

**CITY OF MERRILL**  
**REGULAR BUSINESS MEETING**  
Thursday December 13, 2018 6:00 P.M.

**ROLL CALL:**

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

**Flag Salute:**

The Flag Salute immediately followed with Mayor Carlson asking Councilor Smith to lead it.

**MAYOR STATEMENT:**

Mayor Carlson asked that everyone please turn cell phones on silence. All meetings are recorded and when addressing the 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 comments followed.

**CONSENT AGENDA:**

- **Meeting Minutes:**

Councilor Smith made a motion to approve Council Meeting Minutes for November 13, 2018. Councilor Lesh 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

- **Phone Poll Ratifications:**

Councilor Smith made a motion to approve Resolution 2018-755: Lagoon Payment Transfer polled November 20, 2018. Councilor Taylor 2<sup>nd</sup>. The motion passed 4-0 in favor.

- **Business License Renewals:**

- Councilor Smith made a motion to approve the following Business License Renewals as submitted before City Council:

Leon and Karla Langley Rental License Renewal, Martin Hicks Rental License Renewal, Merrill Mobile Manner Business License Renewal, Martin's Food Center Business License, The Merrill Clinic Business License Renewal, Joseph Mountain Rental License Renewal, Hickey-Croy, LLC Business License Renewal, Cesar Montano Rental License Renewal, Jesse D. Hickey Farms, LLC Business License Renewal, Cesar Montano Rental License Renewal, Hickey Organics, LLC Business License Renewal, Wild Goose Lodge Motel Business License Renewal, Ed Staub & Sons Business License Renewal, Lester Realty Inc. Multiple License Renewal, Quail Mountain Delivery Business License Renewal, John Walker Rental License Renewal, Ribbon & Print Delivery Business License Renewal, Polar Bear Business License Renewal, Janet Herman Rental Renewal (2), Tony Johnson Rental License Renewal, The Water Hole Business License Renewal, Merle's Custom Butchering Business License Renewal, Weston and Katie Walker Rental License Renewal, CTI Business License Renewal, The Sewing Works Business License Renewal, Tater Patch Quilts Business License Renewal, Antonio Sanchez Rental License Renewal (2), Modoc Electric, LLC Business License Renewal, Rafael Alonzo Duplex Rental Renewal, Pape Machinery Business License Renewal, Carolyn Countryman Rental Renewal.

Councilor Taylor 2<sup>nd</sup> the motion. The motion passes 4-0 in favor.

- **Accounts Payable:**

Councilor Smith made a motion to approve the November Accounts Payables. Councilor Taylor 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

Councilor Smith made a motion to approve the November Water Sewer Transfer. Councilor Taylor 2<sup>nd</sup> the motion. The motion passes 4-0 in favor.

**STAFF REPORTS:**

• **Police:**

- Marshal Bicknell reported on the multiple duties performed by self and Officer Srch to date. They included: Responded to motor vehicle crashes, served restraining order, conducted a lockdown drill and evacuation at Merrill Elementary in cooperation with Merrill Rural Fire District, transported a resident to Sky Lakes Medical Center, worked in conjunction with Klamath County Animal Control, worked in conjunction with Parole and BINET resulting in two arrests associated with methamphetamines, arrested an individual considered armed and dangerous with Klamath County Sheriff's Office, assisted a resident, handled an extensive burglary investigation resulting in an indictment, responded to disturbances and complaints, arrested a juvenile, welfare check, located a stolen motorcycle, reported to property alarm, worked in conjunction with Malin Police, organized and conducted training at Stateline Shooting Range, traffic and patrol, investigated a child sex crime, assigned detail to Jordan Cove negotiations, escorted Lost River Football Team through Merrill and Malin, visited with residents and businesses, and attended multiple meetings including Oregon League of Cities.
- Code Enforcement Officer Shilling and spouse prepared the Crown Victoria to be sold. Mayor Carlson inquired to the process of an interested person bidding on the 2000 Ford Crown Victoria. Councilor Carleton stated a bid would have to be advertised with an ending date where the highest bidder would be awarded. Discussion followed.

