

**MERRIAM CITY COUNCIL AGENDA**  
**CITY HALL**  
**9001 WEST 62<sup>ND</sup> STREET**  
**October 11, 2021**  
**7:00 P.M.**

If you require any accommodation (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-322-5500 no later than 24 hours prior to the beginning of the meeting.

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

**II. ROLL CALL**

**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.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

**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 so requests, in which case that item will be removed from the Consent Agenda and considered separate.

1. Consider approval of the minutes of the City Council meeting held September 27, 2021.
2. Consider approval of an Inter-local Agreement (ILA) between the City of Merriam and Overland Park for pavement preservation project on Lowell Street.

**V. MAYOR'S REPORT**

1. Employee Service Awards – 3<sup>rd</sup> Qtr 2021
2. Proclamation - Indigenous People Day.

3. Proclamation - Home Rule Day.

## **VI. COUNCIL ITEMS**

1. Polling Software presentation.
2. Consider approval of an ordinance amending sections 1-3 and 2-29 of the Merriam Code of Ordinances (recommend waiving first reading)
3. Consider approval of the Governing Body Rules and City Council Policies.
4. Consider approval of an ordinance regulating food trucks.(first reading)
5. CIP Update.

## **VII. STAFF ITEMS**

## **VIII. EXECUTIVE SESSION**

## **IX. ADJOURNMENT**

Respectfully submitted,

*Juliana Pinnick*

City Clerk

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
September 27, 2021  
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  
Chris Evans Hands  
Bruce Kaldahl via telephone  
Brian Knaff  
David Neal  
Bob Pape  
Jason Silvers  
Whitney Yadrich

Staff present: Ryan Denk, City Attorney; Jennifer Jones-Lacy, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Donna Oliver, Finance Director; Bryan Dehner, Fire Chief; Anna Slocum, Parks & Recreation Director; Darren McLaughlin, Police Chief 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.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

There were no public comments.

#### **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 so requests, in which case that item will be removed from the Consent Agenda and considered separate.

1. Consider approval of the minutes of the City Council meeting held September 13, 2021.
2. Consider bid award for repairs to Municipal Pipe Tool Co. for repairs to deteriorated storm water pipes at various locations.
3. Consider approval of a Final Plat located at 9405 W. 47<sup>th</sup> St.

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

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

Mayor Sissom commented that long-time resident and former Councilmember Chad Rowe recently passed away. Chad served on the council from 2009-2014. He stepped down from his council position when he moved out of the ward he represented. He continued to live in Merriam after that and remained active with the city through the Downtown Merriam Partnership and car show committee. He was a great community member who really cared about Merriam and will be missed.

1. Lifesaving award – Officer Nick Moeller

Police Chief Darren McLaughlin presented the Lifesaving Award to Police Officer Nick Moeller.

#### **VI. PLANNING COMMISSION**

1. Consider approval of amendments to the Planning Commission By-laws.

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

At their September 1, 2021 regular meeting, the Planning Commission unanimously approved amending their By-Laws. Attached are the “marked up” and “clean” versions of the amended By-Laws. The amended By-Laws

are a result of a combination of Planning Commission and staff recommendations.

The following is a summary of the changes:

The language updates are changing “Chairman” to “Chairperson” and “he” or “his/her” to “they” or “their”

Changes to better reflect the city and Planning Commission’s practices

Revisions to allow the option of having “paperless” packets per the Planning Commission’s August 4<sup>th</sup> discussion

Revisions to allow the option of holding “virtual” meetings per the Planning Commission’s August 4<sup>th</sup> discussion

Removing language that is unclear and counter to state statutes and city ordinance

Revisions to allow the option of a Planning Commissioner to attend an in person Planning Commission meeting via telephone or virtual per the Planning Commission’s August 4<sup>th</sup> discussion

Per the By-Laws of the Merriam Planning Commission, the Planning Commission By-Laws must be submitted to the City Council for their review and confirmation.

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL CONFIRM THE AMENDMENTS TO THE PLANNING COMMISSION BY-LAWS. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## VII. COUNCIL ITEMS

1. Consider approval of an ordinance amending section 2-23 of the Merriam Code of Ordinances related to Governing Body meetings.

**COUNCILMEMBER YADRICH MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING SECTION 2-23 OF THE MERRIAM CODE OF ORDINANCES. COUNCILMEMBER SILVERS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Monthly Finance Report.

Finance Director Donna Oliver presented the Finance Report for the month of August.

3. Consider approval of an ordinance amending Chapter 26 of the Merriam Code of Ordinances related to stormwater best management practices (BMP).

**COUNCILMEMBER YADRICH MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING CHAPTER 26 OF THE MERRIAM CODE OF ORDINANCES. COUNCILMEMBER NEAL SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

4. Community Development Update.

Community Development Director Bryan Dyer commented that his department has been very busy with grants. The two Downtown Merriam Grant projects through MARC are finishing up the public input portion and the consultants should have the report from the public input very soon.

The Residential Exterior and Sustainability grants are wrapping up for this year with nearly all funds expended from both of these programs.

For 2022 the new driveway grant program will begin. This will be an income based program to help with repairs to driveways in disrepair or those driveways that are gravel to transition to hard surface driveways. Staff had identified many properties throughout the city with gravel driveways and are sending letters out to inform the residents of the new grant program. The program is income based and property owners must qualify for the grant funds. Applications will be received beginning October 4<sup>th</sup>.

**VIII. STAFF ITEMS**

Assistant City Administrator Jennifer Jones-Lacy reminded the council that this Saturday is the Merriam Drive Live event. The day will begin with a 5k run then music and yard games in the afternoon. There is a low chance of rain so hopefully the weather will be good for this year's event.

The following Saturday will be the Community Recycling event. This year the event will be held at the Nations Holdings building on 67th St. Volunteers are still needed for the event. Contact Jenna Gant if you want to volunteer.

**IV. EXECUTIVE SESSION**

**V. ADJOURNMENT**

Respectfully submitted,

*Juliana Pinnick*

City Clerk



## AGENDA ITEM INFORMATION FORM

**AGENDA ITEM:** Execute an Inter-Local Agreement (ILA) between the City of Overland Park and the City of Merriam for pavement preservation project on Lowell Street.

**SUBMITTED BY:** Jim MacDonald, Public Works Director

**MEETING DATE:** October 11, 2021

### PROJECT BACKGROUND/DESCRIPTION:

In collaboration with the City of Overland Park, staff is requesting Council approval to enter into an Inter-Local Agreement for the pavement preservation project on Lowell Street from Johnson Drive north to 55<sup>th</sup> Terrance. In January of 2022 the City of Overland Park plans to accept bids for the process called Macro-texture and placement of ultra-thin bonded asphalt surface (UBAS), new pavement marking, sidewalk and curb repairs.

