

**MERRIAM CITY COUNCIL AGENDA MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
April 22, 2019  
7:00 P.M.**

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

Mayor Ken Sissom called the meeting to order at 7:00 pm.

**II. ROLL CALL**

Scott Diebold  
Al Frisby  
Chris Evans Hands  
Nancy Hupp  
Brian Knaff  
David Neal  
Bob Pape

Staff present: Chris Engel, City Administrator; Meredith Hauck, Assistant City Administrator; Nicole Proulx Aiken, City Attorney; Todd Allen, Acting Police Chief; Anna Slocum, Parks and Recreation Director; Cindy Ehart, Finance Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dehner, Fire Chief; Bryan Dyer, Community Development Director; Jim MacDonald, Public Works Superintendent and Juli Pinnick, City Clerk.

**III. 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. ***Please note: individuals making Public Comments will be limited to 5 minutes.***

Mayor Sissom thanked Boy Scout troop 247 from Merriam for attending the city council meeting.

John Sankey, 10121 W. 65<sup>th</sup> Dr., commented that his neighborhood is slated to get sidewalks installed this year. The folks in his neighborhood do not want the sidewalks. There are about 82 homes in the neighborhood, there are no through streets in the neighborhood and there have been no issues in the past 40-50 years without sidewalks. His concerns are the

mature trees, nice large well-kept lawns and sprinkler systems that will be affected by the sidewalk installation.

#### **IV. 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.

1. Consider approval of the minutes of the City Council Meeting held April 8, 2019.
2. Consider approval of final payment to V.F. Anderson Builders, LLC in the amount of \$5,000 and acceptance of the Storm Drain Repairs.
3. Consider approval of a Professional Services Agreement for the engineering services of Small Drainage Projects (Mastin Street Stormwater Improvements from 60<sup>th</sup> Terrace to 62<sup>nd</sup> Street) with BHC Rhodes for an amount not to exceed \$48,340.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-3. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

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

1. 2nd Quarter Employee Service Awards

Mayor Sissom presented the 2<sup>nd</sup> Quarter Service Awards to the following employees:

10 Years of Service

Charlie Yocum-Police Department

Corey Herron-Police Department

5 Years of Service

Ingrid Berg-Parks and Recreation

Judy Deverey-CIP/Public Works

2. Presentation of Life Saving Award- Police Officer Beau Soucie

Acting Police Chief Todd Allen presented the Life Saving Award to Police Officer Beau Soucie.

3. Consider approval of KCP&L Renewables Direct Agreement.

City Administrator Chris Engel provided the background for this item.

The KCP&L Renewables Direct Program allows large commercial and industrial customers to offset some or all of their annual energy usage through renewable resources which KCP&L will acquire if there is enough participation in the program.

Per KCP&L, in 2018 the City used 2,329,448 kWh of energy which cost \$265,217. If the City chooses to participate at 100% renewable energy, the recommended kilowatt cap of 600 kW could result in an annual cost savings of 1.3%, or \$3,311. This projected cost savings is the result of replacing the current fuel factor charge, or ECA (Energy Cost Adjustment), with the lower cost RPC (Renewable Participation Charge) which would be contractually set at no more than \$0.02 per kWh.

This rate lock should create savings because the fuel factor charge (ECA) fluctuates but has steadily increased the past 10 years from \$.00682 per kWh in 2008 to \$0.02143 in 2019. However, if the ECA substantially decreases from its current rate, the cost savings could be less than projected depending on the duration and amount of the decrease. The City does retain the option to terminate the Agreement, with a possible penalty, if the RPC ever ends up being higher than the agreed upon \$0.02 per kWh maximum.

The term of the agreement can be 5 years, 10 years, 15 years, or 20 years; if the City chooses any term other than 20-years, there is an administrative fee of \$0.0003 per kWh. Staff is suggesting a 20-year term for participation in the program.