• **Public Works:**

- Public Works Director Matthews submitted duties performed but was not in attendance. Councilor Carleton presented the Well House and Pump Bid. The revised bid, Bob's Excavating, is for \$228,357.00 saving \$53,370.00. Darryl Anderson's recommendation is to accept the revised bid. Councilor Carleton recommended the bid. Councilor Carleton stated Mayor Carlson had concerns. Mayor Carlson stated the need to obtain plans to have for the City's record. Mayor Carlson stated no objection.

• **City Recorder:**

- City Recorder Hernandez reported Romig and Associates will begin revenue and expenditure testing Friday, December 14, 2018.
- City Recorder Hernandez presented the Public Records Law issue regarding Facebook and the financial hardship the archiving software would create (\$1200.00-\$2300.00 annually). The issue arising is a person can post a comment on Facebook at 12:00 a.m. or 1:00 a.m. and delete the posting without the City's knowledge. Once posted, the information becomes public record. There is no control over deletions and the public record may be lost without knowledge; hence, software for archiving. Marshal Bicknell stated the Merrill Police Department Facebook has been deactivated with 850 followers. Councilor Smith inquired to the Facebook activity. City Recorder Hernandez stated City Clerk Jensen monitors the activity which is linked to City Clerk Jensen's cellular phone. The City Facebook has "trolls" and residents who do follow City postings. Marshal Bicknell elaborated on the number of postings as the administrator. City Clerk Jensen was posting Community Events with multiple viewings. The City webpage is owned by City of Merrill which allows control. Councilor Carleton made a motion to eliminate the Facebook page. Councilor Smith 2<sup>nd</sup> the motion. The motion passed 4-0 in favor.

• **Lawyer:**

- A meeting was attempted to discuss Code Enforcement. The meeting did not occur.

• **Code Enforcement:**

- Marshal Bicknell compared Code Enforcement figures from 2017 verses 2018. They are as follows:  
2017 Cases handled individually by Code Enforcement Officer: 30 (Hinton), 4 (Shilling)  
2017 City assisted landscaping: 0  
2018 Cases handled individually by Code Enforcement Officer: 02 (Hinton), 80 (Shilling)  
2018 City assisted landscaping: 2  
2017 Cases handled by both Code Enforcement Officers: 7  
2017 Officer Srch: 5  
2018 Cases handled by both Code Enforcement Officers: 3  
2018 Officer Srch: 0

2017 Written citations: 1

2017 Code Enforcement Officer Shilling hours: 359

2018 Written Citations: 2 with 1 prosecution

2018 Code Enforcement Officer Shilling hours: 329

The above mentioned compilation will be forthcoming annually.

- Marshal Bicknell met with Mr. Vaughan with Klamath County regarding foreclosures. Mr. Vaughan strongly advised including the City Attorney on the first foreclosure. The City of Merrill may file a lien with the Klamath County Clerk and foreclose on property before Klamath County. The City of Merrill would be financially responsible for liens against the property. 212 N. Monroe Street, Leona Harding's house, has minimal back taxes since 2016. Mayor Carlson inquired to the City of Merrill's intent with regards to the property. The intent would belong to City Council. 212 N. Monroe is dangerous, the house lacks a foundation and the walls are crumbling. The City of Merrill's options would be to remove the house and market the lot or find a buyer. Discussion followed regarding real estate practicability and legalities pertaining to the City of Merrill. Councilor Smith made a motion to start the lien process on 212 N. Monroe Street. Councilor Carleton 2<sup>nd</sup> the motion. The motion passed 4-0. Mayor Carlson stated environmental concern. Council was in agreement to inspect the property beforehand.
- **Planning:**
  - Councilor Carleton informed City Council Les Schwab is expected to open December 15, 2018.
  - A resident inquired to installing a 1995 triple wide manufactured home. Code dictates manufactured homes can be no older than five years. The code was amended from 1976 as the cap year.

