Resolution 2015-739 will be postponed until the January 2016 Council meeting with the Resolution to be effective March 1, 2016 with notices to customers in January and February.

CONSENT AGENDA:

1. Minutes Approval for November 10, 2015

A motion was made by Councilor Carleton to accept the November 10, 2015 minutes. There was a 2nd by Councilor Smith. All other members present voted Aye and the Motion carried.

2. Business Rental License/renewals: None

3. Ratify Phone polls:

- AP approval: Accounts Payable
 1. 11/23/15 \$58,910.91

Approved 11/23/15 by Councilors: Lesh, Smith & Taylor, mailed 11/24/15

Councilor Carleton made a motion to approve the ratification of the 11/23/15 Accounts Payable. There was a 2nd by Councilor Smith. All members voted (with exception of Councilor Lesh who left the room to take a phone call) Aye (include Mayor Saunders to make a quorum) and the Motion carried.

- Approval 11/23/15 to transfer W/S Reserves to W/S Checking for OECD principal payment

Councilor Carleton asked why a transfer is needed in order to pay the annual payment. The City Recorder replied that \$30K was budgeted because resources were not anticipated during the budget year to cover the payment. In reality, due to having a vacant FTE UWII position, expenses have been less than anticipated so only the principal portion of the payment is being transferred \$24,144. Councilor Smith made a motion to approve the ratification of the bank transfer from the W/S Reserves to the W/S Checking for the principal payment of the OECD loan. There was a 2nd by Councilor Carleton. All members voted Aye and the Motion carried.

4. Bills for approval: Accounts Payable 12/8/15 check run approval \$9,151.53

Councilor Smith made a motion to approve the 12/8/15 bills to pay. There was a 2nd by Councilor Carleton. All members voted Aye and the Motion carried.

ACTION ITEMS/GENERAL BUSINESS:

ORDINANCES distributed in the Councilor pre-meeting packets:

- **1208-2015 Marijuana Ban Opting Out (excludes medical marijuana growers only)**
The ordinance was read in title declaring a ban on: marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and/or recreational marijuana retailers and declaring an emergency. Ordinance discussion followed. After hearing Mr. Walsh's presentation asking Council to consider approving a marijuana grow site in the city limits of Merrill, Marshall Bicknell pointed out that by approving the aforementioned ordinance as written, growers and processors would also be banned. After listening to Marshal Bicknell and the reading of definitions, Councilor Smith would like to see the bans done separately. Council decided to amend the ordinance during this meeting to ban only: medical marijuana dispensaries and recreational marijuana retailers and declare an emergency. The newly amended title was read as well as the 5th & 6th amended paragraphs prohibiting the operation of medical marijuana

dispensaries and recreational retailers only. The amended ordinance was up for discussion. No further discussion followed and the amended ordinance was re-read in title. Councilor Carleton made a motion to approve as amended Ordinance 1208-2015 (Amended version 1208A-2015). There was a 2nd by Councilor Lesh. All members voted Aye and the Motion carried.

RESOLUTIONS

- ***Repeal postponed 2015-735*** Amend water rates to Outside City limit customers to be 150% of City limit charges *postponed to the January 2016 meeting when approve the water rate change Resolution.*
- ***Repeal postponed 2015-733*** Reinstate 150% charges to outside city limit customers *postponed to the January 2016 meeting when approve the water rate change Resolution.*
- **2015-739** Amend Sewer Rate outside City Limits. Resolution postponed to the January 2016 meeting due to: information shared by Tom Ongman/West Merrill Water District, flat-rated base church and church dwelling rates and \$4 water rate increase as approved by the FY 15/16 Budget Committee and Governing Body on June 9, 2015.
- **2015-740** Fund Xfer Water/Sewer Reserve to Water/Sewer checking to cover OECD principal payment. Resolution 1205-740 was read by title. Resolution number is to be corrected from 2014-740 to be 2015-740. Open for discussion. No discussion followed. Resolution was re-read by title. Councilor Smith made a motion to approve Resolution 2015-740 bank xfer from the Water/Sewer Reserve to the Water/Sewer checking to cover the OECD principal portion of the annual lagoon payment. There was a 2nd by Councilor Carleton. All members voted Aye and the Motion carried.
- ***Postponed 2015-741*** Amend water hookup fee to be \$1000 within City limits and \$1500 outside City Limits *postponed to the January 2016 meeting when approve the water rate change Resolution.*

RECORDER'S REPORT:

The Recorder's report presented by the City Recorder included:

Accounts Receivable

Bank Balances

ACH detail

Payroll

City Attorney 11/25/15 invoice provided in pre-meeting packets was discussed by Councilor Carleton who reiterated that the City of Merrill would bill Origis for reimbursement of \$160 + 22.50 = \$182.50 for City Attorney fees due to Origis business.

Councilor Smith made a motion to approve the Recorder's report. There was a 2nd by Councilor Lesh. All members voted Aye and the Motion carried.

PUBLIC WORKS:

- See PW Director's report for December 2015 - attached to minutes.
- Update to yellow curb painting as first discussed in the September 2015.

Greg Matthews stated that the painting will occur at one location at a time and that a 10' length on each side of the Bank's cross-walks will be painted first. This is consistent with painting by other nearby cities. Also, there is a plan to have no parking between the laundromat and end of the Post Office driveway. When weather permits, the parking lines will be blackend out and a broken yellow line will be painted in that area so that traffic can travel across legally.

