

CITY OF MERRILL  
REGULAR BUSINESS MEETING  
Tuesday, January 12, 2016  
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:**

- **Public Meeting for Recreational Marijuana Grower –Rick Walsh from Fresh Green Organic Farms**

Mayor Saunders welcomed the community and explained to the audience that this forum was set as a way to reach not only Merrill residents but the Merrill Community as a whole and to provide Council with public opinions in which to make a decision on the request to establish an indoor medical marijuana grow within Merrill City limits. The Mayor explained that currently the City of Merrill has a ban on marijuana related business activities with the exception of medical marijuana growers. Mayor Saunders introduced Rick Walsh to present the details of his indoor marijuana grow operation.

At the point that the meeting is open to the public, Mayor Saunders asked that each speaker limit their comments to 3-5 minutes each and to come to the front of the room so that the comment will be detected by the recorder. He stated that this is an opportunity for the Council to take comments for consideration. A decision will not take place by Council in this meeting.

Mr. Walsh addressed Council and the Public by asking for consideration to allow 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 and reports that the State Farm Bureau membership is behind this ag product and that OLCC is in favor of licensure to encourage driving the prices down. He reported that while Klamath County opted out of all marijuana related business it is allowed within City limits that would allow such activities until the upcoming May elections. 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 a

business in Merrill with product to be sold in Portland and bigger City areas. He asks the public to see a marijuana grow operation as just another ag product. High security cameras are required in an industrial grow facility where odor will be controlled by filters. Taxing facts were shared (see handouts below) which includes taxing of buildings. Many handouts were available for public review and later provided to the City Recorder for retention. Materials included (and are on file in the Recorder's office):

1. Internal Management Directive
2. Hurdles to overcome (Exhibit A) OLCC Land Use Compatibility Statement
3. Security (Exhibit B)
4. Tax income from the state (Exhibit C)
5. Misc. revenue email and handouts from: OR Dept. of Revenue, OLCC, KC Assessor and Legislative Revenue Office (LRO)
6. Legislative Revenue Office (LRO) "The Revenue Impact of Marijuana Legalization Under Measure 91
7. OLCC General Requirements Applicable to all Marijuana Licensees
8. Carbon Filter Specs
9. Other misc. information

There were a total of 25 community/Council comments and they are summarized below:

1. **Ed Simon (against)** – The City may encounter grant funding or loan application problems as the business revenue is not from a legal federal business recognized by the federal government. The marijuana business is currently a cash only business. City Attorney-Mel Ferguson will check into the effect on grant funding. Rick Walsh replied that the State and Federal government is accepting tax dollars in cash. Councilor Smith clarified that money from this business would be accepted by local businesses but that it would not be accepted by the local bank as the bank is a federal bank.
2. **Stan Hinton (against)** - If the City were to allow a marijuana grower it would open the door for other marijuana business opportunities for other marijuana related business. Mr. Hinton feels that it is "a one-way street in the wrong direction". Per Mel Ferguson, operating under a state statute outlines what is and is not allowed but could possibly be challenged since it is not federally allowed.
3. **Darrell Richey (against)** – Stated that he has been a resident 4-5 years and likes Merrill just the way it is and he wants it to stay the way it is.
4. **Brian Bicknell Jr. (for it)** – Stated the community will not even know that the indoor grow facility will exist in Merrill and feels that the Government should not suppress the economy. He is raising (6) children and is not at all worried about a grow facility in town. It is his job to educate his children.
5. **Carmen Felice** – Asked how much water usage would be required? Rick Walsh replied that due to hydroponics, the water would be recirculated and that the source of water might also be well water or water this is hauled in. PW Director, Greg Matthews stated that the City does not chlorinate.