Ultra-thin bonded asphalt surface (UBAS) is a preventative maintenance tool used to help extend the life of a road by placing a thin, coarse aggregate hot mix over a special asphalt membrane. The membrane prevents water leakage and provides a superior bond to the old asphalt. The overlay can disperse water quickly off the surface, which reduces roadway spray from vehicles and provides greater visibility in wet weather.

Lowell Street is a unique road in which the actual roadway and Rights-of-way (ROW) is in the City of Overland Park however, the homes on the west side of Lowell St. are City of Merriam residents. The City of Overland Park will be administering all aspects of this project. Staff from both Cities participated in plan reviews and offered comments.

With the approval of this agreement, Merriam and Overland Park will share in the construction cost at a rate of 55% Overland Park and 45% Merriam.

### CITY COUNCIL GOALS AND OBJECTIVES

3.2 Sustain capital improvement efforts.

### FINANCIAL IMPACT

**Amount of Contract:**

**Amount Budgeted:** \$30,000

**Funding Source/Account #:** Special Sales Tax Fund, Stormwater/Streets

### SUPPORTING DOCUMENTS

ILA with City of Overland Park

### ACTION NEEDED/STAFF RECOMMENDATION

The Mayor to execute an Inter-Local Agreement (ILA) between the City of Overland Park and the City of Merriam for pavement preservation project on Lowell Street.

AGREEMENT BETWEEN THE CITY OF OVERLAND PARK, KANSAS, AND THE CITY OF MERRIAM, KANSAS, FOR THE PUBLIC IMPROVEMENT OF LOWELL AVENUE FROM THE NORTH SIDE OF JOHNSON DRIVE TO THE SOUTH SIDE OF 55<sup>TH</sup> TERRACE (MR-2714).

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF OVERLAND PARK, KANSAS (hereinafter "OVERLAND PARK"), and the CITY OF MERRIAM, KANSAS (hereinafter "MERRIAM"), each party having been organized and now existing under the laws of the State of Kansas (hereinafter OVERLAND PARK and MERRIAM may be referred to singularly as the "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, the Parties hereto have determined it is in their best interest to make the public improvement to Lowell Avenue from the north side of Johnson Drive to the south side of 55<sup>th</sup> Terrace as such improvement is hereinafter described; and

WHEREAS, K.S.A. 12-2908 and K.S.A. 68-169 authorize the Parties hereto to cooperate in making the public improvement; and

WHEREAS, the Governing Bodies of each of the Parties hereto have determined to enter into this Agreement for the aforesaid public improvement, as authorized and provided by K.S.A. 12-2908 and K.S.A. 68-169 and

WHEREAS, the Governing Body of MERRIAM did approve and authorize its mayor to execute this Agreement by official vote of the Body on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and

WHEREAS, the Governing Body of OVERLAND PARK did approve and authorize its mayor to execute this Agreement by official vote of the Body on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable considerations, the Parties hereto agree as follows:

1. **PURPOSE OF AGREEMENT.** The Parties hereto enter into this Agreement for the purpose of constructing the public improvement on Lowell Avenue from the north side of Johnson Drive to the south side of 55<sup>th</sup> Terrace as heretofore described by performing the following work:

Macro-texture and placement of ultra-thin bonded asphalt surface (UBAS); reconstructing storm sewer inlets as required; installing new pavement markings; installing new sidewalk ramps as required by the Americans with Disabilities Act; repairing or replacing deteriorated curbs and gutters, medians, concrete barrier, concrete pavement, bridge approach slabs and sidewalk as required; and other items incidental to the street reconstruction, (hereinafter the "Improvement").

2. **ESTIMATED COST OF PROJECT.**

A. The estimated cost of construction of the Improvement covered by this Agreement, exclusive of the cost of right-of-way or easement acquisition, is SIXTY-SIX THOUSAND SIX HUNDRED SIXTY-SIX AND 67/100 DOLLARS (\$66,666.67).

- B. The cost of making the Improvement shall include:
- (1) Labor and material used in making the Improvement; and
  - (2) Such other expenses which are necessary in making the Improvement, exclusive of the cost of acquiring real property and any improvement thereon for the location of the Improvement. These expenses include but are not limited to design, project administration, construction inspection, material testing and utility relocations.
- C. The cost of making said Improvement shall be distributed between the Parties as follows:
- (1) MERRIAM shall pay **45%** of the local share of said Improvement (estimated to be **\$30,000.00**).
  - (2) OVERLAND PARK shall pay **55%** of the local share of said Improvement (estimated to be **\$36,666.67**).
  - (3) Each Party shall acquire and pay all costs associated with the right-of-way or easement acquisition for that portion of the project located within its respective boundary. Additionally, each Party shall pay the cost of financing and/or bonding its share of the project cost.

3. FINANCING. OVERLAND PARK and MERRIAM shall each pay their portion of the cost with monies budgeted and appropriated funds.

4. OVERLAND PARK ADMINISTRATION OF PROJECT. It is acknowledged and understood between the Parties that since there are two separate entities included within the proposed Improvement, one of the entities should be designated as being “in charge” of the project to provide for its orderly design and construction. However, both entities shall have the right of review and comment on project decisions at any time throughout duration of this Agreement, and any subsequent agreements hereto. The Improvement shall be constructed and the job administered by OVERLAND PARK acting by and through the OVERLAND PARK Director of Public Works (hereinafter the “PW Director”), who shall be the principal public official designated to administer the Improvement; provided, the PW Director shall, among his several duties and responsibilities, assume and perform the following:

- A. Make all contracts for the Improvement, including soliciting bids by publication in the official newspaper of OVERLAND PARK. In the solicitation of bids, the most favorable bid shall be determined by OVERLAND PARK administering the project and the Governing Body of OVERLAND PARK approving the lowest responsible bidder for the project, except that the Governing Body of MERRIAM reserves the right to reject the successful bidder in the event that the bid price exceeds the engineer’s estimate. If all bids exceed the estimated cost of the Improvement, then either OVERLAND PARK or

- MERRIAM shall have the right to reject the bid. In such case, the project shall rebid at a later date.
- B. Submit to MERRIAM on or before the 10th day of each month, or as received, estimates of accrued costs of constructing the Improvement for the month immediately preceding the month the statement of costs is received; provided that MERRIAM shall within thirty (30) days after receipt of a statement of costs as aforesaid, remit their portion of the accrued costs to OVERLAND PARK as herein agreed.
  - C. Upon completion of the Improvement, the PW Director shall submit to MERRIAM a final accounting of all costs incurred in making the Improvement for the purpose of apportioning the same among the Parties as provided herein.
  - D. MERRIAM shall be named as additional insured on all applicable certificates of insurance issued by any contractor for this Improvement (the "Contractor(s)").
  - E. OVERLAND PARK shall require performance and completion bonds for the Improvement from all Contractors and require that all Contractors discharge and satisfy any mechanics or materialman's liens that may be filed.
  - F. OVERLAND PARK shall require that any Contractor provide a two-year performance and maintenance bond for the Improvement. As Administrator, OVERLAND PARK will, upon request of MERRIAM, make any claim upon the maintenance bond or performance bond and require that the Contractor fully perform all obligations under the performance and maintenance bonds, and this obligation shall survive the termination of this Agreement and shall be in force and effect for the full term of the performance and maintenance bond.
  - G. OVERLAND PARK shall include in contracts for construction a requirement that the Contractor defend, indemnify and save OVERLAND PARK and MERRIAM harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit or action for injuries or damages sustained to persons or property by reason of the acts or omissions of the Contractor and the performance of his or her contract.
5. **DURATION AND TERMINATION OF AGREEMENT.** The Parties hereto agree that except for the obligations of OVERLAND PARK which may arise after completion of the Improvement as set forth in Section 4, Paragraph F, above, this Agreement shall exist until the completion of the aforesaid Improvement, which shall be deemed completed upon certification to each of the Parties hereto by the PW Director advising that the Improvement has been accepted by him as constructed; provided that upon the occurrence of such certification by the PW Director, this Agreement shall be deemed terminated and of no further force or effect.

