

**MERRIAM CITY COUNCIL
MINUTES
9000 W. 62ND TERRACE
August 18, 2008
7:00 P.M.**

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

Mayor Carl Wilkes

Pam Bertoncin
Chris Evans Hands
Nancy Hupp
Dan Leap
Chad Rowe
Gayle Stephens

Bryan Burks and John Crabtree were absent

Staff Present

Phil Lammers, City Administrator, Michelle Daise, City Attorney; Bill Lietzke, Police Chief; Bryan Dyer, Community Development Director; Cindy Ehart, Finance Director; Doug Crockett, Interim Fire Chief; Susan Hayden, Parks and Recreation Director; Randy Carroll, Public Works Director; and Juli Pinnick, Interim 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 Public Hearing held July 28 2008.
2. Approval of the minutes of the Regular City Council meeting held July 28, 2008.
3. Consider Approval of Facility Usage Agreement with Johnson County Nutrition Program.

There were two corrections to the minutes.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE CONSENT ITEMS I-3 WITH CORRECTIONS. THE MOTION WAS UNANIMOUSLY APPROVED.

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.

Lavera Howard, 10024 W. 70th St., addressed the council regarding parking on the public streets. Ms. Howard specifically addressed motor homes, flatbed, and commercial trucks. Many of these vehicles are parked on the streets for up to three weeks. Ms. Howard commented that after researching codes regarding parking on public streets from other area cities, it seems that Merriam may need to update the code regarding these issues.

Community Development Director Bryan Dyer and Police Chief Bill Lietzke commented that there are regulations regarding parking of commercial vehicles on public streets so the city is able to enforce the regulations as they become aware of them.

V. MAYOR'S REPORT

1. Consider approval of a Cereal Malt Beverage License for non-consumption on the premises to Shiv Sons Inc. for the premises located at 5903 Merriam Drive (Snappy Store).

Jatin Sood, 5903 Merriam Dr., addressed the council and introduced himself and his father as the new owners/managers of the store. Mr. Sood acknowledged being aware of the previous suspension of the cereal malt beverage license when it was under the former owner. Mr. Sood stated that they are not associated with the previous owner and would like to be granted a new cereal malt beverage license.

Councilmember Stephens asked about the employees and if the clerks employed by the former owner were going to remain employed there.

Mr. Sood explained that the store is family run and all previous employees including the clerk who made the underage sale have been let go.

Councilmember Hupp asked what type of training is being provided for the employees regarding alcohol sales.

Mr. Sood responded that the cash register requires that a valid birth date to be entered before the alcohol sale will be completed. In addition employees are required to ask customers for identification if they look under the age of 27.

Councilmember Bertoncin asked Mr. Sood if he has ever run a convenience store operation before.

Mr. Sood responded that he, his father and brother have all worked at and managed a variety of convenience stores in the area.

COUNCILMEMNER HUPP MOVED THAT THE COUNCIL APPROVE A CEREAL MALT BEVERAGE LICENSE FOR NON-CONSUMPTION ON THE PREMISES TO SHIV SONS, INC FOR THE PREMISES LOCATED AT 5903 MERRIAM DRIVE. THE MOTION WAS UNANIMOUSLY APPROVED.

- 2. Consider amendments to the Charter for the Johnson County Transportation Cooperation Council (TCC).

Councilmember Rowe provided the background for this item.

The original charter approved by City Council did not have any provision for voting by class of city. The language was added so that each city would vote by their class. There was also removal of a clause regarding land use. This was removed so it could not be construed that the Transportation Council would be involved in development decisions.

Councilmember Hupp asked if the votes were all equal and if all cities had an equal amount of voting rights.

Councilmember Rowe responded yes.

COUNCILMEMBER ROWE MOVED THAT THE COUNCIL APPROVE THE AMENDMENTS TO THE CHARTER FOR THE JOHNSON COUNTY TRANSPORTATION COOPERATION COUNCIL (TCC). THE MOTION WAS UNANIMOUSLY APPROVED.

VI. PLANNING COMMISSION

VII. COUNCIL ITEMS

Work Session

Finance and Administration Committee

- 1. Consider approval of an ordinance authorizing the issuance and delivery of approximately \$3,500,000 principal amount of General Obligation Bonds (Merriam Pointe).(recommend waiving the first reading)

Finance Director Cindy Ehart reported that the bond sale was held today and the best bid appears to be from Stifel Nicolaus & Company, Inc. The assessments to make the bond payments will begin at the end of December. This bond issue includes retirement of the Temporary Notes previously issued.

COUNCILMEMBER HUPP MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE AUTHORIZING THE ISSUANCE AND DELIVERY OF APPROXIMATELY \$3,500,000 GENERAL OBLIGATION BONDS, SERIES 2008, OF THE CITY OF MERRIAM, KANSAS; AND PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL AND INTEREST ON THE BONDS AS THEY BECOME DUE. THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AUTHORIZING THE ISSUANCE AND DELIVERY OF APPROXIMATELY \$3,500,000 GENERAL OBLIGATION BONDS, SERIES 2008, OF THE CITY OF MERRIAM, KANSAS; AND PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL AND INTEREST ON THE BONDS AS THEY BECOME DUE. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

2. Consider approval of a resolution prescribing form and details of \$3,500,000 GO Bonds (Merriam Pointe).

COUNCILMEMBER ROWE MOVED THAT THE COUNCIL APPROVE A RESOLUTION PRESCRIBING FORM AND DETAILS OF \$3,500,000 GO BONDS, SERIES 2008, OF THE CITY OF MERRIAM, KANSAS. THE MOTION WAS APPROVED. COUNCILMEMBER LEAP VOTED NAY.