Drew Robinson, KCP&L/Westar Energy presented additional information on the Renewables Direct program. The merger of Kansas City Power & Light and Westar Energy last year resulted in 30% of the energy produced being renewable energy. The Renewables Direct program allows customers to specifically sign up for a dedicated resource of energy. The utility is striving for a lower carbon future and the Midwest provides one of the best energy resources, wind. Capturing that wind for energy has allowed a reduction of 43% co2 emissions. Renewables Direct allows companies, universities, governments and school districts to select their clean energy source by investing in that energy resource.

The energy source will be a windfarm and will most likely be located in Kansas. The farm would not be owned by KCP&L; it would be constructed by a developer and it would be contracted for energy output.

There was some discussion regarding other government entities which have subscribed to the program and their kilowatt cap compared to the one proposed for Merriam.

**COUNCILMEMBER FRISBY MOVED THAT THE COUNCIL ENTER INTO THE RENEWABLES DIRECT PARTICIPATION AGREEMENT WITH KCP&L WITH A FIXED MONTHLY KILOWATT AMOUNT OF 600Kw FOR A TERM OF 20 YEARS. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

4. Council vacancy interviews.

Interviews were conducted for Ward 1 candidates Dennis Miles, Brian Shapley and Jason Silvers. Candidates were asked the following three questions:

1. What do you think is the most important issue facing the city in the next two years?
2. What skills or talents would you bring to the City Council?
3. Do you have any closing comments for the council to consider?

After the interviews the first round of voting occurred. In accordance with Merriam City Code 2-27, Councilmembers were instructed that they could cast two votes during this round which would narrow down the candidates from three to two. While not required to cast two votes during the first vote, only one vote per candidate may be cast.

Voting results:

Dennis Miles-2 votes  
Brian Shapley-6 votes  
Jason Silvers-5 votes

Brian Shapley and Jason Silvers advanced to the final round of voting.

Voting results:

Brian Shapley-3 votes

Jason Silvers-4 votes

Jason Silvers was elected to fill the vacant unexpired Ward 1 council seat.

Mayor Sissom thanked all the candidates for their interest in serving on the City Council and encouraged them to serve their community by volunteering on the many city boards and committees.

## **VI. PLANNING COMMISSION**

1. Consider approval of a change in use and preliminary development plan in a PUD-R district for Switzer Senior Villas located at 7101 Switzer Rd.

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

The application is a request for approval of a change in use and preliminary development plan to develop 45 units of multi-family housing in a Planned Unit Development – Residential (PUD-R) District. The applicant is Merak Development Group, Inc., dba WoodCo Inc. on behalf of the property owner, The Boyer Company. The subject property is located at the southeast corner of W. 71<sup>st</sup> Street and Switzer Road. The proposal consists of five 5-plex buildings, five 4-plex buildings, and one club house building. There will be 25 two-bedroom units and 20 one-bedroom units. The units will be for lease and the development will be owned by WoodCo Inc.

WoodCo Inc. has submitted a Low Income Housing Tax Credit (LIHTC) application to the State of Kansas Housing Resources Corporation for this project. If the project receives LIHTC, the project will have affordable and market rate rental units. If the project does not receive LIHTC, WoodCo Inc. has indicated that they still plan to move forward with the project with all the units being market rate. WoodCo Inc. has also indicated that regardless of whether or not the project receives LIHTC, the units will be restricted to tenants who are 55 and older.

The subject property is the site of the former West Antioch Elementary School. In 2003, the school closed and the City, in anticipation of the school district marketing the property, completed a land use study for the subject property. The City hired a consulting firm, conducted public meetings, held a public hearing and amended the City's Comprehensive Plan. The amendment was approved by the Planning Commission (Resolution No. 101) and adopted by the City Council (Ordinance

#1493) on November 22, 2004. The amendment added language to Section 7 – Future Land Use of the Comprehensive Plan. The amendment recommends uses that include “...moderate density residential, mixed residential that is consistent in density and intensity as Edelweiss and office. In 2005, a developer requested City approval of a rezoning and preliminary development plan for the subject property. The rezoning request was for a PUD-R (Planning Unit Development – Residential) District with an accompanying preliminary development plan showing multiple buildings of attached housing. On March 13, 2006, the City Council approved Ordinance #1525 rezoning the property to PUD-R District and a preliminary development plan for nine (9) two-story building with a total 49 units of attached housing. Project construction began with the partial installation of utilities. During this time the developer declared bankruptcy and the subject property reverted back to the developer’s bank, Bank Liberty.

