

**CITY OF MERRILL
BUDGET HEARING and
REGULAR BUSINESS MEETING MINUTES
Tuesday June 12, 2018**

MEETING CALLED TO ORDER:

The meeting was called to order at 6:00 p.m. by Mayor Carlson.

ROLL CALL:

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

Flag Salute:

The **Flag Salute** immediately followed with Mayor Carlson asking Councilor Taylor 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.

- ❖ Gary Robeson announced compliance issue complaints. City Recorder Hernandez informed Gary Robeson about being agenzized for the City Council Meeting and all pertinent information is in City Councilors packets.
- ❖ Carol Bement residing on Water Street stated concerned regarding the imminent danger of two refrigerators located on neighboring properties. Carol Bement asked the Council to remove the two unlocked refrigerators for the protection of the children who play in the neighborhood.

Budget Hearing:

- Approve Budget: Tabled. Give citizens minimum five day notice and schedule Budget Hearing and Special City Council Meeting June 20, 2018.
- Approve Tax Rate: Tabled. Give citizens minimum five day notice and schedule Budget Hearing and Special City Council Meeting June 20, 2018.
- Ordinance/Resolution Declaring the City's Election to Receive State Revenues: Tabled. Give citizens minimum five day notice and schedule Budget Hearing and Special City Council Meeting June 20, 2018.

CONSENT AGENDA:

- **Meeting Minutes:**
 1. Councilor Smith made a motion to approve Council Meeting Minutes for May 8, 2018. Councilor Lesh 2nd the motion. The motion passed 4-0 in favor.
 2. Councilor Taylor made a motion to approve City Council Special Meeting Minutes for May 18, 2018. Councilor Smith 2nd the motion. The motion passed 4-0 in favor.
- **Business License:**
 3. Councilor Taylor inquired about the McVey Building Permit. Counselor Carleton stated the barn should be agriculturally exempt. Councilor Smith made a motion to approve the Renewal Building Permit with the condition Mayor Carlson confirm setbacks and note the building is agriculturally exempt. Councilor Lesh 2nd the motion. The motion passed 4-0 in favor. Councilor Smith made a motion to pass the Mia and Pia's Weekend Business License and Donald and Kristine Hendrix Rental Business License. Councilor Lesh 2nd the motion. The motion passed 4-0 in favor.
- **Accounts Payable:**

4. Councilor Smith made a motion to approve the May Accounts Payables. Councilor Taylor 2nd the motion. The motion passed 4-0 in favor.

STAFF REPORTS:

- **Police:**
 - City Marshal Bicknell reported on two impounded vehicles due to unlicensed and uninsured drivers. Marshal Bicknell has been working parole and probation cases on prior drug related arrests. No thefts or assaults reported and has been performing preventative work. The new game trail camera recently purchased has been a useful tool.
- **Public Works:**
 - Public Works Director Matthews reported on multiple tasks performed. Vector Control has been spraying for mosquitoes. Valve installation for Les Schwab had complications. Public Works Director will need to rebid on sidewalks. Councilor Smith commented on purchasing new fixtures for public bathrooms due to criticism during bicycle rally.
- **City Recorder:**
 - Councilor Smith and City Recorder Hernandez met with Dirk DeGroot whom manages the 401K account for the City of Merrill. 401K may need to be managed by an outside firm and would become effective the beginning of 2019.
- **Lawyer:**
 - Not requested to attend.
- **Code Enforcement:**
 - Code Enforcement Shilling has been enforcing cleanup efforts on Water Street. The complaints have been valid for many years. Gary Robeson requested copies regarding the problem properties. Marshal Bicknell presented requested files to the Council and Robeson, stating costs for copies before moving forward. Marshal Bicknell updated the Council and concerned citizens on the latest efforts from Code Enforcement. The process begins with a letter of abatement giving the owner 10 days to correct the violation(s). The Code Enforcement Officer makes contact with the owner to discuss expectations. A second letter of abatement is mailed followed by a third certified letter of abatement when owner is not in compliance. The third letter is immediately followed with a citation. A \$1000.00 citation was approved by Council during the May 8, 2018 Council Meeting for the Water Street Case. The court date for the citation is 30 days from issuance. The Water Street resident failed to appear before the court and was immediately found to be in violation. Marshal Bicknell explained Due Process and how the law prevents Bicknell from trespassing to remove nuisance items. Bicknell relies upon the cooperation of the owner. Marshall Bicknell asked the Council for permission to recite the owner for 60 days noncompliance from the first notification and failure to respond to the citation. The citation will increase in value up to a maximum of \$2000.00 per offense every 10 days per violation. Councilor Carleton stated the code allows for a daily penalty. Councilor Taylor asked for the history of abatements. The last citation was issues in the fall of 2016, which the resident complied with. Mayor Carlson asked Marshal Bicknell's recommendation for fine structure. Policy under 10.99 maximum fine of \$4000.00 for a Class A Offense. Councilor Smith made a motion to issue a \$2000.00 citation and failure to respond in 10 days will result in a \$2000.00 fine per business day. Councilor Taylor 2nd the motion. The motion passed 4-0 in favor.
 - ❖ Citizen asked about garbage left and whether neighbors would be responsible for cleanup efforts.
 - ❖ Citizen commented on vehicles being removed and brought back.
 - ❖ Citizen commented on harassment.
 - Mayor Carlson commented on creating an action item to meet with the concerned citizens to create a reporting process.
 - Marshal Bicknell asked the City Council members to sign their names to provided letter for Stan Hinton. The letter was read for the record. The letter is to be framed and presented to Stan Hinton with a Visa gift card.
 - Code Enforcement Shilling presented her abatements and compliances. Councilor Carleton inquired about the Solar Farm. Code Enforcement Shilling responded with an affirmative. Code