6. **John Walling (against)** – Shared a blog from the American Thinker stating that Colorado’s crime rate was declining until they legalized marijuana. The article states that the crime rate increased 9% from 2013 to 2014. The crime rate over the past decade was rapidly declining (by 32% overall) from 2004 – 2012. Since 2012, the crime rate has increased more than 21%, reversing nearly a decade-long trend downward and instead exploded upward.
7. **Sharon Cosand (against)** – Adding dollars in our family community from revenue from a marijuana grow is just a “carrot dangling”. Asked to the Council not to pursue because it would impact our community negatively.
8. **Geneva Thomas (against)** – Has been a “Merrillite” since 1958 and she appreciates living in Merrill. She has known Rick Walsh for a long time but she has been against marijuana since it was legalized.
9. **Gary Robeson (against)** – Asked Council if they would consider a voter opportunity? It might be a possibility per the Mayor. Mayor Saunders reiterated that the last vote from the voice of the community was spoken against legalizing marijuana (~65% against). Rick Walsh mentioned that Klamath County is bringing back up on the ballot in May 2016 after having banned it so will have another look at voter percentages.
10. **Murray Kulrich** – Asked if Rick Walsh is from Merrill. The reply was that he used to be in the 70’s.
11. **Mayor Saunders** – Asked the City Attorney if the City of Malin doesn’t have a ban on it currently and did not take advantage of banning that the statute provided (by 12/24/15) are they open for business? Mel Ferguson answered that he would check into it but the sense is that Malin did not take advantage of what the statute provided, that it may be open for them. Rick Walsh stated that it would still require approval at the Planning Commission level in Malin. That would be the first hurdle.
12. **Melody Fronsdaahl (against)** – Expressed it detrimental to the community and she has accessibility worries and wonders about the regulations of security. She asked for a definition of an indoor grow. Rick Walsh explained that it is a controlled environment and only sold to retail locations in Portland and the I5 corridor. Camera “watch” all through the entire grow from seed > bud. The question followed, if it became legal federally, would his business automatically be an open door for walk-in customers like a marijuana retail facility? Rick Walsh answered, no, that would be a separate business. Melody stated that this is a moral fiber that we don’t need.
13. **Patsy Terry (against)** – Why the Merrill location? Rick Walsh responded that it is close proximity to Liskey’s, 9 miles, and that he cannot grow within the County right now. He wants to secure a business early and establish market and clientele.
14. **Isaack Nunn (against)** – In 2007 got out of the US Airforce and came back to Merrill because he likes what it is here, famous for the spud festival. He doesn’t want to invite it into our community.
15. **Michael Mannigan (against)** – How many jobs would be created and what timeframe? Would begin with start-up construction with concrete floors, followed by starting the grow process, set-up and that (8) fulltime benefited jobs would be created. It is thought that Trimmers would be paid \$100/\$150 lb. doing 1 lb/day and Growers \$50K a year. Mike asked why not expand the micro green market and hire those workers instead

because he did not think the community would object to a micro green grow? Rick replied that Liskey is already expanding that market and it is not the same profit margin as marijuana. Mike asked if Rick could undersell the black market and still be profitable and Rick replied yes.

16. **Mayor Saunders** asked about location for business. Rick replied that he is not sure but there is a piece of property off Falvey (not in City limits) behind the Sun Bldg and some other commercial property on the highway.
17. **PW Director, Greg Matthews (against)** – Stated that he has known Rick Walsh a long time. Greg stated that it seems inconsistent that the City would ban retail sales and allow a grower. Greg does not want to have Merrill known as a “place to buy dope”.
18. **Mayor Saunders** stated that the City is trying to do what is best for the City and would like all to speak up so Council can hear the voice of the community. He expressed his personal opinion that he does not want to allow since it is not federally approved.
19. **Betty Scronce** – stated that if it is called recreational marijuana it would throw off a red flag and if a person needs medicinal marijuana for medicinal purposes that it should be acquired through a Doctor. Betty expressed she was confused between recreational marijuana and medical marijuana business differences. Councilor Smith clarified that recreational marijuana is a personal preference use product and medical marijuana is used for medicinal purposes. Those with medicinal needs currently are able to request a Doctor’s note to acquire the product.

**Mayor Saunders** expressed opinions (#20-#22) provided him from three business owners:

20. **Martin Picke’s from Wildgoose Lodge (against)** – they moved from Arizona to get away from it.
21. **Loreta Ongmon (against)** – is the principal of the both Merrill & Malin Elementary schools stating what message would we be sending to our children.
22. **Rod Green (against)** – is against what it might bring in to Merrill.
23. **Councilor Carleton (against)** but stated that as a Councilor it is his job to represent thoughts of the Community. He stated that at some point he believes it will come whether the City wants it or not.
24. **Polly Tickner** – Polly agrees with Councilor Carleton. She stated that she thinks the two issues are getting confused that Rick Walsh is asking to grow in a closed environment in a warehouse and not open a retail store. The City needs to think about the job he wants to do.
25. **Melody Frondsahl** stated if it is not being manufactured, it is not there to be sold. She addressed Councilor Carleton’s statement that “it will come whether it is wanted or not”. She stated that not having the moral fiber to stand strong is what’s wrong with our country today. She does not think Merrill should accept this business due to the belief that it is going to happen anyway.

**Mayor Saunders** asked for a show of hands. Eleven raised hands in favor. The show of hands against outnumbered those in favor (no exact number counted).

Councilor Smith addressed the comment on security implications by saying there would be security 24 hours a day and. Rick said that entry would only be with a valid ID. A permit is required even to give a tour.