6. PLACING AGREEMENT IN FORCE. The administering body described in Section 4 hereof shall cause this Agreement to be executed in triplicate. Each Party hereto shall receive a duly executed copy of this Agreement for their official records.
7. AMENDMENTS. This Agreement cannot be modified or changed by any verbal statement, promise or agreement, and no modification, change nor amendment shall be binding on the Parties unless it shall have been agreed to in writing and signed by both Parties.
8. JURISDICTION. This Agreement shall be construed according to the laws of the State of Kansas and may be enforced in any court of competent jurisdiction.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed in triplicate by each of the Parties hereto on the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

By \_\_\_\_\_  
CARL GERLACH, MAYOR

ATTEST:

ELIZABETH KELLEY, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
STEVE HORNER  
SR. ASSISTANT CITY ATTORNEY

CITY OF MERRIAM, KANSAS

By \_\_\_\_\_  
KEN SISSOM, MAYOR

ATTEST:

\_\_\_\_\_  
JULIANA PINNICK, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
RYAN B. DENK, CITY ATTORNEY



**MERRIAM**

## **3rd Quarter 2021 Employee Service Awards**

### 25 Years of Service

Mark Fauser - Public Works

### 15 Years of Service

Lisa Naughton - Parks and Recreation

# PROCLAMATION

**WHEREAS**, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the International Conference on Discrimination Against Indigenous Populations in the Americas; and

**WHEREAS**, The United States endorsed the United Nations Declaration of Rights of Indigenous People on December 16, 2010 ; and

**WHEREAS**, A growing number of cities and towns in the United States have recognized the second Monday of October as "Indigenous Peoples' Day", re-imagining Columbus Day as an opportunity to celebrate indigenous heritage and resiliency ; and

**WHEREAS**, The City of Merriam recognizes the historic, cultural, and contemporary significance of Indigenous Peoples of the lands that also became known as the Americas; and

**WHEREAS**, The City of Merriam recognizes it was founded and built upon lands first inhabited by Indigenous Peoples of this region and acknowledges and honors these members of the community; and

**WHEREAS**, The City of Merriam values the many contributions made to our community through Indigenous Peoples' knowledge, labor, technology, science, philosophy, arts, and the deep cultural contribution that has shaped the character of the city.

**NOW, THEREFORE**, I, Ken Sissom, on behalf of the Merriam City Council, do hereby proclaim October 11, 2021 as

## Indigenous Peoples' Day

*Proclaimed this 11<sup>th</sup> day of October, 2021.*



Ken Sissom, Mayor



ATTEST



Juliana Pinnick, City Clerk

# PROCLAMATION

**WHEREAS**, on November 8, 1960, the voters of Kansas approved a constitutional amendment granting cities home rule authority. The Home Rule Amendment took effect in Kansas on July 1, 1961. Home Rule gives local government, specifically cities, the power to make decisions at the local level based on the unique needs and values of their residents ; and

**WHEREAS**, cities across our great State manage differing opinions and views on issues ranging from zoning to funding for local services and programs. Home Rule keeps control of the community in the hands of local residents ; and

**WHEREAS**, the Home Rule Amendment empowers cities to determine local affairs and government actions including the levying of taxes, fees, charges and other exaction ; and

**WHEREAS**, the City of Merriam and the League of Kansas Municipalities cities continually work to educate and engage municipal officials, the legislature, and the general public about the importance of Home Rule and local decision making; and

**WHEREAS**, the 60th anniversary of the passage of constitutional Home Rule is a fitting time for all municipalities to engage their residents to about the Kansas Constitution and local laws, so that all Kansans may continue to receive the many benefits of Home Rule.

**NOW, THEREFORE**, I, Ken Sissom, by the virtue of the authority vested in me as the Mayor of Merriam, Kansas, do hereby proclaim October 11, 2021 as

**"Home Rule Day"** in the City of Merriam.

Proclaimed this 11<sup>th</sup> day of October , 2021.



ATTEST

Ken Sissom, Mayor

Juliana Pinnick, City Clerk



## INTEROFFICE MEMORANDUM

MERRIAM



**TO:** MAYOR AND CITY COUNCIL  
**FROM:** JENNIFER JONES-LACY, ASSISTANT CITY ADMINISTRATOR  
**SUBJECT:** POLLING & SURVEY SOFTWARE OPTIONS  
**DATE:** OCTOBER 11, 2021

### BACKGROUND

During the 2021 Budget adoption process, the Council set an objective to investigate the use of survey tools to seek feedback from residents on large community issues in alignment with Goal 1.2 – Gain insight into public sentiment on community issues and services. Staff reviewed several products that provide polling and/or survey options to residents on various issues of concern. Jenna Gant will provide an overview of the following products and a comparison on their features:

- FlashVote
- Polco
- Bang the Table
- Google Forms
- Survey Monkey (paid version)

The governing body is asked to review these options and decide if they wish to move forward with one of the products, which product they prefer, and if they need more information. That will give staff direction on how to move forward on this objective.



**MERRIAM**

*just right.*

# Survey Options

# Why we're looking at this?

- City Council objective to investigate the use of survey tools to seek feedback from residents on large community issues.