Enforcement Shilling has implemented a policy of mailing thank you letters for residents who have complied with abatements.

- RFP for Landscaper was approved to be released by City Council.

- **Planning:**

- None

Project Merrill:

- Citizen Lee Harris discussed the Survivor Bicycle Run. A great success. Merrill is last stop. Merrill is ranked 5 of 10. Lee Harris asked for Dog Waste Receptacles.

NEW BUSINESS:

- **Consider Arlene Morris Appeal:** Residential and Commercial Codes both govern Arlene Morris' property (residence is grandfathered in on a commercial parcel). Three proposals have been offered to Arlene Morris. Arlene has chosen to appeal:
 - ❖ Arlene Morris: "Thank you. I am nervous (*laughter*). Let me get that out there first! Um, this has been a pretty traumatic experience and as the mayor said we did submit a building plan that was approved. And after the construction was started on that, approximately a month after, it was stopped. Um, verbally by a visit to our residence. It was discussed a different approach to that allowed us a 10 foot set back. As it turned out, on both counts, that Martin was wrong on both plans about the setbacks and by that time our expense was close to \$5000. And, uh, we have not had any way to recoup any of that money at this point except we did get a check back from the City of Merrill for \$50 for a building permit refund. Um, I, uh, have conceded that I am not going to be able to build a permanent structure. I have also made some compromises about how much many we look like to see refunded to us. So, the bottom line is we would accept an endorsement from the city to try to get Klamath County to refund our planning permit. I have no expectation that they will do that, but we will follow through on that and attempt to do that. If they do not refund the money, we will just let it go. We've also subtracted some of the smaller expenses from our cost so that after we get the money from the building materials that are sitting out in front, that City of Merrill has agreed to pay, the total after that is subtracted from the total amount, um, the bottom line that we are hoping to see is \$3468.00 to recover costs. Like I said in the beginning there was \$5000 when we started. We paid for a lot of labor and we did one plan for one month before it was started, then we paid for new plans and we did another two weeks of fixing the first work and it turned out to be very expensive for us. We are not in a position to have that kind of loss and no harm on us, we didn't do anything wrong. We followed all the rules, and you guys heard me say this, we followed all the rules, it was a mistake made by the Planning Committee. Uh, and like I said, I have conceded that I am not going to get to build a permanent structure. We plan to proceed with a temporary metal structure and we have another request before the Planning Committee to also build a stretch of fence that we are hoping to get approved. And, um, so if the City will follow through with their statement in their letter that they would write us an endorsement, am assuming that is in writing, for Klamath County to refund our building permit money about \$360 and would follow through with purchasing the lumber that we haven't used and could not return because it was a special order. The letter that I submitted to you all with that has an incorrect amount on it. After meeting with my contractor recently, it turns out that I quoted you the wrong price and so that price too is less. If you have that letter that I sent on May 7 that the pole barn treated wood was \$300 that is for the one that is an error. It was not pole barn treated materials that we were able to return those. The other lumber that is out there is \$245.32. The other totals are correct but that does lower it some."
 - ❖ Mayor Carlson inquired to the physical improvements to support claims.
 - ❖ Arlene Morris: "No. There were a total of 13 holes. Besides the depth they were 36" wide and we dug 6 or 7 of them or 6-7 of them were dug. And then when Martin and Brian came by that morning, we discussed with our contractor that we could change the orientation of the building into the dimensions and do that. Martin said that would be fine. We submitted a new plan. We bought new plans. That was all approved. We proceeded to fill in the holes we didn't need and dug some more new ones. And so....you know I've left out the cost of all the dirt and the rock that we