Councilor Smith asked Officer Keith Srch if he felt that this grow facility would increase his Department's workload or concerns. Officer Srch responded that it could go either way. Response time from other agencies would be slow if the Merrill Police staff were not on duty. It might be that monitoring might be a nightmare or on the other hand, there would be so much security that it may be no problem at all. It could go either way. Rick Walsh added that instead of utilizing the City's Police Department a private Security Company could be hired. Calls would still need to go through the 911 system.

Mayor Saunders announced to the audience that the City of Merrill would have three positions up for election in November; two Councilor positions and the Mayor position and encouraged anyone interested in running to submit their names in August.

John Walling thanked Council for holding this meeting and for their time.

Public comment was taken from 6:00 pm to 7:00 pm. The audience was provided the opportunity to be excused at 7:00 by Mayor Saunders so that the regular Council meeting could take place. The majority of the audience left. A short break followed with the meeting resuming at 7:06.

#### **NEW BUSINESS resumed:**

- The City Recorder **Distributed Oster FY 13/14 Independent Auditor's report**, Financial Statements, (2) supplemental letters to be discussed at the February 2016 Council meeting. A corrective action Resolution will also be presented at the February 2016 meeting.
- The BOLI Sick leave policy and the City of Merrill existing sick leave policy was distributed and explained by the City Recorder. After discussion of new BOLI January 1, 2016 sick leave employer requirements, the City of Merrill sick leave policy more than complies with the new requirements.

#### **OLD BUSINESS:**

- **Request for Proposal (RFP) for Auditing Services for FY 14/15.**  
Since the December 3, 2015 deadline passed with zero RFP response, the City Recorder expanded the search to Oregon firms with municipal numbers and sent (15) RFPs to firms in the Medford, Bend, Roseburg and Eugene. The City Recorder also sent a follow-up email to the local firm, Romig, Klamath Falls for reconsideration of submitting an RFP. Tom Romig responded to the email stating that the timing of the first RFP did not fit his workload but that he would provide a quote at the City's request if desired by January 29, 2016. Advertising in the LOC was done by the City Recorder on January 7, 2016 with a deadline of February 7, 2016. The City Recorder is optimistic to receive at least one quote from recent efforts.

- **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 and the double yellow vs. broken yellow line. No action has occurred yet.

**CONSENT AGENDA:**

- 1. Minutes Approval for December 8, 2015**  
A motion was made by Councilor Lesh to accept the December 8, 2015 minutes. There was a 2<sup>nd</sup> by Councilor Smith. All other members present voted Aye and the Motion carried.
- 2. Minutes Approval for December 22, 2015**  
A motion was made by Councilor Carleton to accept the December 22, 2015 minutes. There was a 2<sup>nd</sup> by Councilor Lesh. All other members present voted Aye and the Motion carried.
- 3. Business Rental License/renewals:**  
December 2015 and January 2016 list of renewals were approved in a motion by Councilor Lesh and a 2<sup>nd</sup> by Councilor Carleton. All other members present voted Aye and the Motion carried.
- 4. Mia & Pia's 2/13/16 Crab Feed day license was approved in a motion by Councilor Smith and a 2<sup>nd</sup> by Councilor Lesh. All other members present voted Aye and the Motion carried.**
- 5. Ratify Phone polls:**
  - AP approval: Accounts Payable
    1. 12/22/15 \$7,476.23  
*Approved 12/22/2015 by Councilors: Lesh, Smith & Taylor, mailed 12/23/15*
    2. 12/31/15 \$5,749.31  
*Approved 12/31/15 by Councilors: Lesh, Smith & Carleton, mailed 12/31/15*
 Councilor Carleton made a motion to approve the ratification of the 12/22 and 12/31/15 Accounts Payable. There was a 2<sup>nd</sup> by Councilor Smith. All members voted and the Motion carried.
- 6. Bills for approval: Accounts Payable 1/11/16 check run approval \$6,664.26**  
Councilor Smith made a motion to approve the 1/11/16 bills to pay. There was a 2<sup>nd</sup> 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 5<sup>th</sup> & 6<sup>th</sup> 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 2<sup>nd</sup> by Councilor Lesh. All members voted Aye and the Motion carried.

