

**MERRIAM CITY COUNCIL
MINUTES
CITY HALL
9000 W. 62ND TERRACE
April 28, 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 via telephone

Gayle Stephens

Staff Present

Stephanie Dawkins, Interim City Administrator; Michelle Daise, City Attorney; Bill Lietzke, Police Chief; Bryan Dyer, Community Development Director; Cindy Ehart, Interim Finance Director; Randy Carroll, Public Works Director; Doug Crockett, Interim Fire Chief, Beth Linn, Neighborhood Services Manager, 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 March 24, 2008.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL
APPROVE THE CONSENT AGENDA ITEM 1. THE MOTION WAS
UNANIMOUSLY APPROVED.**

2. Approval of Change Order #2 for Merriam Pointe.

COUNCILMEMBER BURKS MOVED THAT THE COUNCIL APPROVE THE CONSENT AGENDA ITEM 2. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

3. Approval of Change Order #1 for Merriam Village.

COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL APPROVE THE CONSENT AGENDA ITEM 3. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

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 47th Terrace addressed the council regarding the quick response to his request from last month to conduct a traffic study on his street. Mr. Patrick remains concerned about the traffic speed and would like some sort of traffic calming device installed. Mr. Patrick presented a check for \$250 and some information on traffic calming devices.

Mr. Patrick also addressed the weed nuisance ordinance discussed last month. Mr. Patrick suggested reducing the grass height ten to six (6) inches rather than (10) inches to be considered a nuisance.

V. MAYOR'S REPORT

Mayor Wilkes announced the City has received the Outstanding Budget Award from the Government Finance Officer Association for 2007.

1. Consider confirmation of the appointment of Cindy Ehart for Finance Director.

COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL AFFIRM THE APPOINTMENT OF CINDY EHART AS THE FINANCE DIRECTOR. THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider the appointment of Julie Peterson (W3) to the Planning Commission for the term expiring December 31, 2009 (Planning Commission appointments are not ward specific).

COUNCILMEMBER HUPP MOVED THAT THE COUNCIL AFFIRM THE APPOINTMENT OF JULIE PETERSON TO THE PLANNING COMMISSION

FOR THE TERM EXPIRING DECEMBER 31, 2009. THE MOTION WAS UNANIMOUSLY APPROVED.

VI. PLANNING COMMISSION

1. Consider approval of Change in Use to allow a Church Use - 7250 W. Frontage Road - Spa Heaven - located in a PUD-G, Planned Unit Development - General, Zoning District (6609-UC4-0408).

Community Development Director Bryan Dyer presented the background for this item.

This site was zoned PUD-G and originally constructed as a retail motorcycle dealership with service. The building has been occupied by several different commercial uses over the years, and is currently occupied by Spa Heaven, a retail commercial spa and hot tub business. Spa Heaven leases the entire building. Spa Heaven currently occupies the 1st floor and the 2nd floor is substantially vacant or used for minimal storage.

The applicant is seeking City approval to allow All Nations International Church to locate in, renovate, and occupy the 1st floor of the building and which will leave Spa Heaven relocating their operations to fully occupy the 2nd floor of the building.

Because the originally approved ordinances related to the site do not specifically allow for this type of use, the Planning Commission and City Council should review the request as a change in use. It is important to note that the Merriam Zoning Code would allow a church to locate as a Conditional Use in an R-1 Single Family Zoning District and the other residential zoning districts.

The Planning Commission held a public hearing on April 2, 2008. At that meeting the Planning Commission voted, unanimously, to recommend approval of the proposed change in use (to allow for a church facility to locate on the 1st floor). A copy of the Planning Commission Staff Report and associated minutes were included with the agenda materials. Staff recommends approval of the Change in Use.

COUNCILMEMBER BERTONCIN MOVED THAT THE COUNCIL UPHOLD THE RECOMMENDATION OF THE PLANNING COMMISSION AND APPROVE A CHANGE IN USE AT 7250 W. FRONTAGE ROAD-SPA HEAVEN, LOCATED IN A PUD-G, PLANNED UNIT DEVELOPMENT-GENERAL, ZONING DISTRICT (6609-JC4-0408) AND AUTHORIZE THE MAYOR TO SIGN THE EFFECTUATING ORDINANCE. THE MOTION WAS UNANIMOUSLY APPROVED.

VII. COUNCIL ITEMS

A. Work Session**B. Finance and Administration Committee**

1. Consider request by Merriam Investors to amend the Redevelopment Agreement for the Merriam Pointe project.

Chase Simmons addressed the council to recap the request to remove the TIF caps contingent upon the percentage of completion as outlined in the redevelopment agreement.

Paul Graves, commented that based on the new analysis from Springsted that was received today removing the caps would only generate \$429,545 of additional reimbursement. The amendment to the agreement extending the deadline should be 30 days from the date the Mayor signs the agreement. That date will not necessarily be 30 days from today as it will take time for both sides to draw up the agreement. This will allow some time for the developer to close with the anchor tenant and close the land sale with the current owner.

Tom Kaleko, Springsted Inc., addressed the council regarding the new analysis conducted for the project. The analysis in 2007 indicated a reasonable rate of return would be 12-16%. The current caps will yield a 15.8% return due to more revenue generated from the sales of the land. Taking away the caps the project could yield 16.3%. These numbers are projections and could vary slightly. There is no financial risk to the city by removing the caps.

There was some discussion regarding fees that were due to the city from the developer for legal and administrative fees. Of the \$50,000 that is due \$30,000 has been paid by the new development team. The remaining \$15,000 is to be paid by the current owner.

COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE INTERIM CITY ADMINISTRATOR, COMMUNITY DEVELOPMENT DIRECTOR, CONSULTANT PAUL GLAVES, BOND COUNSEL, FINANCE DIRECTOR AND CITY ATTORNEY. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:30 P.M. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:30 p.m.

COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE INTERIM CITY ADMINISTRATOR, COMMUNITY DEVELOPMENT DIRECTOR, CONSULTANT PAUL GLAVES, BOND COUNSEL DOTY RILEY, FINANCE DIRECTOR AND CITY ATTORNEY. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:50 P.M. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:50 p.m.

Councilmember Crabtree left the meeting at 8:50 pm.

C. Community Development/Public Works Committee

VIII. STAFF ITEMS

Interim City Administrator Stephanie Dawkins reminded council that the KU smoking survey would need to be turned in soon if councilmembers choose to participate.

Neighborhood Services Manager Beth Linn reported that the search for a seasonal construction inspector was unsuccessful in meeting the needs of the city. The alternative solution would be to hire an engineering firm to provide those services. These firms would not be any firm that the city currently uses for design or engineering services. A RFP could be sent out to several firms to generate bids for inspection services to get the needs met quickly as the construction season is already upon us.

COUNCILMEMBER HANDS MOVED THAT THE CITY COUNCIL AUTHORIZE THE MAYOR TO NEGOTIATE AND SIGN A CONTRACT, AS APPROVED BY THE CITY ATTORNEY, WITH THE SELECTED ENGINEERING FIRM FOR CONSTRUCTION INSPECTION SERVICES. THE MOTION WAS UNANIMOUSLY APPROVED.

IX. OLD BUSINESS

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

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 Community Development Public Works committee meeting and at the March City Council meeting.

Recently there have been e-mails and letters have received from four residents in the area asking that the sidewalks remain. A couple of those residents had signed the original petition and have changed their minds about the removal of the sidewalks.

After some discussion, it was the consensus of the council to uphold the standard of placing sidewalks and install the sidewalks as shown on the final plans.

Mayor Wilkes thanked Interim City Administrator Stephanie Dawkins for her service to the City of Merriam and wished her well in her newly appointed position with the City of Geneva, Illinois.

¹COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL AUTHORIZE LEGAL COUNSEL TO PREPARE AND THE MAYOR TO SIGN AN AGREEMENT WITH MERRIAM POINTE INCORPORATING THE FOLLOWING ITEMS:

- 1. REMOVE THE TIF CAP;**
- 2. RAISE THE TDD CAP TO THE DOLLAR AMOUNT INCLUDED IN THE TDD RESOLUTION;**
- 3. LIMIT RECEIPT OF THE TDD REVENUES TO TDD REVENUE RECEIVED BY DECEMBER 1, 2029;**
- 4. REQUIRE 60-69 % OF THE IMPROVEMENTS TO BE UNDER CONSTRUCTION FOR THE DEVELOPER TO RECEIVE TDD FUNDS IN EXCESS OF \$3 MILLION AND REQUIRE 70% OR MORE OF THE IMPROVEMENTS TO BE UNDER CONSTRUCTION FOR THE DEVELOPER TO RECEIVE TDD FUNDS IN EXCESS OF \$4 MILLION;**
- 5. REMOVE LETTER OF CREDIT REQUIREMENT FOR SPECIAL ASSESSMENTS;**
- 6. INCLUDE PROVISION THAT THE AGREEMENT TERMINATES ON JUNE 18, 2008, IF MERRIAM INVESTOR SALE IS NOT COMPLETE;**
- 7. REQUIRE PAST DUE ADMINISTRATIVE FEE TO BE PAID ON OR BEFORE MAY 16, 2008.**

THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

COUNCILMEMBER HUPP MOVED THAT THE COUNCIL AUTHORIZE THE MAYOR TO SIGN AN AMENDMENT TO THE REDEVELOPMENT AGREEMENT EXTENDING THE AUTOMATIC TERMINATION DATE TO MAY 16, 2008. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

X. NEW BUSINESS

XI. EXECUTIVE SESSION

COUNCILMEMBER BURKS MOVED THAT THE CITY COUNCIL RECESS INTO EXECUTIVE SESSION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL

¹ This motion relates to Agenda item VII., B, 1., Finance and Administration Committee.

ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP RELATING ACQUISITION OF REAL PROPERTY. PRESENT WILL BE THE INTERIM CITY ADMINISTRATOR, NEIGHBORHOOD SERVICES MANAGER, COMMUNITY DEVELOPMENT DIRECTOR AND CITY ATTORNEY. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 9:30 P.M. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 9:30 p.m.

COUNCILMEMBER STEPHENS MOVED THAT THE CITY COUNCIL RECESS INTO EXECUTIVE SESSION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE INTERIM CITY ADMINISTRATOR AND CITY ATTORNEY. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 9:45 P.M. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

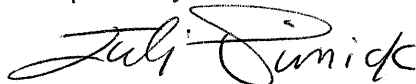
The meeting reconvened at 9:45 p.m.

City Attorney Michelle Daise reminded the council that the Special City Council meeting will be held at 2:30 p.m. May 2, 2008 at the Visitors Bureau.

XII. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HUPP MOVED TO ADJOURN AT 9:48 P.M. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Respectfully submitted,



Juli Pinnick
Deputy City Clerk

Approved: 5/19/2008