

**MERRIAM CITY COUNCIL
MINUTES
CITY HALL
9000 W. 62ND TERRACE
January 26, 2009
7:00 P.M.**

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

Mayor Carl Wilkes

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

Staff Present

Michelle Daise, City Attorney; Phil Lammers, City Administrator; Bill Lietzke, Police Chief; Bryan Dyer, Community Development Director; Cindy Ehart, Finance Director; Doug Crockett, Interim Fire Chief; Randy Carroll, Public Works Director; and Juli Pinnick, 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 December 22, 2008.

2. Approval of the minutes of the special meeting held January 12, 2009.
3. Approval of Town and Country Disposal License.
4. Consider Approval of Purchase of Two 7400 International Truck Chassis
5. Consider Approval of Purchase of Two Dump Beds and Hydraulic Systems.

Councilmember Rowe asked that item 1 be considered separately.

COUNCILMEMBER CRABTREE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 2-5. THE MOTION WAS UNANIMOUSLY APPROVED.

There was one correction to the Minutes of December 22, 2008.

COUNCILMEMBER ROWE MOVED THAT COUNCIL APPROVE THE MINUTES OF THE DECEMBER 22, 2008 REGULAR CITY COUNCIL MEETING AS CORRECTED. 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.

Steven Maze, Peculiar, Missouri addressed the council regarding massage therapy businesses. Mr. Maze is a licensed massage therapist who has had his business located at the Gold's Gym in Merriam for over ten years. Approximately three weeks ago Mr. Maze received information from the city regarding the new massage therapy regulations. The new regulation will disallow Mr. Maze from earning income as a massage therapist as the regulations require 500 hours of education in massage therapy. When Mr. Maze began his career as a massage therapist 17 years ago the training he received was through an apprenticeship program.

Councilmember Crabtree asked if there was any consideration for what could be done as far as grandfathering existing massage therapists.

Councilmember Hupp commented that that issue was addressed and it was determined that it was not in the best interest of the city to allow grandfathering. However, there is a clause in the ordinance that allows for all currently licensed therapists one year to get the education requirements. This ordinance came about from concerns raised by residents and massage therapists.

Mr. Maze commented that no other municipality has disallowed a grandfathering clause and was concerned as to what the reasoning was for not allowing grandfathering.

Mayor Wilkes commented that the ordinance has been passed and was not meant to disallow anyone from working in Merriam. The ordinance was passed to protect the public and had been discussed for several months.

Councilmember Stephens asked Mr. Maze if he received all of the notices of the meetings when this issue was discussed.

Mr. Maze responded yes but explained that some earlier information he received indicated that there might some provision for grandfathering and he believed that those provisions would be in the final ordinance.

Councilmember Burks commented that the goal of the council was clear; they wanted to regulate the massage therapy industry because there was very little regulation and the city had very limited authority to regulate and enforce violations. The language in Merriam's ordinance is not that different than other surrounding cities ordinances. Councilmember Burks further added that most professions have training and education to further the profession and standards in a profession evolve over time which require or assist in making a person advance in those professions. It is difficult for the council to make exceptions to the ordinance because Mr. Maze chose not to follow a path of advancing his education and training.

Mayor Wilkes stated that if the council directs, additional information could be obtained regarding the issue to engage further discussion.

Councilmember Stephens commented that she would be interested in what other cities have in regard to grandfathering.

V. MAYOR'S REPORT

1. Commissioner Ed Peterson- 2009 State and County budgets.

Commissioner Peterson addressed the council regarding the County and State budgets. The County made no significant changes to their 2009 budget. The mill levy remained constant with the use of \$5 million of reserves.

The impact of proposed reductions to the State budget was illustrated on a handout provided by Commissioner Peterson. The schedules included projected funding reductions from the state to the Special City / County highway fund which funds the CARS program. Those reductions are expected to be 6.6%. The impact to the County results in \$840,000 less than prior years. Lower prioritized CARS projects may not get funded this year due to the reduction.

Other anticipated reductions in machinery equipment tax revenues from the State are expected to be \$1.7 million.