used to fill those holes up. I did not include that in this. And also, um, I also did not include \$245 in wages to the contractor he said he would be fine with that so I excluded that from the total. And there are a couple of other things, but anyway, it brought it all down to that amount. So, what I am asking for, the bottom line, is that, um, is that still get the \$500 that you offered in the letter, the money for the lumber out front, and I have the receipts for that, and it has not been used and the remaining balance \$2900.68.”

- ❖ Mayor Carlson suggested tabling the appeal and meeting with Morris before the July City Council Meeting. Mayor Carlson stated he would propose a settlement, present the settlement before the City Council for approval or disapproval.
- ❖ Councilor Smith wants to compare receipts with physical inventory.
- ❖ Mayor Carlson spoke of inherent risks and obligations of both parties.

- ❖ Arlene Morris: “If you have the receipts, I would like to show you the corrections.”

- ❖ Councilor Smith informed Morris reviewing the receipts would be part of the meeting with Mayor Carlson.

- **Presentation from Amie McAuliffe Lost River Community Center Project:** Amie McAuliffe introduced herself, background history, and volunteer activities. McAuliffe proceeded to describe a multi-functional building to be built upon the footprint of dilapidated tennis courts at Lost River High School. In conjunction with the Klamath County School District, Lost River High School Administration, Lost River Booster Club, Private Donations/Fundraising/Grants, a mature CD, and local organizations, the Lost River Community Project is coming to fruition. The 1.25 million dollar project has been broadened to include dual communities.
 - ❖ Councilor Carleton inquired about the duplication of the many facilities already in existence. McAuliffe stated it is a new building belonging to Klamath County School District and will be available to both communities. The already existing facilities do not offer the amenities drafted into the new building.
 - ❖ Mayor Carlson inquired to the specific assistance sought from The City of Merrill. McAuliffe is seeking support and participation. Mayor Carlson supported endorsement.
 - ❖ Public Works Greg Matthews supports the construction of a new building due to the limitations of the Civic Center.
 - ❖ Councilor Smith inquired about fees for classes, etc. McAuliffe stipulated a fee would be based upon whether the class/event was held by an outside organization, especially if the class is NOT non-profit.

On June 23, 2018 at the Merrill Civic Center, a fundraiser will be held. Completion date 2019.

- **Status Report on City Attorney Selection:** The City of Merrill received three proposals. Intention is to interview and bring before the City Council in July. Councilor Carleton abstaining due to conflict.
- **Status Report on Addressing Inaccuracies in Recent Reporting:** Items were inaccurate in the *Herald and News*. An assertion was back fees on the part of Hunter Communications, which was inaccurate. The intention of The City of Merrill is to meet with *Herald and News* on June 13, 2018 to clarify the record.
- **Clarification of Mayor(s) Term:** Mayor Carlson sought clarification of the Mayor(s) Term of two or four years. Councilor Carleton and Councilor Smith read the Charter as two year term to fulfill the appointment of mayor followed by a four year term.
- **Notice of Elections for Position(s) 2, 4, and Mayor:** Councilor Taylor is not seeking re-election nor is Councilor Lesh. Mayor Carlson will run for re-election.