POLICE:

- Report was of traffic stops and a towed vehicle for no driver's license. Other business is slow.
- There have been recent verbal resident complaints about marijuana odor from consumption. Currently §90.25 - Unenumerated nuisance does not address Marijuana odors from growth and consumption. Sample ordinance No 3818 Page 3 Section 10 is language from the City of Pendleton which was distributed in the pre-meeting council packets several months ago by Marshal Bicknell. Council needs to decide if marijuana odor from consumption will be added to this section. December council meeting did not resolve.
- Marshal Bicknell reported that Mary White is asking for a hearing on a third citation but that she failed to appear on the first (2) citations @ \$1500.00 fines. The Marshal wants the first two citations to stick due to the failures to appear and would like to hold on to any next citations until he figures out where we are to date.

LAWYER: Partial attendance requested for attendance/comment on: the Marijuana Grower presentation/discussion and on Origis Energy – see top of minutes.

CODE ENFORCEMENT OFFICER REPORT: STAN HINTON

- The November 2015 Code Enforcement Councilor Report was distributed with Councilor pre-meeting packets and reviewed by Stan Hinton in the meeting.
 - 1) Pictures were provided to Council of Phillip Bragg's present property condition. Mr. Bragg was in attendance. Existing tires are for vehicles, there are two vehicles remaining and are neatly stacked and are usable vehicles. There is an operational recreational vehicle (mud racer). There is no garbage present. It is unfortunate that Bragg's back yard is the front yard to other neighbors so he has no area in which to hide vehicles from sight. Councilor Carleton made a motion to dismiss the abatement for Phillip Bragg property. There was a 2nd by Councilor Smith. All members voted Aye and the Motion carried.
 - 2) Dangerous trees at 530 Front Street have been removed by the owner and no longer pose a dangerous condition. Building permit clarification for

plumbing and electrical have been addressed and fees have been paid to the City of Merrill. Next steps will be through Klamath County channels.

- 3) 425 E. Front Street accumulation of garbage is expected to be removed in the next couple of days.

PLANNING – Commissioner Carleton

- City of Merrill form is not really a building permit form and will be modified to be an application and not a building permit. Stan suggests adding remodel as an option. Councilor Carleton, City Clerk and Stan Hinton will set a meeting to work to revise this form.
- **Solar Farm Update (Carleton).** The meeting scheduled for November 9, 2015 was cancelled by the **Solar Company based out of Florida, Origis Energy (Michael Chestone - Director of Development)**. Origis will be in attendance at the next Planning Commission meeting scheduled for January 12, 2016 at 1:00. Mel Ferguson has been asked to attend the City of Merrill Planning Commission meeting contingent upon his status.

History: meeting with the Planning Commission October 12, 2015 to discuss installing a 65 acre solar farm (partly City, some County property) north of the property where Dollar General is planning to build (along the highway). They have an option on the property which is currently zoned both commercial and residential. A zone change will be required. This property is ideal for Origis due to the distance from the substation being less than 1½ miles. Next meetings will discuss additional facts and figures, i.e. property tax revenue for the City. One City concern is the attractiveness factor. Origis is willing to do what is necessary to hide or make attractive the solar panels from view on Highway 39.

- **Dollar General.** The City of Merrill has signed off on the plans and they have been sent to Klamath County. ODOT is requiring a change in the entrance that has the approval by the Baptist Church (900+ sq.ft.). Need signatures and to record the deed for a city street right of way with 3" asphalt overlays required on the Second Street (Dollar General will be responsible for initial street costs) and City of Merrill will be responsible for maintaining it. We have a County form to use as a template as a lot line adjustment for that little chunk of property. City Engineer, Darryl Anderson, is going to survey the lot line adjustment. Councilor Smith expressed thanks to Councilor Carleton for the time he has spent on the Planning Commission business.
- Councilor Carleton has requested from Klamath County final versions of Klamath County Draft maps as identified in Resolution 2015-738.
- Designation of Commercial 1 (C1 Downtown commercial) and Commercial 2 (C2 Highway Commercial) do not exist on our maps or our development code and may require a work session.

PUBLIC COMMENT:

- Stan Hinton asked if being a marijuana grower is considered agriculture and farm use, would it be allowed in a Commercial zone? Industrial allows ag. This will be researched by Planning. Currently, it seems up for interpretation.

OTHER:

- Marshal Bicknell presented costs to attend an executive leadership training in Seaside, Oregon that he attends once every three years. The training starts on January 12 - 14, 2016 at an estimated maximum total cost of \$1,009 (excluding vehicle fuel). Councilor Smith made a motion to approve the Marshal's training starting on January 12, 2016 at an estimated cost of \$1,009 for registration, meals and lodging. There was a 2nd by Councilor Lesh. All members voted Aye and the Motion carried.
- **\$1K Planning Grant 2015-2017**
Since the grant has a two-year term this item will be postponed until the best use of funds can be determined. Uses will be tied into the next FY 16/17 budget and could be for time spent on planning business, flood plans, lot line adjustment, etc. expenses.
- Mayor Saunders reiterated that the City Recorder will type the amended Ordinance and it will be signed and dated using the December 8, 2015 date.

ADJOURN:

The meeting was adjourned at 8:01 p.m. in a Motion by Councilor Carleton and a 2nd by Councilor Smith. All members present voted Aye and the Motion carried.

Respectfully Submitted,

Tim Saunders 1/12/2016
 Mayor, Tim Saunders Date

Oma Rowley 1/12/2016
 Oma Rowley – City Recorder Date