# Surveys

- Designed to help determine future actions, especially on complex issues
- Usually long and made up of multiple questions
- Can ask for more personal information (age, location, etc.)
- Requires more commitment from respondent
- Requires more time to gather responses and an analysis occurs to formulate a comprehensive conclusion

# Polls

- Gather opinions on a single topic
- Usually focused on the immediate (at meetings/forums)
- Usually one multiple choice question
- Usually anonymous
- Instant feedback

# Survey vs. Polling

## When surveys are the best method:

- You need comprehensive feedback
- Have a lot of questions to ask
- To gather personal details
- Ask open-ended questions

## When polls are the best method:

- You need immediate feedback
- One question to ask
- Don't need detailed responses
- No time for analysis

# Survey Options Reviewed

## Survey Tools

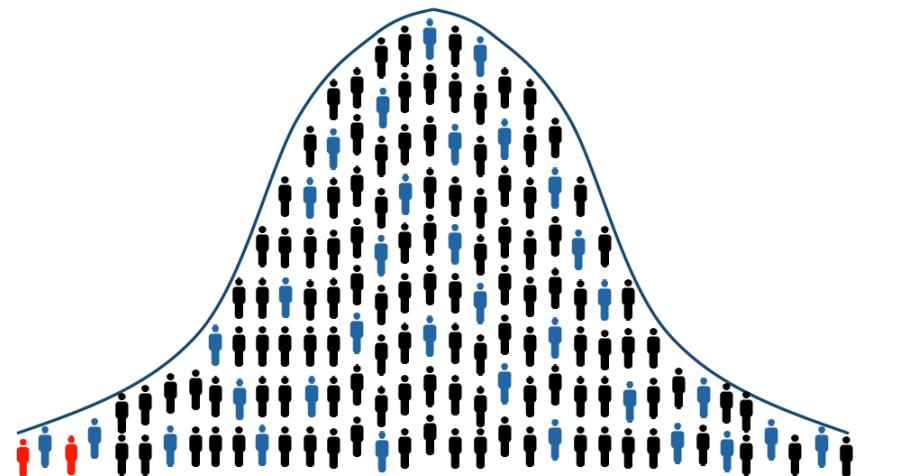
- Flash Vote
- Polco
- Bang the Table
- Google Forms
- Survey Monkey

# Flash Vote – Survey



- Only platform that's statistically valid; get results in 48 hours.
- Get a resident base before surveys are sent out.
  - They do initial outreach through postcards.
- Can gather demographics and geographics from each ward.
- Only six surveys per year; up to five questions each.
- They work with City staff to produce unbiased questions.
- Price
  - English only: \$5900/year + \$1500 setup fee
  - English + Spanish: \$9900/year – no setup fee

# Flash Vote – Survey



How would you allocate \$100 among the options below?

- 40 Remaining budget to allocate
- Beach amenities
- 40 Ice skating rink
- 20 Expand the trail systems
- More public spaces (plazas, parks, wider sidewalks)
- None of the above

**SUBMIT**

**SKIP**

Have you had any problems with your water service in the last 12 months?

- No
- Not Sure
- Yes, and the problem was:

(199 characters or less)

**SUBMIT**

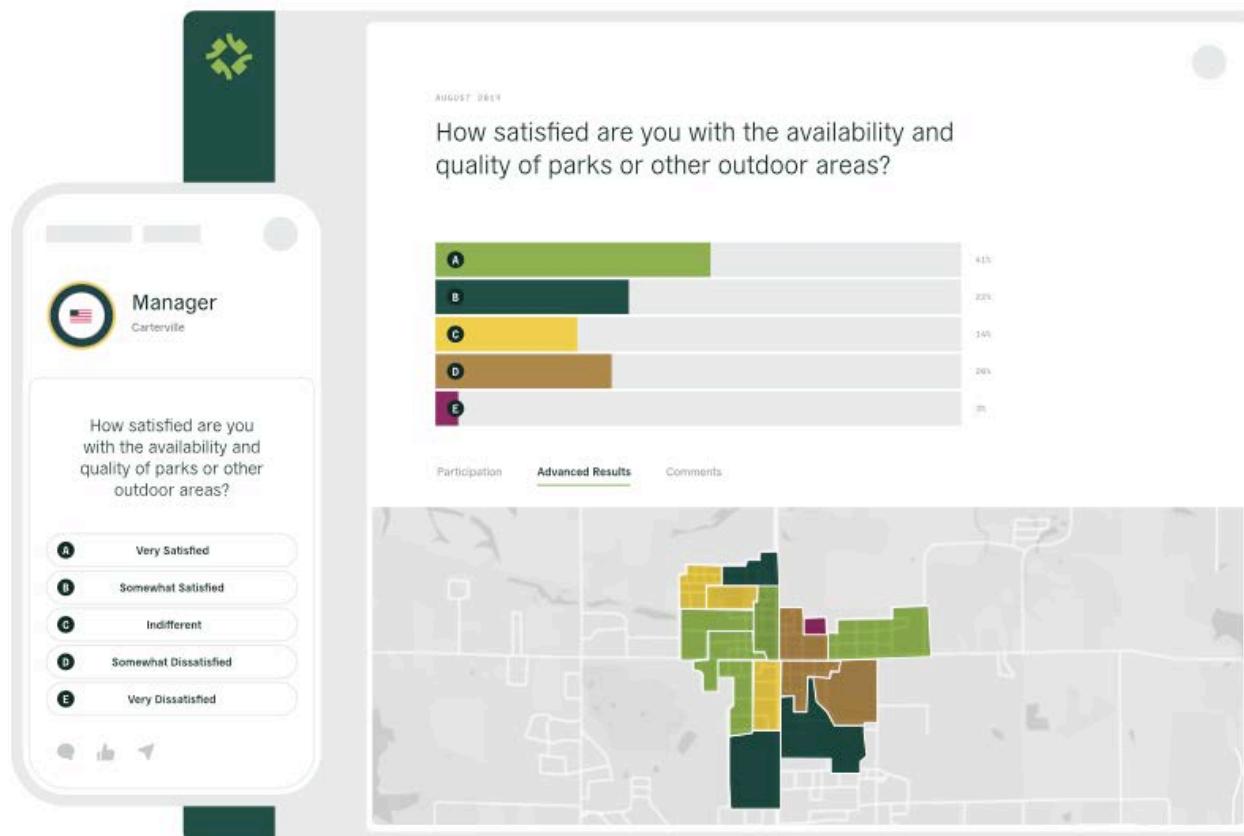


# Polco - Survey



- Similar to FlashVote, but not statistically valid.
  - People opt-in once a survey is live. We're responsible for outreach or they can do for additional fee.
- Create surveys with help of content library, but we can change for our specific questions.
- Can do quick polls.
- Real-time feedback with demographics and geographic breakdown.
- Price: \$5,500/year.

# Polco - Survey



# Bang the Table – Community Engagement

- We create a public engagement website with our branding.
- Each project has it's own webpage.
- Can do everything – surveys, polls, comments section.
- Not statistically valid.
- Demographics/geographics would need to be asked/collected with each survey.
- Price: \$11,500 for first year and \$9,000 each year after.

# Bang the Table – Community Engagement

## For FoCo



[En Español](#)

### Fort Collins is in this together.

The pandemic has brought serious challenges to Fort Collins, but it's also proved that we live in an exceptional community that rises up to help one another. **At For FoCo, we want to highlight the resilience of our community and how we're building back stronger.**

The City is set to receive \$28.1 million of the nearly \$6 billion American Rescue Plan Act funds received by Colorado and other communities. These funds can be spent over the course of the next three and a half years. To guide this spending, the City is developing a **Fort Collins Recovery Plan**.

