

**MERRIAM CITY COUNCIL  
MINUTES  
CITY HALL  
9000 W. 62ND TERRACE  
March 24, 2008  
7:00 P.M.**

**I. CALL TO ORDER - PLEDGE OF ALLEGIANCE**

Mayor Carl Wilkes called the meeting to order at 7:00 p.m.

**II. ROLL CALL**

Mayor Carl Wilkes

Pam Bertoncin  
Bryan Burks  
John Crabtree  
Chris Evans Hands  
Nancy Hupp  
Dan Leap  
Chad Rowe  
Gayle Stephens

Bill Lietzke, Police Chief; Paul Glaves, Interim Community Development Director; Cindy Ehart, Interim Finance Director; Randy Carroll, Public Works Director; Bob Pape, Fire Marshal, Doug Crockett, Interim Fire Chief, Susan Hayden, Parks and Recreation Director and Juli Pinnick, Deputy City Clerk.

**III. CONSENT AGENDA**

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

**A. Council items:**

1. Approval of the minutes of the regular City Council meeting held February 25, 2008.
2. Acceptance of easements and dedications on Final Plat for Holmes Woods Second Plat located at 61<sup>st</sup> Street and Craig in a PUD-G, Planned Unit Development-General, Zoning District (P-1-8).
3. Approval of a contract with Miles Excavating, Inc. for construction of the 61<sup>st</sup> Street/Residential Streets Group I Street and Drainage Improvements in the

amount of \$1,286,573.60 with 90 days for completion and authorize the Mayor to execute the contract.

4. Approval of a Professional Services Agreement with George Butler Associates for the Shawnee Mission Parkway Bridge over Turkey Creek Tributary project.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE CONSENT AGENDA ITEMS 1-4. THE MOTION WAS APPROVED. COUNCILMEMBER STEPHENS ABSTAINED.**

#### **IV. PUBLIC ITEMS**

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered.

Robert Patrick, 8812 W. 47<sup>th</sup> Terrace, addressed the council regarding increased traffic and increased speed of the traffic in his neighborhood. Mr. Patrick submitted a request from several neighbors in the Owen Heights neighborhood to increase police radar and patrols, conduct a safety and traffic study and suggest necessary improvements for public safety. Mr. Patrick explained that the neighborhood is transitioning from older residents that are moving out and many young families with small children moving in. The neighborhood has no sidewalks and Mr. Patrick and his neighbors believe there is inadequate street lighting. Mr. Patrick also provided written authorization for the police department to use his driveway for radar enforcement.

Councilmembers Burks and Rowe commented that they are very willing to address these issues with the neighbors to work on some immediate resolutions to the concerns expressed by Mr. Patrick.

#### **V. MAYOR'S REPORT**

1. Consider confirmation of the appointment of the Community Development Director.

Mayor Wilkes presented Bryan Dyer to the council as his recommendation to fill the Community Development Director position.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL AFFIRM THE APPOINTMENT OF BRYAN DYER AS THE COMMUNITY DEVELOPMENT DIRECTOR. THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Update regarding Merriam Pointe.

Tom Thorsen, representing Merriam Investors, addressed the council regarding the progress of the Merriam Pointe development. The hotel sites for lots 9, 10, 11 continue to progress. The developer is in escrow with the hotel group. Lot 2 has interest from a sit down restaurant and a letter of intent is expected to be signed soon with that group. The electronics user is ready to go however the rent structure is less than originally proposed. The details continue to be worked through with that tenant. The new partners have not closed on the property yet and may be coming to

council in the near future to extend the closing date on the redevelopment agreement. Once the electronics user is secured the additional tenants will BE easier to secure.

3. Consider rescinding City Council action on January 28, 2008 regarding Application Z-8-04/PD2-0108 relating to a Change in Use and revision to the Preliminary Development plan for Merriam Pointe.

**COUNCILMEMBER ROWE MOVED THAT THE GOVERNING BODY RESCIND ITS VOTE MADE JANUARY 28, 2008 REGARDING APPLICATION Z-8-04/ PD2-108 RELATING TO A CHANGE IN USE AND REVISION TO THE PRELIMINARY DEVELOPMENT PLAN FOR MERRIAM POINTE, BECAUSE THE COUNCIL'S CONDITIONS OF APPROVAL OF SUCH APPLICATION HAVE NOT YET BEEN MET, AND THE APPLICANT HAS SUBMITTED A WRITTEN REQUEST, DATED MARCH 18, 2008 TO WITHDRAW THE APPLICATION. THE MOTION WAS UNANIMOUSLY APPROVED.**

#### VI. PLANNING COMMISSION

1. Consider approval of a Change in Use at 9333 W. 53<sup>rd</sup> Street, Mustangs & More, Inc. located in a PUD-G, Planned Unit Development - General, Zoning District (6654-UC3-0308).