#### **PROJECT MERRILL:**

#### **LOST RIVER ARTS AND CRAFTS CULTURAL ALLIANCE:**

- Public Works Director Matthews was not in attendance but left a Thank You Card for each City Councilor and Mayor.

#### **NEW BUSINESS:**

- Discussion of Jordan Cove: Joe Spendolini, a representative of Jordan Cove, was in attendance. Mayor Carlson stated he met with the Mayor of Klamath Falls, a Jordan Cove Public Relations Representative, and an unnamed person three weeks ago. Safety concerns such as pipeline ruptures and minimalizing risks were discussed. Answers were vague. A meeting with Dan Murphy, a Jordan Cove Representative, resulted in more detailed answers. The concern is the pipeline is going to run 8000 feet to the north of Merrill. This is the opportunity for the City of Merrill to have natural gas. The cost is negligible for a fitting, as a whole. A comparable project in Lakeview cost \$4 million dollars to tap into a pipeline. Jordan Cove has agreed to pay reasonable costs to provide a fitting and allow the City of Merrill to hook into the pipeline. Reasonable costs is ambiguous and pressed Jordan Cove to define "reasonable" being as a fitting large enough to serve 4,000 residential customers and 3 medium size industrial facilities. Jordan Cove has been asked to waive connection fees and have Avista perform a financial analysis within the first 3 months of gas distribution. If the financial analysis is positive, or borderline, to proceed with the Public Utility Commission (PUC) application to serve the City of Merrill with natural gas. Communications have been expressed to Jordan Cove representatives and express to receive the definition of reasonable costs. Mayor Carlson intends to discuss Jordan Cove Project communication updates at the January 8, 2018 City Council Meeting. Councilor Carleton inquired to the cost to the City of Merrill. Mayor Carlson stated there would be no cost to the City of Merrill. Councilor Carleton had the impression Avista was to supply natural gas to the City of Merrill prior, but the service fell through. Mayor Carlson explained Avista would bill each natural gas customer and cost would be absorbed into the rate base. Oregon State would refuse if costs are unreasonable. Marshal Bicknell stated intent to meet with Avista. Joe Spendolini stated Jordan Cove as the distributor cannot make taps. Only a local distributor is allowed which is Avista. Avista has agreed to perform the financial analysis. The financial analysis cannot be performed until the pipe is in place. The Oregon PUC will not consider whether the City of Merrill can be serviced with natural gas until the financial analysis has been performed. The analysis will not be performed until the pipe is in place which is driven by the overwhelming logic of the law. Two to three years prior an agreement was made between

Economic Development Chamber of Commerce and the Jordan Cove Project to tap the pipeline to run a service line into Merrill. The reason the City of Merrill was not involved in the agreement is because the City of Merrill cannot be at this point of the project. The law prohibits involvement. Councilor Smith inquired to whether Mayor Carlson's efforts are baseless. Joe Spendolini replied with a negative. Joe Spendolini stated the Mayor is enacting proper due diligence and provides comfort with the project. In time, Jordan Cove hopes Mayor Carlson may formally support the project but is impossible without due diligence. Mayor Carlson inquired to clarification regarding the potential legal block between the City of Merrill directly negotiating with Jordan Cove and whether Joe Spendolini envisions a legal roadblock to defining what reasonable costs are. Joe Spendolini responded he does not believe it is necessary language as whatever the costs are. Jordan Cove will cover the costs. Joe Spendolini is incapable of stating whether a Jordan Cove Representative can state costs at this time or even if the law would allow a precise dollar figure. Mayor Carlson elaborated to construction specification and a limit on hookup fees to tap into the pipeline. Joe Spendolini stated if there is an agreement in place, Jordan Cove will cover the costs despite the price. The cost of the tap is factored into the PUC approval for Avista to run service to Merrill. When Avista performs the financial analysis, the cost of the tap has to be factored. If the cost is zero to Avista, the cost justifies running natural gas to the City of Merrill. Councilor Carleton inquired to the role of the City of Merrill. Joe Spendolini assumed the role of Merrill would be the standard franchise agreement. Mayor Carlson wanted to clarify the cost to the right to tap into the pipeline. Joe Spendolini stated when Marshal Bicknell meets with Steve Vincent representing Avista, there is a tight partnership between the two companies. Oregon Department of State Lands is conducting a public comment meeting on the Jordan Cove Project January 7, 2019 at 5:30 held at Klamath Community College for individual support.