**We want to hear from you!** What does a resilient, vibrant recovery for all residents and businesses look like? How can we get there? Even if you only have a few minutes, your input matters.

#### Have 1 minute?

- [Share One Idea:](#) Click the "One Thing" tab below and share one topic we should focus on to support pandemic recovery.

#### Have 5 minutes?

- [Take the Survey:](#) Tell us your ideas for a resilient and vibrant recovery

#### Have more time?

- [Dive Deeper:](#) Join us for a community conversation to talk about recovery and share your ideas.
  - Thursday, August 26, 2021 5:30 p.m. - 7:00 p.m. - [View Recording](#)
  - Wednesday, September 22, 2021 5:30 p.m. - 7:00 p.m. - Virtually via Zoom - [Sign Up](#)

Interested in hosting a conversation about recovery with your organization, friends or other group? Please reach out to Sarah Meline, [smeline@fcgov.com](mailto:smeline@fcgov.com) to learn more.



### STAY INFORMED

Subscribe for project updates

Your email address...

**Subscribe**

15 members of your community are following this project

### Related projects

Live Projects

- [2022 Budget](#)
- [For FoCo - Espanol](#)

### Lifecycle

- Community Engagement**
- Plan Development**
- Community Engagement**

While other segments remain stagnant or sink into further disparities.

**ONE THING**   **SURVEYS**   **QUICK POLL**   **STORIES OF ...**   **SHARE YOUR...**

### Share One Idea for Recovery

3 months ago As we shift from response into recovery, we know that we cannot return to the pre-pandemic status quo. We want to know ONE topic you think we should focus on to support pandemic recovery in Fort Collins. No idea or story is too big or too small.

**Add your idea**

**Lyle Lanley** about 4 hours ago  
**MONORAIL**  
You know a town with money is a little like the mule with a spinning wheel. No one knows how he got it, and dangers if he knows how to use it. Monorails

0 Comment 0 ❤️

**City worker and resi...** 9 days ago  
Improve cell service in Fort Collins and the surrounding area - some of the worst in country, regardless of cell carrier! Impacts safety!

0 Comment 0 ❤️

**Samantha** about 1 month ago  
**Fund Peer Support and Community Based Mental Health Initiatives**  
The mental health impact of the pandemic is undeniable, as reflected in suicide and

0 Comment 14 ❤️

**Sunny D** 25 days ago  
**Use recovery funds to convert blighted retail space into community centers for childcare, housing, healthcare, recreation and belonging**

0 Comment 0 ❤️

**Gregg** 9 days ago  
**Educate and Encourage Health and Preventative Practices**  
Instead of pushing pharmaceuticals and vaccines, teach and encourage people to

0 Comment 1 ❤️

### Community & Business Resources

[CARES CVRF](#)   [CARES CVRF Funding Impact Report](#)

### Who's Listening

**SeonAh Kendall**  
City Recovery Manager

**Sarah Meline**  
Recovery Policy & Engagement Specialist



# Google Forms - Survey

- Easy to create forms and has question logic.
- Demographics/geographics would need to be asked/collected with each survey.
- Photo heading can be customized for our brand but not colors.
- **Free.**

# Google Forms - Survey

## Merriam Highlights & Recreation Feedback

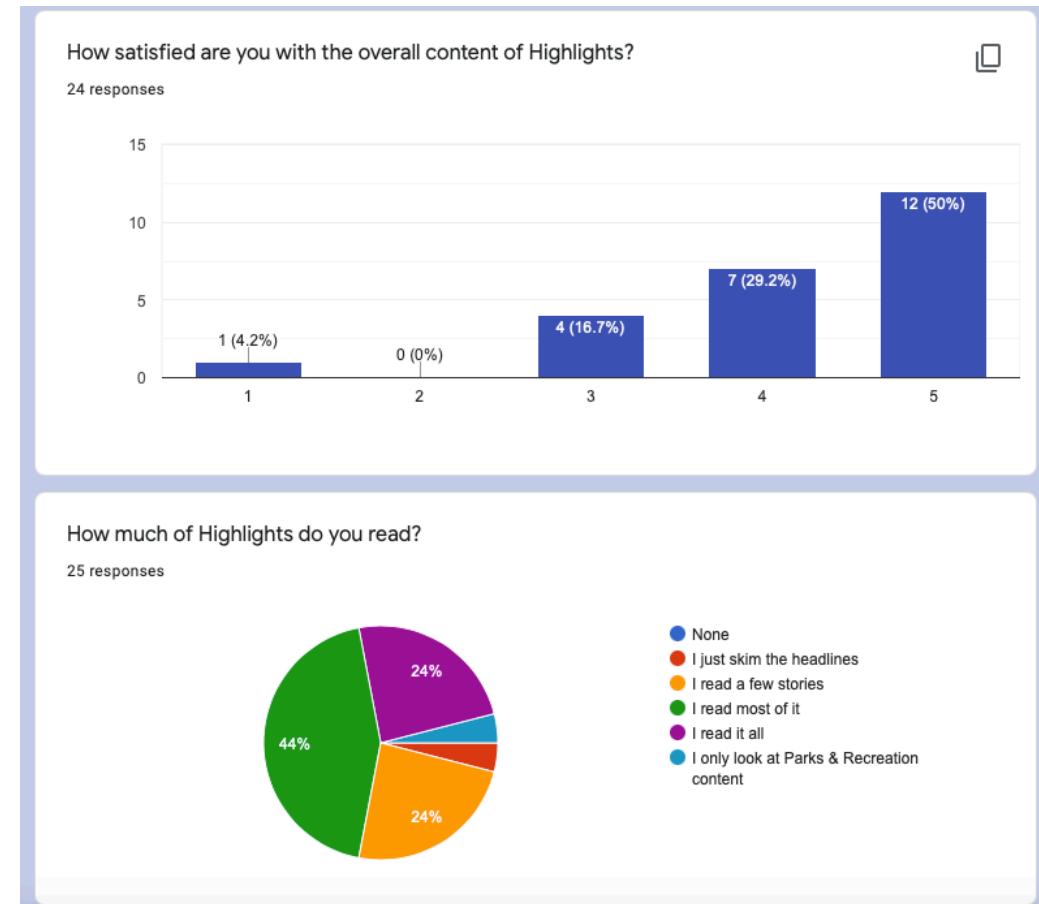
Form description

How satisfied are you with the overall content of Highlights?

1    2    3    4    5  
Very Unsatisfied    Very Satisfied

How much of Highlights do you read?

- None
- I just skim the headlines
- I read a few stories
- I read most of it
- I read it all
- I only look at Parks & Recreation content



# Survey Monkey - Survey

- Can add branding.
- Has a questions bank.
- Can apply question logic, more robust than Google Forms.
- Demographics with paid subscription if not part of survey.
- Free version or paid versions (\$385-\$2,700 per year).
- City has used free version for internal surveys.