In 2013, the Boyer Company requested approval of an application for a change in use and preliminary development plan (Z-1-05/PD2-1113) to develop a one-story, 29,269 square foot convalescent home and/or congregate care facility. That request was approved (Ordinance# 1711) and The Boyer Company purchased the subject property from Bank Liberty. However, The Boyer Company elected not to construct the facility.

WoodCo has entered into an agreement to purchase the subject property from The Boyer Company. WoodCo’s request is for approval to develop 45 units of multi-family housing. In comparison to the 2005 development approval, which consisted of 49 units with nine two-story buildings and a total building footprint of 57,300 square feet, this application proposes fewer units, smaller one-story buildings, and a smaller total building footprint of 46,642 square feet. In comparison to the 2005 approved plan, this application is for a moderately less intensive use.

The proposed preliminary development plan shows landscaping all around the buildings with a number of tree/bushes plantings along the south and east sides of the property, creating a buffer between the facility and the adjacent Edelweiss development.

The applicant submitted a traffic report that is signed and sealed by an engineer. The report states that when compared to the approved health care facility plan, the proposed development will generate slightly more traffic in a 24-hour period, but less traffic in the morning and evening peak hours. The City Engineer has accepted the traffic report.

The applicant also submitted a signed and sealed stormwater management report showing that the proposed development will have less impervious surface area than the previously approved residential development. The development proposal intends to add approximately 12,600 square feet of native grass plantings to assist in water quality and stormwater management.

The applicant invited property owners within 200 feet of the subject property to a neighborhood meeting to review the proposed project. The neighborhood meeting was held at the Edelweiss Clubhouse on March 12, 2019. Attendees had a number of questions that the developer addressed.

On April 3, 2019, the Planning Commission held a public hearing and received comments from four members of the public. The Planning Commission then closed the public hearing and based on information supplied by the applicant, as well as the criteria outlined in the Merriam Code and Kansas law as outlined in the Planning Commission Staff Report, unanimously recommended approval of the rezoning and associated preliminary development plan, with conditions that are outlined on the Agenda Action Information Form included in the City Council Agenda Packet.

Councilmembers Hands and Hupp made ex parte communication disclosures stating that they both live in the Edelweiss neighborhood, which abuts this development. They both met with the developer representatives on March 7<sup>th</sup>. They both attended the Edelweiss neighborhood meeting at the clubhouse on March 12<sup>th</sup>. There was no information provided at those meetings that has not been presented at the Planning Commission meeting or this meeting.

Mayor Sissom made an ex parte communication disclosure that he also attended the March 7<sup>th</sup> meeting with developer representatives. There was no information provided at that meeting that has not been presented at the Planning Commission meeting or this meeting.

Mr. Dyer commented that ex parte communications disclosure is important to ensure that, as councilmembers, they were not given information that was not heard at the Planning Commission Public Hearing or this meeting and that all information is provided in a public setting.

Matt Schlict, Engineering Solutions answered questions from the council regarding the road widths in the development. The road widths are 28 feet, which is a standard road width. There will be sidewalks within the development that will have two connections to the city's trail system and two connections to Switzer. There will be more than adequate parking available and a small number of car ports. The location of the pet area, while not completely decided, will be located in the interior of the development, likely near the clubhouse.

Dolph Woodman, Woodco answered questions from the council including the market rate rental units, which will total 8 of the 45 total units. The tax credits will not be announced until the end of May, however, the development will still be built even if Woodco does not receive the tax credits. The units would then be at market rate and not income restricted.