- Discuss Code Enforcement Process and Policies: An Executive Session was held regarding Code Enforcement Process and Policies. The proposal was to hold two public hearings. The first meeting is agenzized for December 13, 2018 and the second is intended to improve Building Permit Application Process with guidance from Klamath County. Councilor Smith expressed concern over communication. There was lack of communication before steps were taken and a lack of oversight. There were wrong forms used. Marshal Bicknell stated one wrong form was used. Councilor Smith stated the wrong form compounded the issue. Lawyers were involved. The City of Merrill cannot afford small mistakes. Councilor Smith stated discussion arose of whether Volunteer Code Enforcement worked with paid City Employee's for liability and accountability issues. Interviews were held with citizens by request involving formal concerns. Councilor Carleton stated concern for better paperwork for proper enforcement. Councilor Carleton commented how residents are notified with no follow-up paperwork when first notice is issued. Marshal Bicknell stated paperwork is issued in every case. Councilor Carleton inquired to paperwork with the response of "I sent an email". Marshal Bicknell stated the case involved negotiations with the banks for Fourth Street compliance. Notices were mailed with detailed pictures, descriptions of work needed to meet compliance, and correspondence after the notices through email. Councilor Carleton stated he did not see the paperwork and inquired whether the notices were sent on City of Merrill letterhead. Marshal Bicknell stated he has the file to view and Code Enforcement Officer may have misunderstood the request. Notices are mailed in a timely fashion. To address further issues, Marshal Bicknell stated creating a Policy and Procedures for Code Enforcement with the assistance of Mayor Carlson. The Policies and Procedures followed by Code Enforcement are not formally documented. Councilor Carleton stated the comment made by more than one resident(s) was, "when Brian comes up in uniform, it is intimidating". Councilor Smith stated the uniform is part of the job. Code Enforcement has not received the attention pertaining to Policy and Procedure and until the formality is in place, Volunteer Code Enforcement and paid City Staff should work together for liability issues. Councilor Taylor was in agreement. Councilor Smith acknowledge the hours volunteered. Councilor Smith stated volunteer's need to be educated in the Development Codes. Marshal Bicknell stated the Development Codes clearly states "these are Development Codes for new construction" and not for pre-existing structures and mentioned the corner of Garfield and Front Street as an example. The code states when there is a change, then the code may be implemented. Discussion followed about merging Codes and Ordinances into one book. The consensus was no independent operations until Policy and Procedures are formalized.
- Discussion of Commissioner Assignments: Mayor Carlson thanked Councilor Lesh and Councilor Taylor for their service followed by applause. Office and Police/Code Enforcement are open. Mayor Carlson inquired to City Council thoughts on appointing Councilor Johnson to oversee Recorder Office and Councilor Hughes would gradually become Police Commissioner. There is Code Enforcement influx and personnel issues. Mayor Carlson suggested an interim 6 month period where Mayor Carlson would be

Police Commissioner to resolve the Code Enforcement issue, create a new Commissioner of Lands for Councilor Hughes. Councilor Hughes could assist Councilor Carleton with Code Enforcement, work on Merrill Commercial Project to bring to market and expand the Urban Growth Boundary. Councilor Hughes could work with Marshal Bicknell to become acquainted with the department. Councilor Smith was in disagreement stating there are no issues at the moment. Code Enforcement should be sectioned off where there is a combined effort but not create a new position. Mayor Carlson stated personnel issues are sensitive without knowing the history. Consensus was to work on the details with Councilor Hughes.