# Survey Monkey - Survey

The image displays two side-by-side screenshots of the SurveyMonkey platform.

**Left Screenshot (Survey Creation):** Shows the 'Group Exercise Class Survey' in preview mode. It includes three questions:

1. Did you enjoy the class?  
Options: Yes, No, If no, why?
2. Did you enjoy the class instructor?  
Options: Yes, No, If no, why?
3. Did the space meet your needs?  
Options: Yes, No, If no, why?

Below the survey, there are 'Device View' and 'Survey Format' buttons.

**Right Screenshot (Survey Analysis):** Shows the results for 'Q1: Did you enjoy the class?' from 'Page 1'. The results are as follows:

ANSWER CHOICES	RESPONSES
Yes	100.00% 9
No	0.00% 0
If no, why?	Responses 0.00% 0
<b>TOTAL</b>	<b>9</b>

The analysis also includes a bar chart showing the distribution of responses: Yes (green bar, 100%), No (white bar, 0%), and If no, why? (white bar, 0%).

# What Other Cities are Doing?

- Gardner – Survey Monkey, paid version
- Edgerton – Survey Monkey, free version
- Kearney School District – Survey Monkey and Google Forms, free
- Lenexa – Survey Monkey, paid version
- Liberty, MO – Survey Monkey, paid version
- Mission – Survey Monkey, paid version
- Overland Park – Google Forms; Polco for the Planning Department
- Shawnee – Survey Monkey, paid version

Features	Flash Vote	Polco	Bang the Table	Survey Monkey	Google Forms
Statistically Valid	Yes	No	No	No	No
Question Assistance to Prevent Bias	Yes	Survey Library	No	Prewritten questions	No
Unlimited Surveys	No – 6 per year	Yes	Yes	Yes	Yes
Collect Demographics	Yes	Yes	If asked in survey	If asked in survey	If asked in survey
Annual Cost	\$5,900; English +Spanish \$9,900	\$5,500	\$9,000	Free and paid versions	Free
Setup Fee	\$1,500 + outreach	Outreach costs	\$2,500	No	No
Unlimited Questions	No – 5 Qs per survey	Yes	Yes	Yes – with paid version	Yes
Location Verification	Yes	Yes	Yes	Yes – with paid version	No



# Next Steps?





## AGENDA ITEM INFORMATION FORM

**AGENDA ITEM:** Consider approval of an ordinance amending Sec. 1-3 and 2-29 of the Merriam Code of Ordinances.

**SUBMITTED BY:** Juli Pinnick, City Clerk

**MEETING DATE:** October 11, 2021

### PROJECT BACKGROUND/DESCRIPTION:

During review of the Governing Body Rules of Procedure (GBROP) it was discovered that there were many opportunities for improvements to the document. One item discovered during the process was the definition of "Governing Body" was different than the definition in the Code of Ordinances. Other items discovered included a minimal definition of when the Mayor is authorized to vote, and remote attendance allowed by telephone only.

City staff reached out to the City Attorney to help provide some clarification on these issues. This Ordinance, drafted by the City Attorney, will bring these items into compliance with State Statute, update the Code of Ordinances to correctly define "Governing Body", voting power of the Mayor, and provide allowances for remote meetings by telephone, video conference and other means. (per K.A.R. 16-20).

K.S.A. 12-104 defines the composition of "Governing Body" for purposes of voting on Charter Ordinances and allows cities to establish when the Mayor votes on other matters through passage of an ordinance. Previously voting power of the Mayor was only memorialized in the GBROP and was not included in the Code of Ordinances.

This ordinance will clearly define voting power of the Mayor as follows:

1. On Charter ordinances
2. On regular ordinances when there is less than the number of required favorable votes
3. On resolutions or motions, in the event the vote of the council results in a tie.

Staff is suggesting waiving the customary first reading of the ordinance in order to marry up the approval of this ordinance with the GBROP and City Council Policies also on this meeting Agenda.

The GBROP under consideration includes the changes that will occur upon approval of this ordinance.  
"Governing Body" included in the definition section (pg. 4)  
"Voting power of the Mayor" included under 2.0 Procedure of Meetings (pg.10)  
"Remote Attendance" included under 1.0 General Meeting Rules (pg. 6)

### CITY COUNCIL GOALS AND OBJECTIVES

#### FINANCIAL IMPACT

**Amount of Request/Contract:** N/A

**Amount Budgeted:** N/A

**Funding Source/Account #:** N/A

#### SUPPORTING DOCUMENTS

Draft Ordinance

**ACTION NEEED/STAFF RECOMMENDATION**

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Waive the customary first reading and approve an ordinance amending Sec. 1-3 and 2-29 of the Merriam Code of Ordinances.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 1-3 AND ADDING SECTION 2-29 TO CODE OF  
ORDINANCES OF THE CITY OF MERRIAM, KANSAS**

WHEREAS, the Kansas legislature amended K.S.A. 12-104 defining the composition of “governing body” for purposes of voting allowing cities to establish whether the Mayor is a member of the governing body for purposes of voting by ordinance of the city passed by a 2/3rds majority of the city council;

WHEREAS, the City does hereby adopt the present ordinance to codify the voting rights of the Mayor and Council on all matters requiring a vote coming before the governing body;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MERRIAM, KANSAS:**

**Section 1.** The definition of “Governing body” within Section 1-3 of the Code of Ordinances for the City of Merriam, Kansas shall be amended to provide as follows:

“Governing body” The term “Governing body” means the Mayor and City Council, provided however that whether the Mayor is deemed to be a voting member of the Governing body is determined by Section 2-29 of the Code of Ordinances.

The remaining provisions of Section 1-3 of the Code of Ordinances shall remain in full force and effect.

**Section 2.** Section 2-29 shall be added to the Code of Ordinances to provide as follows:

**Sec. 2-29 – Voting.**

- (a) A motion regarding a Charter ordinance may be acted upon at a duly noticed meeting at which a majority of the Governing Body is in attendance. The Mayor and each Councilmember shall each have one (1) vote when in attendance at such meeting and the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the full membership of the Governing Body is required for passage.
- (b) A motion regarding any other ordinance may be acted upon at a duly noticed meeting at which a majority of the members of the City Council is in attendance. Each Councilmember shall have one (1) vote when in attendance at such meeting and the affirmative vote of a majority of the full membership of the City Council is required for passage. If the favorable vote is one (1) less than the number required for passage, the Mayor shall have the power to cast the deciding vote in favor of the ordinance. Any ordinance that is vetoed by the Mayor may be passed over the veto by a vote of three-fourths ( $\frac{3}{4}$ ) of the full membership of the City Council.
- (c) Any other resolution or motion requiring the approval of the City Council or the Governing Body may be considered at a duly noticed meeting of the City Council at which a majority of the members of the City Council are in attendance. When passage requires the affirmative vote of a majority of the Councilmembers in attendance, the Mayor shall vote only in the event of a tie.
- (d) Attendance at a meeting may be in person or it may be by telephone, video conference or other means that allows the person so attending to hear and be heard by all other persons in attendance at the meeting.