OLD BUSINESS:

- **Status of Cable Plant Improvements:** The City of Merrill passed a resolution and has granted custodianship to Fire Serve (submitted sole proposal). The City of Merrill will meet with Klamath County to seek clarification on ownership. Should Fire Serve choose to proceed, all improvements would be at own risk as per resolution.
 - ❖ Ryan Nemi: PacifiCorp and CenturyLink has been reviewing The City of Merrill’s resolution. PacifiCorp has additional questions for City of Merrill. Once attachments have been transferred to

Fire Serve's account by PacifiCorp and CenturyLink, the company may proceed with rebuilding the cable plant. Until the transference has occurred, Fire Serve has completed the following services: Removal of service drops around town pictured in photographs. The work took 3 hours resulting in 200-300 pounds of abandoned cable from service routes.

- ❖ Marshal Bicknell: The City of Merrill has responded to PacifiCorp's inquiries (Jeff Kent/Joint-Use).
 - ❖ Carey Cahill: Attachments: attachment space on a pole. PacifiCorp and CenturyLink owns the poles and rents and holds companies liable for the attachments (12 inches on a pole). Almega Cable Plant would be considered the cable. From PacifiCorp's opinion, the attachment they own, and the cable is one and the same. "It sounds like Ryan is saying that Fire Serve is going to take the attachments into your names? Is the City of Merrill transferring the attachments and ownership of the cable to Fire Serve?"
 - ❖ Mayor Carlson: The transference of ownership is a question the City of Merrill has not addressed. The City of Merrill has claimed ownership. In Mayor Carlson's opinion, it is premature to give away ownership.
 - ❖ Carey Cahill: There is a responsibility to owner of record for maintaining attachments. Fees (yearly rental) and violations (Class A Violation must be fixed within 10 days or fined on a strict basis).
 - ❖ Ryan Nemi: Clarified a statement made by Mr. Cahill. PacifiCorp Joint Use Department statement has been whoever owns the cables also owns those attachments. To Mr. Cahill's other point, if those attachments are moved to PacifiCorp accounts, Fire Serve is responsible for them. Fire Serve has the 10 million dollar insurance required by PacifiCorp as well as performance bonds and has since last year.
- **Status of Malin Infrastructure Security Proposal:** The potential for security of local infrastructure and a partnership with the City of Malin. Mayor Carlson met with Mayor Gary Zieg of Malin.
 - **Hunter Communications Regarding Ownership Claim/Franchise Fees:** Carey Cahill introduced himself representing Hunter Communications. Cahill's primary purpose for being agenized was to state Hunter Communications is not trying to be adversary. Hunter Communications deals with many small communities. Hunter was established in 1996 and started providing telecommunications in 2001 out of Medford, Oregon. In 2004 Hunter started providing telecommunications to Klamath County by building a network for the schools. How Hunter Communications effects The City of Merrill is the majority if not all cell phone calls goes out over Hunter's fibers as it stands right now. Hunter's concern is the statements of misrepresentations and the question of franchise agreements during the last Council Meeting. There has never been an argument with another city body over franchise agreements nor told they misrepresented something. It was a shock to Hunter Communications though there was not good communication and apologize. Hunter is looking to make further investments into the community. Merrill is a thoroughfare that continues into California. Central services are provided to Merrill Cell Towers and surrounding areas. In the middle of last year PacifiCorp came to Hunter Communications. Hunter is the largest pole applicant in the state of Oregon. This means Hunter applies for the most poles, attach to the most poles, and from a communications structure are preapproved to attach to their poles and permit afterwards. PacifiCorp approached Hunter about cable plants in different areas throughout Oregon and California and do not know who the owners are, but something needs to be done regarding violations and public safety issues. PacifiCorp wanted someone to take ownership. At the time, Hunter was a member of Oregon Joint Use Association but was uninformed on how cable plants verses attachments worked and they would end up lumping them into one unit. It has been a learning exercise for Hunter. The misrepresentation mentioned in the Special Council Meeting has to do with the actual letter from PacifiCorp, and the letter of June 2017, was written by PacifiCorp. It was a mechanism for Hunter instead of a letter crafted by Hunter. The letter allowed Hunter to state interest in cable plants from a PacifiCorp standpoint (a letter was sent to City of Merrill and surrounding areas). Information was received from Merrill stating the City did not know much about the cable plants and Klamath County had ownership claim. Hunter believed Klamath County was the only entity with an ownership claim and City of Merrill asked for transference of ownership after establishing knowledge of cable plant interests. Hunter received notice January 2018 from Rick Vaughan to Hunter CEO stating Klamath County is withdrawing all ownership claims. Hunter assumed correctly or incorrectly there were no longer any other ownership claims on the plant. June 15, 2017 PacifiCorp gained the capability to throw all pole attachments into their system with Hunter Communications listed as their responsibility. Each venue was receiving violation requests with 10 days to fix, though most were not 10