#### **OLD BUSINESS:**

- Report Cemetery Improvement Project: Discussion has occurred describing the disrepair of the cemetery where funds paid by taxpayers have been diverted to maintain another cemetery. The City of Merrill's intention is to work with Project Merrill and the Cemetery Board to partner in a non-adversarial manner to improve the cemetery. Councilor Smith agreed to represent the City of Merrill. Councilor Carleton stated a conflict of interest and recused himself.
- Discuss Internet Provider(s) Compliance: There is sensitivity in the franchise agreement(s). The City of Merrill audited internet providers due to irregularities. Confidential packets were provided to City Councilors with future follow-up.
- Approve Immunization Schedule: On December 5, 2018 during the staff meeting, Department Heads identified risks associated with work: Hepatitis, Tetanus, Tuberculosis, and Whooping Cough. Pricing was presented to City Council for the immunizations and test. Discussion followed relating to health insurance, providers, and whether other cities pay for staff immunizations. Marshal Bicknell stated it is standard practice for staff who work with raw sewage and police officers due to the risks of the job. Tabled until further costs with insurance are provided from various clinics.

#### **ORDINANCES:**

- 2018-771: Offenses Against Property: Marshal Bicknell developed the ordinance in response to activities a couple months prior and ongoing. The ordinance allows the City to choose criminal prosecutions or civil penalty. A utility company was interfering and tampering with Klamath County to be City owned utility. Councilor Carleton inquired to whether the ordinance is replacing the ordinance already in place. Marshal Bicknell stated there is not an ordinance of this nature. There is an ORS. Discussion followed. Tabled until further review with request for City Council to have a copy of both ordinances.

#### **RESOLUTIONS:**

#### **FUTURE AGENDAS:**

- Councilor Smith inquired to the administration of bank signatures. Councilor Carleton made a motion to approve the administration of bank signatures upon the contingency of Councilor Johnson and Councilor Hughes being sworn into office. Councilor Lesh 2<sup>nd</sup> the motion. The motion passed 4-0 in favor. Councilor Smith stated conflict of interest.
- Councilor Carleton stated Republic of Washington is proposing a sanctuary city for gun owners and is seeking support. Councilor Smith stated support. Mayor Carlson inquired to City Council support, individual support, or citizen initiative.

#### **PUBLIC COMMENT:**

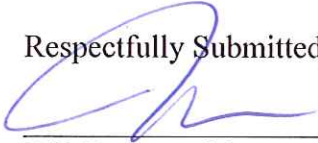
The public is invited to provide their comment and opinion to the City Council at this time on issues of their concern. Non-emergency issues brought up in this forum will not be considered tonight other than in this preliminary discussion, but if found to be warranted, may be considered at a future meeting of the City Council. Public comment is limited to 5 minutes per person.

- Mayor Carlson thanked Councilor Lesh and Councilor Taylor for the evenings and work done. It is appreciated.
- City Recorder Hernandez stated City Clerk Jensen provided cake and punch to say fare well to Councilor Lesh and Councilor Taylor and congratulations to Councilor Johnson and Councilor Hughes.

#### **ADJOURN MEETING:**

- Councilor Taylor made a motion to adjourn the December 13, 2018 Meeting. Councilor Lesh 2<sup>nd</sup> the motion. With all in favor, the meeting adjourned at 7:16 p.m.

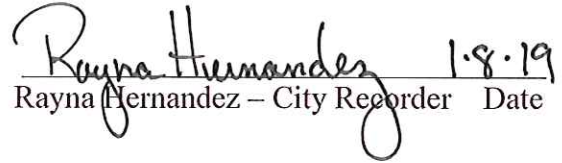
Respectfully Submitted,



Bill Carlson - Mayor

08/18/19

Date



Rayna Hernandez - City Recorder

1-8-19

Date