**Section 3.** Repeal. That section 1-3 of the Code of Ordinances, city of Merriam, Kansas, as it existed before the above amendment is hereby repealed.

**Section 4.** Severability. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**Section 5.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval by 2/3rds of the city council, and publication in the official City newspaper, all as provided by law.

PASSED by 2/3rds of the City Council this \_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED AND SIGNED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Ken Sissom, Mayor

ATTEST:

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Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

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Ryan B. Denk, City Attorney



## AGENDA ITEM INFORMATION FORM

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**AGENDA ITEM:** Consider approval of amended Governing Body Rules of Procedure (GBROP) and City Council Policies

**SUBMITTED BY:** Juli Pinnick, City Clerk

**MEETING DATE:** October 11, 2021

### **PROJECT BACKGROUND/DESCRIPTION:**

#### GBROP:

The proposed GBROP provides a comprehensive overview of the expectations and operations of the Governing Body and its members. The intent of this document is to use as a handbook and training tool for Governing Body members.

The process began in March 2020 by staff to update Governing Body procedures and operational processes not included in the document and to modernize the look of the document. All references to State Statute and excerpts from Municipal Code were also verified/updated during this process.

#### City Council Policies:

There were 30 City Council Policies and many of the policies were outdated and no longer needed. In addition, there were several policies that were similar in nature, are now combined into a single policy. The 30 policies have been reformatted and combined into 10 policies.

Once staff completed the first revamp of the GBROP and City Council Policies, a council subcommittee of Councilmembers Pape, Hands and Neal met to review and edit the GBROP and City Council Policies. There were several meetings between the subcommittee members, and city staff which resulted in the final copy for consideration. The final copy has been reviewed by the City Attorney and is ready for Council approval.

While it is difficult to go over all of the additions/changes to the document, below is a high level overview of some significant additions to the GBROP:

- Alternate methods for conducting meetings and receiving Public Comments.
- Motions requiring a second and motions that die for lack of a second. This practice began a few years ago but was not in the GBROP.
- Work Sessions
- Clarification of Voting Power of the Mayor and Abstentions.
- Seating order of the Council

This final copy does not include the following Council Policies:

*Policy 107-Street Lighting Policy (1989-2010)* – policy no longer needed city has streetlight replacement/install plan.

*Policy 108 Curb Obstructions on City Rights of way (1989)*- policy no longer needed per Public Works Director

*Policy 109 Employee Benefits Offered by Third Parties (1989-2010)* - this is handled by the HR Manager no need for policy

*Policy 110 Recognition of Retirees (1989 & 2002)* - this policy is no longer needed

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*Policy 112 Outstanding Checks (1992)* – this is regulated by K.S.A. 10-816 and is no longer needed

*Policy 122 Consent Agenda Items (1999 & 2017)* – added to the GBROP

*Policy 104 Governing Body Expenses covered by the City (1989 & 2010)* – added to GBROP

*Policy 123 Park Naming Policy (1999 & 2010)* – this policy will be added to Park Board policies

It is recommended these policies be repealed.

Once approved, this document will be provided to all Governing Body members and staff. In addition, the document will be available in the city's new agenda management software for easy accessibility and reference.

#### **CITY COUNCIL GOALS AND OBJECTIVES**

2.0 Provide Exceptional Service Delivery

#### **FINANCIAL IMPACT**

**Amount of Request/Contract:** N/A

**Amount Budgeted:** N/A

**Funding Source/Account #:** N/A

#### **SUPPORTING DOCUMENTS**

Governing Body Rules of Procedure and City Council Policies

#### **ACTION NEEDED/STAFF RECOMMENDATION**

Recommend approval of the Governing Body Rules of Procedure and City Council Policies, as presented; repealing Council Policies 104, 107-110, 112, 122, and 123.



# **Governing Body Rules of Procedure and Council Policies**

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## **Governing Body Procedures, Protocol and Decorum Overview**

**Authority:** The Governing Body shall establish its own rules of procedures, protocol and decorum in a clear and concise manner to assist them in the general conduct of business. These procedures shall be documented and adopted by resolution. The Governing Body shall also provide general information on the role and responsibilities of staff and advisory committees.

**Application:** These procedures shall be applicable to all members of the Governing Body and pertinent staff members in their capacity of conducting city business. It is the City's intent to comply with the Americans with Disabilities Act (ADA) and all applicable federal, state and local laws. If any of these policies conflict with the ADA, the City will make every effort to provide reasonable accommodations for all qualified persons.

**Contents:** This publication consists of an accumulation of practices developed and utilized over the years and excerpts from Merriam Code of Ordinances and State Statutes. It is intended that this compilation of procedures be used as a quick one-stop reference for use by the Governing Body and staff.

**Amendment of These Rules:** These rules may be amended or new rules adopted by a majority of the entire membership of the Governing Body, thus requiring an affirmative vote of 5 Councilmembers for such amendments or new rules to take effect.

### **DEFINITIONS**

**Chair:** When the term Chair is referred to in this publication, it is understood to mean the Mayor, or Council President or Vice President when presiding as Mayor in the temporary absence of the Mayor.

**Governing Body:** The eight (8) Councilmembers and Mayor, collectively.

**City Council:** The eight (8) Councilmembers

**City:** A public corporation exercising governmental functions, under the authority provided in state of law.

**K.S.A.:** Kansas Statutes Annotated. When used as a citation herein, K.S.A. \*\*-\*\*\*\* refers to the statutes for explanation authority.

**Open Meetings Law:** The Kansas Open Meetings Act (KOMA) generally covers the actions of the City Council and the CCouncils, task forces, commissions and committees created by the City. The Act defines what constitutes a public meeting and requires that meetings be open to the public, with certain exceptions. K.S.A. 75-4317

Kansas Open Records Act (KORA): Refers to K.S.A. 45-215 through 45-223. Policies and procedures specific to the City of Merriam's records can be found in Chapter 2, Article V. of the Merriam Code of Ordinances.

## **1.0 GENERAL MEETING RULES**

### **A. Meetings to Be Public (Open Meetings)**

All meetings to discuss City business at which a quorum of the Council (5) members is present are required to be open to the public. Written notice in the form of an agenda, weekly calendar, or other form of notice as determined by the City Clerk, specifying when and where meetings will be held shall be distributed to those individuals requesting notice as set forth in the Kansas Open Meetings Act (KOMA). A list of such individuals shall be compiled and updated by the City Clerk's office. If taken, minutes of the meetings are open to public inspection.

Serial interactions, including e-mail and verbal discussion between five (5) Councilmembers-elect sharing a common topic concerning the business affairs of the City may be considered a meeting and should be avoided unless such interaction is properly noticed to the public

### **B. Quorum**

A majority of Councilmembers-elect (5) shall constitute a quorum to do business. A quorum is necessary for the transaction of business or discussion. If a quorum is not present, those in attendance will be recorded and the meeting shall be adjourned and the City Clerk or City Administrator may set a new meeting date. (K.S.A. 14-111)

### **C. Attendance**

The Mayor and members of the Council should inform the City Clerk if they are unable to attend any Council meeting.