days to fix. There were 900 violations in the Merrill and Malin area Hunter received alone. Hunter fixed them, 248 PPL violations. There was comment that Hunter has not done anything on them. Those 900 violations are in PacifiCorp's system as one ticket. Until the violations have been submitted, there is no transparency as to repairs. Carey Cahill presented the list of violations to City Recorder Hernandez. Corrections are color coated (green). Full disclosure, some of the violations listed are Malin. Cahill's primary comments to Council are: Hunter wants to invest in this community, stay in this community, and (no attorney's here) not interested in a legal battle only the attorneys' win. Regardless, and on your size, it is not advantageous. Hunter wants an understanding that their franchise agreement is secure and have a fair and equably playing field within the City of Merrill to deploy residential services, and Hunter Franchise Agreements is equable or level with all other providers. Please clarify what Hunter did wrong and how can Hunter fix the problem or move forward from this point forward. The only other legal situation was with the City of Medford with an ardent attorney. There are eight other areas with similar arrangements to the abandoned Almega facilities that Hunter took over. Two of those, Hunter has deployed residential services to citizens. Another is coming online next month. Carey Cahill wanted to know how to move forward with the City of Merrill on a good note.

- ❖ Mayor Carlson stated the record is what it is. You warranted ownership of the cable plant to PacifiCorp. That is all part of the record, and do not want to rehash the record with no time tonight. It was questionable when you asked the city for ownership. Hunter was invited to the Cable Plant Committee in the presence of our attorney and invited to the May 18, 2018 Special Council Meeting in the presence of all. It was a surprise to hear of promises not made. The more cable providers the better, the more competition the better for the citizens of this community. Mayor Carlson believes in open and transparent communications.
- ❖ Carey Cahill representing Hunter Communications did not believe the May 18, 2018 Special Council Meeting permanently scheduled.
- ❖ Mayor Carlson directly invited the two representatives of Hunter Communications to the May 18, 2018 Special Council Meeting where they were to present a proposal. Mayor Carlson's expectations are open and honest communications. Mayor Carlson wants to move forward in a positive direction where everyone wins.
- ❖ Casey Cahill inquired who the e-mail was from.
- ❖ Mayor Carlson stated the e-mail was from Mr. Holbo.
- ❖ Casey Cahill inquired how to go about determining dates and times for meetings?
- ❖ Councilor Carleton suggested a phone call.
- ❖ Mayor Carlson stated belief in value of Hunter Communications service to the community.

ORDINANCES:

- None proposed

RESOLUTIONS:

- Discussion of Resolution 2018-760 Transfer Funds to Comply with Budget Law: Tabled

FUTURE AGENDAS:

- Merrill Project Refund Funds
- Agenize PILT Payments if No Response

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.

ADJOURN MEETING:

- Councilor Smith made a motion to adjourn. Councilor Carleton 2nd the motion. With all in favor, the meeting adjourned at 7:53 p.m.

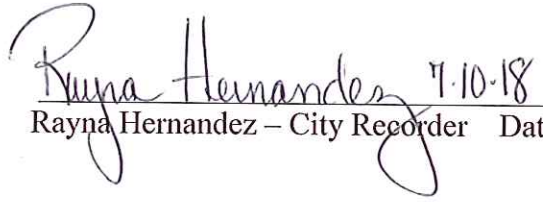
Respectfully Submitted,



Bill Carlson - Mayor

10 JUL 18

Date



Rayna Hernandez - City Recorder Date

7-10-18