Interim Community Development Director Paul Graves presented the background for this item.

The applicant is requesting that the allowed uses in this PUD be expanded to allow automotive repair so that he would be allowed to relocate his business, Mustangs & More from its current location at 5955 Merriam Drive to the subject property. The Planning Commission considered this application at its meeting on March 5, 2008. The Community Development Staff Report and the draft Minutes of the March 5 Planning Commission are included with the City Council Agenda materials. The subject property was zoned PUD-G and approved for warehouse use only, in 1978. The PUD was modified in December, 1986 to also allow wholesale catalog sales, business offices, and light industrial assembly, processing, and packaging incidental to the other allowed uses. The Community Development Director recommended that the request of the applicant be denied. The Planning Commission unanimously recommended that the request of the applicant be denied.

Joe Pluff, owner, Mustangs and More, addressed the council explaining that he runs a clean, honest operation and has been in business operating that way for over 10 years. Mr. Pluff commented that this area is a PUD and therefore allows the council to put conditions on the zoning and use. Mr. Pluff asked the council to go ahead and put any restrictions on his business they desire as long as he can move his business to the new location. Mr. Pluff assured the council that he would comply with any and all restrictions.

**COUNCILMEMBER HUPP MOVED THAT THE GOVERNING BODY UPHOLD THE RECOMMENDATION OF THE PLANNING COMMISSION AND DENY THE REQUEST FOR A CHANGE IN USE AT 9333 W. 53<sup>RD</sup> ST, MUSTANGS AND**

**MORE, INC. LOCATED IN A PUD-G, PLANNED UNIT DEVELOPMENT – GENERAL, ZONING DISTRICT (6654-UC3-0308).**

There was some discussion regarding putting restrictions on the business and entire business complex. There was discussion regarding the challenge of enforcement of those restrictions on all of the current and future business that would locate in the complex if the city council were to override the Planning Commission's recommendation and approve the application with restrictions.

**COUNCILMEMBER HUPP WITHDREW THE MOTION.**

Marilyn Peter commented that as a customer of Mustangs and More for many years she has never seen a shop as clean and honest as Mr. Pluff's.

Larry Miller, commented that being in the automotive business for over 30 years and knowing Mr. Pluff for 20 of those years it has been a pleasure to work with him as he is a good honest businessman.

Cindy Hink, Shawnee, commented that Mr. Pluff is reliable, courteous, and a responsible business owner he always goes above and beyond for his customers and would maintain a clean and honest shop.

**COUNCILMEMBER HUPP MOVED THAT THE GOVERNING BODY UPHOLD THE RECOMMENDATION OF THE PLANNING COMMISSION AND DENY THE REQUEST FOR A CHANGE IN USE AT 9333 W. 53<sup>RD</sup> ST, MUSTANGS AND MORE, INC. LOCATED IN A PUD-G, PLANNED UNIT DEVELOPMENT – GENERAL, ZONING DISTRICT (6654-UC3-0308). THE MOTION WAS APPROVED. COUNCILMEMBERS BERTONCIN, CRABTREE AND LEAP VOTED NAY.**

**VII. COUNCIL ITEMS**

**Work Session**

**Finance and Administration Committee**

**Community Development/Public Works Committee**

1. Discussion regarding installation of sidewalks on cul-de-sacs.

Councilmember Stephens presented the background for this item. A request was received from residents in two cul-de-sacs that are included in the 61st Street/ Residential Streets and Drainage Improvements projects asked for the sidewalks to be removed from the project. The request was discussed at the committee meeting. It was determined that addition information would be needed from the City Engineer to fully understand the impact of removing the sidewalks from the project.

Kristen Leathers, Affinis, City Engineer, explained that she analyzed some scenarios of the project including removing the sidewalks from the project. The financial impact of removing the sidewalks only created a difference of \$8,214

less cost to the project, but to come back a few years later and retrofit the sidewalks in if new residents move in and want sidewalks it would cost more than double the \$8,214. Saving the cost of the sidewalks now would create an extremely high cost later.