3. Consider approval of an ordinance adopting the 2008 Uniform Public Offense Code (UPOC). (recommend waiving the first reading)

Police Chief Bill Lietzke presented the background for this item.

Councilmember Bertoncin asked about including razor wire in the provision of the code where barbed wire is prohibited.

City Attorney Michelle Daise responded that it does not appear that the definition for barbed wire includes razor wire. Razor wire could be added provided that there is no other provision in the state statues prohibiting it. For now it is best to approve the UPOC as it is now, then add the razor wire at a later date.

Councilmember Leap asked why a recommendation to waive the first reading.

Chief Lietzke responded that the UPOC and STO come from the state and go into effect July 1st. However, the code books are never available until after July 1st, so the provisions are in effect now. By waiting another month the city would not be able to enforce any of the provisions in the 2008

UPOC or STO until approval next month. The city would have to continue to operate under the 2007 UPOC and STO until then.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2008 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES. THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2008 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES. THE MOTION WAS UNANIMOUSLY APPROVED.

4. Consider approval of an ordinance adopting the 2008 Standard Traffic Ordinance for Kansas Cities (STO). (recommend waiving the first reading).

City Attorney Michelle Daise explained that this ordinance includes provisions for cities to prosecute third and subsequent DUI charges. The city adopted a similar ordinance in January of 2008 after the state legislature passed legislation giving cities jurisdiction over third and subsequent DUI's. The League chose not to include that provision in the 2008 STO. So all cities will have to pass an amendment to the STO to enforce the jurisdiction the state legislature gave to cities. This will have to be done each year upon approval of the STO until the League of Kansas Municipalities decides to include it in the STO.

COUNCILMEMBER ROWE MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2008 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES. THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER BERTONCIN MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2008 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES. THE MOTION WAS UNANIMOUSLY APPROVED.

XI. EXECUTIVE SESSION

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO CONSIDER CONSULTATION WITH LEGAL COUNCIL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP ON MATTERS RELATED TO PENDING LITIGATION. PRESENT WILL BE THE GOVERNING BODY, CITY ADMINISTRATOR, CITY ATTORNEY AND OUTSIDE COUNCIL. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:15 P.M. COUNCILMEMBER STEPHENS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:15 p.m.

5. Discussion regarding use of the city's share of the new county ¼ cent public safety tax.

Councilmember Stephens expressed a desire to put this tax revenue into the Equipment Reserve Fund for a period of five years. After five years the new shopping centers will be up and running and the city will have a handle on what kind of revenue they will generate. In addition the council should state each budget year what the city would be purchasing with the tax.

Councilmember Hands wanted to be sure to continue funding the school crossing guards with the tax money as it has been in the past.

The consensus of the council was to be sure to indicate each budget year what the sales tax would be used for. It would show up in its own revenue category and would show every month on the expense report as the funds were spent.

Community Development/Public Works Committee

1. Update on development projects.

Community Development Director Bryan Dyer provided the following update for the following projects:

Shawnee Mission Medical Center- the critical care building and medical office building are going up and making good progress.

Peppertree Apartments-Three of the apartment buildings are being framed on that project.

Merriam Pointe- Needs to be mowed. Focus ownership group which will be the owner of the two hotels has contacted the city regarding obtaining building permits for construction of the two hotels.

Merriam Village- The Circuit City building is going up quickly should be completed by late October early November. Building 1 and 1a are also being constructed.

Pointe at Prairie Haven- There does appear to be some infrastructure work going on there, and the property has been mowed.

Timber Ridge-Not much activity there; the site has been partially mowed.

Auction of City property- Staff met with the auction service, they provided some documents which are being reviewed by the city attorney. We are still anticipating a September sale date.

Everest utility boxes- Staff has received many calls from residents regarding the installation of the Everest utility boxes. Everest has pulled all the necessary permits and has worked very hard with the residents expressing concerns. When the boxes are completely installed, the end product is very nice. They are currently working from the south part of the city to Shawnee Mission Parkway.

Councilmember Stephens added that the detention basin being installed looks very good. Trees are being planted and it is near completion.

VIII. STAFF ITEMS

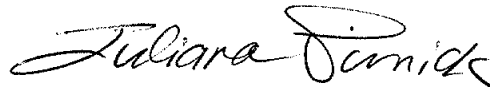
IX. OLD BUSINESS

X. NEW BUSINESS

XII. ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL
COUNCILMEMBER STEPHENS MOVED TO ADJORN AT 8:55 P.M.
COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS
UNANIMOUSLY APPROVED.**

Respectfully submitted,



Juliana Pinnick
Interim City Clerk

Approved: 9/29/08