## **RESOLUTIONS**

- **Repeal 2015-735 Amend water rates to Outside City limit customers to be 150% of City limit charges.** Resolution 2015-735 was read by title, no discussion and re-read by title. Councilor Smith made a motion to repeal Resolution 2015-735 amending the water rates to Outside City limit customers to be 150% of City limit charges. There was a 2<sup>nd</sup> by Councilor Carleton. All members voted Aye and the Motion carried.
- **Repeal 2015-733 Reinstate 150% charges to outside city limit customers** Resolution 2015-733 was read by title, no discussion and re-read by title. Councilor Smith made a motion to repeal Resolution 2015-733 reinstating 150% charges to Outside City limit customers. There was a 2<sup>nd</sup> by Councilor Lesh. All members voted Aye and the Motion carried.  
**2015-739 Amend Water rates by \$4 increase.** Resolution 2015-739 read by title, no discussion, re-read by title. Councilor Smith made a motion approving Resolution 2015-739 the \$4 water rate increase as approved by the FY 15/16 Budget Committee and Governing Body on June 9, 2015. There was a 2<sup>nd</sup> by Councilor Carleton. All members voted Aye and the Motion carried.
- **2015-741 Amend water hookup fee to be \$1000 within City limits and \$1500 outside City Limits.** Resolution 2015-741 was read by title, no discussion and re-read by title. Councilor Carleton made a motion approving Resolution 2015-741 that amends water hookup fee to be \$1000 within City Limits and \$1500 outside City Limits. There was a 2<sup>nd</sup> by Councilor Smith. All members voted Aye and the Motion carried.

## **RECORDER'S REPORT:**

The Recorder's report presented by the City Recorder included:  
Accounts Receivable – correction to 12/31/15 deposit for the W/S  
Bank Balances  
ACH detail - Bank Statements not yet received. Defer to February  
Payroll  
City Attorney 12/25/15 invoice was reviewed

Asset Works (CIS Property program) 9/30/15 select building/land improvements appraisal results were provided in the Coverage Summary by Building – State of Value (SOV) Comparison report distributed.

Mid Fiscal Year Expenses to Budget reports by Fund were distributed by the City Recorder to be used as a guide for Department Head future procurement and for budgeting for FY 16/17. Councilor Smith made a motion to approve the Recorder's report. There was a 2<sup>nd</sup> by Councilor Lesh. All members voted Aye and the Motion carried.

#### **PUBLIC WORKS:**

- See PW Director's report for January 2016 - 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 blacked out and a broken yellow line will be painted in that area so that traffic can travel across legally.

#### **POLICE:** Marshal Bicknell absent, Officer Srch present

- Business has been fairly quiet.
- 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 and January council meeting held no discussion.

**LAWYER:** Partial attendance requested to attend/comment during the Public Meeting on a Marijuana Grower facility. Additionally, Mel Ferguson will review two planning forms and report back to Oma/Iliana. See top of minutes for the Marijuana Grower community comment. Mel Ferguson was dismissed at 7:06.

#### **CODE ENFORCEMENT OFFICER REPORT: STAN HINTON**

- The December 2015 Code Enforcement Councilor Report was distributed with Councilor pre-meeting packets and reviewed by Stan Hinton in the meeting.
  - 1) Property at 304 Second Street, Mary White, has changed hands and abatement efforts in tearing the house down will begin when the weather gets a little better.
  - 2) Corner lots of 2<sup>nd</sup> & Clay abatement expires 2/10/16 and not yet expired.
  - 3) Mysterious pygmy goat complaints at the corner of 1<sup>st</sup> and Clay Streets but the goats have not been visible for Code Enforcement at this point. Councilor Smith volunteered to be the voice for the pygmy goats. Pictures are needed if out and are seen.



- 4) There was a pickup being taken apart on City property on Elm Street but is now off City right of way and is clear now as it has been moved to the back yard. .
- 5) Tree trimming will be the focus in the spring on 1<sup>st</sup> Street to clear the City right of way about 7' off the road.

**PLANNING – Commissioner Carleton**

- Two City of Merrill forms have been modified to conform with the Klamath County forms as a result of Councilor Carleton, City Clerk and Stan Hinton meeting to revise. Mel Ferguson will review the two planning forms and report back to Oma/Iliana.
- A Zone change charge fee is not specified in the existing fee schedule. As a Type II, \$250+ consulting fees is the typical fee and should be added to the fee schedule for zone change.
- **Solar Farm Update (Carleton).** Next steps: Zone change.
- **Dollar General** is moving forward and ground breaking is on January 4, 2016.

**PUBLIC COMMENT:**

- None

**OTHER:**

- **Request for Absence process and form.** Councilor Smith reiterated that Council previously approved the process of having Request for Absence forms completed and signed by Supervisors prior to taking time off. Request for Absence forms should be signed in approval and delivered with the timecard. If the Supervisor is not available, the Mayor is normally available to sign. It is okay to get approval prior to time off in a cell phone text but by the payroll due date forms need to accompany the timesheets to be in compliance. Supervisors need to be aware in advance when Employees leave work or have time off.

**ADJOURN:**

The meeting was adjourned at 8:11 p.m. in a Motion by Councilor Carleton and a 2<sup>nd</sup> by Councilor Lesh. All members present voted Aye and the Motion carried.

Respectfully Submitted,

*Tim Saunders*      2/9/16  
 Mayor, Tim Saunders      Date

*Oma Rowley*      2/9/2016  
 Oma Rowley – City Recorder      Date