Several councilmembers expressed concern over deviating from the city's standard that has been implemented throughout the city. An example being tonight there was a resident requesting sidewalks in his neighborhood due to safety concerns. The city has worked hard to establish a standard to upgrade neighborhoods by putting in curbs and sidewalks for safety and aesthetic reasons.

Councilmember Bertoncin suggested moving the sidewalk to the other side of the street as many houses on the side where the sidewalk is proposed have very shallow front yards making the sidewalk very close in on their properties.

Ms. Leathers explained that those properties have been staked for the improvements, however, the staking on those properties do not reflect where the sidewalk will be located. Those stakes may be marking the gas company inlets which will go behind the sidewalk.

Ms. Leathers further explained the process of the improvements include centering the improvements which allows for each side of the street properties to be affected equally so even if the sidewalk were switched to the other side, the residents would have the same amount of hard surface whether it be sidewalk or curb and street.

Mark Ross, 8200 W. 58<sup>th</sup> St., commented that he would desire putting the sidewalk on the other side of the street, and re-centering the street which would take more land from the one property owner, as it appears that there is more land on that side. Mr. Ross stated that after talking with that property owner, that property owner stated he does not mind using more of his property for the sidewalk.

Interim Community Development Director Paul Glaves suggested the city engineer run a couple scenarios such as switching the sidewalk to the other side and re-centering the improvements. Running the scenarios will give cost and material estimates which can be presented at the April Community Development meeting.

2. Consider approval of the purchase of a replacement mini-van for the Parks and Recreation Department.

**COUNCILMEMBER ROWE MOVED THAT THE COUNCIL APPROVE THE PURCHASE OF A NISSAN QUEST 3.5 REPLACEMENT MINIVAN FOR THE PARKS AND RECREATION DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$20,997. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.**

3. Consider approval of the restructuring of the Community Development Department to include CIP and the addition of an Assistant Community Development Director to the classification/compensation plan.

**COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL APPROVE THE RESTRUCTURING OF THE COMMUNITY DEVELOPMENT DEPARTMENT TO INCLUDE CIP AND THE ADDITION OF AN ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR TO THE CLASSIFICATION/COMPENSATION PLAN. THE MOTION WAS UNANIMOUSLY APPROVED.**

4. Consider rescinding Ordinance No. 1596 relating to Nuisances.

Councilmember Stephens provided the background for this item. The committee has requested rescinding this item to further review both for legal and practical clarification. After speaking with the city attorney and public works department the committee requested additional info from the state statutes and county guidelines regarding weeds. Councilmember Stephens asked Public Works Director Randy Carroll to address maintenance of city properties and weeds.

Mr. Carroll commented that of the thirteen listed noxious weeds in the state statute the county only enforces control of six of those weeds. Six is a much more manageable number for the Public Works Department to control.

**COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL RESCIND ORDINANCE NO. 1596 RELATING TO NUISANCES. THE MOTION WAS UNANIMOUSLY APPROVED.**

#### VIII. STAFF ITEMS

Mayor Wilkes reported that the Kansas League of Municipalities has contacted the city asking for someone from the city to serve on a policy committee. The League will be meeting with the council to discuss the issues and concerns expressed by the council.

#### IX. OLD BUSINESS

#### X. NEW BUSINESS

1. Consider approval to purchase two (2) Ford Crown Victoria Police Interceptor vehicles and one (1) Chevrolet Impala police package vehicle.

**COUNCILMEMBER BURKS MOVED THAT THE COUNCIL APPROVE THE PURCHASE OF TWO (2) CROWN VICTORIA POLICE INTERCEPTOR VEHICLES AND ONE (1) CHEVROLET IMPALA POLICE PACKAGE VEHICLE IN AN AMOUNT NOT TO EXCEED \$62,334. THE MOTION WAS UNANIMOUSLY APPROVED.**

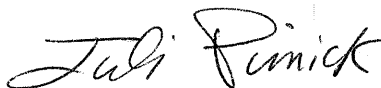
#### XI. EXECUTIVE SESSION

**XII. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL,  
COUNCILMEMBER BURKS MOVED TO ADJOURN AT 8:47 P.M. COUNCILMEMBER  
CRABTREE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Approved: 4/28/08

Respectfully submitted,

A handwritten signature in cursive script that reads "Juli Pinnick".

Juli Pinnick  
Deputy City Clerk