Looking forward to 2010 additional reductions include the Liquor Tax which will effect cities more directly than the County. City programs funded by that tax could be at risk because of the State reductions.

The impact to Merriam at the end of the phasing in of these revenue reductions from the State could be as much as \$100,000 per year by the year 2010.

2. 2008 City Service Awards

This item was pulled from the Agenda to be addressed at the February 23, 2009 Regular Meeting.

3. Consider approval of a resolution accepting the Take Charge Energy Challenge.

City Administrator Phil Lammers provided the background for this item.

After reading an article in the Kansas City Star about City staff conducting an exercise in sustainability, Kansas City Power & Light (KCP&L) representative Tom Robinson contacted the City to see if we would be in an energy conservation competition with six other Kansas cities. The competition will consist of the six cities reducing their electricity consumption over a twelve month period. Staff and some councilmembers met with KCP&L and two representatives from Climate and Energy Project (CEP) to review the program and understand the City's role in the project.

Eileen Horn, CEP, explained the Take Charge Challenge as a friendly competition between six Kansas communities to reduce electrical energy usage over twelve months beginning April 2009 through April 2010. The goal is to see who can reduce by the largest percent. The winner will receive solar panels for a city building or a wind turbine installation as part of CEP's Wind for Schools Program. Bring your community together for a common goal and gaining statewide press are other advantages to accepting the challenge.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE A RESOLUTION ACCEPTING THE TAKE CHARGE ENERGY CHALLENGE. THE MOTION WAS UNANIMOUSLY APPROVED.

VI. PLANNING COMMISSION

VII. COUNCIL ITEMS

A. Work Session

B. Finance and Administration Committee

C. Community Development/Public Works Committee

Councilmember Stephens noted that the Committee discussed moving the Turkey Creek Festival back Downtown. Feedback from the Downtown Merriam Partnership (DMP) indicated that the DMP have their hands full with other activities and events they host. They did indicate that they would be interested in a street dance or similar event. The DMP will get back to the Committee after they have their monthly meeting.

1. Update on development projects

VIII. STAFF ITEMS

IX. OLD BUSINESS

1. Discussion regarding proposed storm drainage improvements at 9725 W. 47th Street as part of the 47th Street/County Line Road Street and Drainage Improvements.

Beth Linn provided an update to the discussion held at last month's City Council Meeting regarding the drainage improvements at 9725 W. 47th Street. The easement documents authorized by council have been executed by both

property owners and have been reviewed by the City Attorney. After the review of those documents, the City Attorney and staff had concerns with the documents. However, those concerns were not significant enough to delay moving forward with the project. Staff remains committed to the project. Specific questions about staff's concerns can be addressed with the City Attorney in the Executive Session.

COUNCILMEMBER ROWE MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT EXCEPTION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP FOR THE PURPOSE OF RECEIVING LEGAL ADVICE. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, CITY ADMINISTRATOR, FINANCE DIRECTOR AND COMMUNITY DEVELOPMENT DIRECTOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:10 PM. COUNCILMEMBER CRABTREE SECONDED, AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:10 p.m.

2. Update on Merriam Pointe

COUNCILMEMBER STEPHENS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT EXCEPTION TO CONSIDER CONSULTATION WITH LEGAL COUNSEL ON MATTERS THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP FOR THE PURPOSE OF RECEIVING LEGAL ADVICE. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, CITY ADMINISTRATOR, AND COMMUNITY DEVELOPMENT DIRECTOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:30 PM. COUNCILMEMBER HANDS SECONDED, AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:30 p.m.

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COUNCIL CHAMBERS AT 8:55 PM. COUNCILMEMBER HANDS SECONDED, AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:55 p.m.

X. NEW BUSINESS

XI. EXECUTIVE SESSION

XII. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:56 P.M. COUNCILMEMBER CRABTREE SECONDED, AND THE MOTION WAS UNANIMOUSLY APPROVED.

Respectfully submitted,



Juliana Pinnick
City Clerk

Approved: Feb 23, 2009