The development will have private snow removal, mowing and lawn maintenance. Small, indoor pets under 15 pounds will be allowed in the residences.

There was some discussion regarding a tornado shelter as the units will be built on slabs. Mr. Woodman indicated that there will be an evacuation plan and locations of shelters for their residents. Constructing a true storm shelter is very cost-prohibited due to the regulations required to be classified as a storm shelter.

Director Dyer reminded the council that a storm shelter is not a requirement in Merriam.

Mr. Woodman indicated they would anticipate breaking ground around the beginning of next year and construction would take 8-10 months.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL CONCUR WITH THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE, WITH CONDITIONS, THE REQUEST FOR A CHANGE IN USE TO ADD THE USE OF 45 UNITS OF MULTI-FAMILY HOUSING TO THE EXISTING USES AND THE ASSOCIATED PRELIMINARY DEVELOPMENT PLAN FOR PLANNED UNIT DEVELOPMENT RESIDENTIAL (PUD-R) DISTRICT LOCATED AT THE SOUTHEAST CORNER OF 71<sup>ST</sup> STREET AND SWITZER ROAD AND AUTHORIZE THE MAYOR TO SIGN THE EFFECTUATING ORDINANCE.**



**COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Consider acceptance of easements as dedicated on the final plat of Switzer Senior Villas.

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

The applicant, Merak Development Group, Inc., dba WoodCo Inc., is requesting approval of a replat of the Pointe at Prairie Haven Second Plat. The plat proposes to create one lot (Lot 1) that is approximately 5.89 acres. The plat dedicates additional sanitary sewer easements to extend the sewer main into the interior of the subject property in order to serve the proposed development. The proposed final plat will bring the property into compliance with the preliminary development plan (PUD19-000003) and change in use that were previously approved.

At their April 3, 2019 meeting, the Planning Commission unanimously approved the plat and forwarded it to the City Council for the acceptance of easements with conditions.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL ACCEPT THE DEDICATION OF EASEMENTS SHOWN ON THE FINAL PLAT-SWITZER SENIOR VILLAS. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**VII. COUNCIL ITEMS**

**A. Finance and Administration**

1. Consider approval of an ordinance renewing the franchise with Unite Private Networks.

City Attorney Nicole Proulx Aiken commented that this is the second reading of the proposed ordinance and there are no changes since the first reading.

Councilmember Neal commented that it appears that this ordinance is only covering in-ground installations.

Attorney Aiken confirmed that this ordinance would not cover any small cell installations. Under state law, the city is limited on what

the city can impose franchise fees on, and this ordinance is in line with the state law.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE RENEWING THE FRANCHISE WITH UNITE PRIVATE NETWORKS. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## **B. Community Development/Public Works/CIP**

### 1. Community Development Update.

Community Development Director Bryan Dyer provided the following Community Development updates:

The B.E. Smith Family Center at Advent Health has recently opened.

The medical office building on the Advent Health campus is nearly complete as is the new parking garage on the campus.

The Audi dealership is getting the exterior glass glazing completed.

Freddy's Steak Burgers is making inquiries on the time frame to get a building permit issued and they are moving along on their project.

## **VIII. STAFF ITEMS**

City Administrator Chris Engel stated that the first public input meeting for 5701 Merriam Drive will be next Monday at the Irene B. French Community Center.

This Thursday the Board of County Commissioners will be voting on the Memorandum of Understanding for the re-location of the Antioch Library on our new Community Center site. Staff members and the Mayor will attend that meeting. The item is on their consent agenda.

City Hall Day will be held this Friday for Crestview Elementary. The 3<sup>rd</sup> grade students will be getting a tour of the various departments in the city.

The new community center went vertical today with pre-fab concrete panels for the parking garage.

- VII. NEW BUSINESS**
- IX. EXECUTIVE SESSION**
- X. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 9:01 PM COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

APPROVED: May 13, 2019.

Respectfully submitted,  
**Juliana Pinnick**  
Juliana Pinnick  
City Clerk