### **D. Public Hearings**

The Governing Body shall hold public hearings when required by federal, state or municipal law. Public hearings are officially opened and closed by the Chair.

Public hearings may be continued with a motion and majority vote without further published notice, if at the time and place for which notice originally was given the Chair specifies the time and place where the hearing will reconvene.

### **E. Remote Attendance**

Phone link-ups and any other medium for interactive communication will be allowed to establish attendance for conducting meetings when special circumstances exist with prior approval from the Mayor.

### **F. Public Comment**

The Governing Body Chair may designate portions of meetings to receive public comment.

**G. Meeting Minutes**

It is the responsibility of the City Clerk or designee to keep and enter a written account of all official City Council meetings in the official record. All meetings shall be recorded. Written minutes shall serve as the official record and shall be permanently retained. Minutes are not verbatim. It is the policy of the Governing Body that only the Mayor and Councilmembers have the authority to make revisions to the minutes, subject to a majority vote of the City Council. Governing Body requests for amendments to the minutes should be directed to the City Clerk prior to approval of the minutes. Typographical corrections or additions to the minutes should be directed to the City Clerk prior to approval of the minutes. Requests for substantive amendments to the minutes must be approved by a majority vote of the City Council. Governing Body members not present at a particular meeting do not need to abstain from approving the minutes from that meeting.

Any requests for amendments to the minutes from a member of the public should be directed to a member of the Governing Body in writing. The Governing Body member will determine if the amendment should be forwarded to the Council for consideration.

**H. Right of Floor**

The Chair will recognize members of the Council, staff or audience desiring to speak. Persons speaking should confine their remarks to the subject under consideration and adhere to any stated time or length limits.

**I. City Administrator**

The City Administrator or designee attends all Council meetings. The City Administrator may make recommendations to the Governing Body and has the right to participate in all Council discussions.

**J. City Attorney**

The City Attorney or designee attends all Council meetings. The City Attorney, may give written or oral opinions on questions of law. The City Attorney acts as the Governing Body's parliamentarian providing recommendations to the Chair relating to interpretation and application of the Rules set forth herein and other matters of procedure relating to the conduct of meetings in accordance with Kansas law.

**K. City Clerk**

The City Clerk or designee attends all Council meetings. The City Clerk calls roll, records votes, keeps the official minutes and performs other duties as requested by the Governing Body and may serve as the official time keeper

**L. Department Directors and Staff**

City Department Directors or their representatives shall attend the meetings unless excused by the City Administrator. When communication is made to a Department Director or their staff by a member of the Governing Body requesting information on items of business deemed of interest to the entire Governing Body, the City Administrator shall be apprised of said request by the Department Director and included in all information supplied in response. The City Administrator will disseminate the information supplied to all Governing Body members when deemed appropriate.

**M. Rules of Order**

This document shall govern all Council proceedings.

**N. Calling of Special meetings.**

Pursuant to Section 2-24 of the Merriam Code, special meetings of the Governing Body may be called by the Mayor or Acting Mayor, on the written request of any three members of the Council, specifying the object and purpose of such meeting, which request shall be read at the meeting, and entered at length in the official record of said meeting.

**O. Regular Meetings; Cancellation of Meetings.**

Pursuant to Section 2-23 of the Merriam Code, the Governing Body shall hold regular meetings on the second and fourth Monday of each month at 7:00 p.m.; provided, however, that when the day fixed for any regular meeting shall fall upon a day designated by law as a legal or national holiday, or when otherwise deemed necessary or appropriate by the Governing Body, such meeting may be canceled or rescheduled following the passage of a resolution so indicating. Furthermore, a regular meeting of the Governing Body may be canceled whenever the Mayor deems it appropriate due to special circumstances including, but not limited to, a lack of agenda items or inclement weather, or upon the written request of three (3) Councilmembers with approval of the Mayor. Notice of such cancellation shall be conspicuously posted at City Hall at the scheduled time of the canceled meeting; noticed on the city's various media outlets, and notice of the cancellation should be given to those individuals who have requested notice of City Council meetings pursuant to the Kansas Open Meetings Act (KOMA). In no event shall there be less than one regular meeting of the Governing Body per month.

All regular meetings of the Governing Body shall be held in the Council Chambers at Merriam City Hall, 9001 W. 62<sup>nd</sup> Street, Merriam, Kansas unless otherwise designated by resolution or conspicuously posted at City Hall at the scheduled time of said meeting. The Governing Body may hold meetings remotely as allowed by Kansas Administrative Regulation (K.A.R.) 16-20-1 as long as the criteria outlined in K.A.R. 16-20-1 are met.

**P. Executive Sessions**

Executive Sessions are closed to the public and are held in accordance with the provisions of the Kansas Open Meetings Act. A formal motion must be made, seconded and carried by majority vote to recess into executive session. Any motion to recess for a closed or executive meeting shall include: (1) A statement describing the subjects to be discussed during the closed or executive meeting, (2) the justification listed in K.S.A. 75-4319(b) for closing the meeting; and (3) the time and place at which the open meeting shall resume. Discussion must be limited to the subjects identified in the motion. If necessary, additional motions must be made to extend executive session discussion. No binding action shall be taken in executive session. Subjects discussed during Executive Session are confidential.

**Q. Work Sessions** Work Sessions may be utilized to discuss matters at length. Work Sessions are subject to KOMA. No action, public comments or minutes are taken at Work Sessions.

## **2.0 PROCEDURE OF MEETINGS**

### **A. Call to Order**

The Chair will call the Council Meetings to order. In the event the Mayor, Council President and Council Vice-President are absent, the City Clerk will call to order the meeting to elect a temporary Chair.

### **B. Preservation of Order**

The Chair preserves order and decorum and keeps those in debate to the question under discussion.

### **C. Discussion of Issues**

A member of the City Council or staff shall gain the attention of the Chair by raising their hand and being acknowledged. Comments and questions should be limited to the issue before Council. Cross-exchange between Councilmembers and public should be avoided.

### **D. Call for the Question**

Often after extensive debate of an issue for which a motion is on the floor, a member will “call for the question,” meaning an immediate vote on the motion then under discussion. The Chair, being satisfied that members are ready to vote, then puts the question to the body.

### **E. Motions**

All motions require a second. A motion cannot be seconded by the same Councilmember who made the motion. If there is no second, the motion dies for lack of a second.

### **F. Roll Call Vote**

Votes will be taken by a roll call vote. The City Clerk will conduct the roll call vote beginning in alphabetical order until all members have been polled. The first member polled will rotate to the bottom of the list for the next vote.

### **G. Voting Power of the Mayor**

The Mayor is authorized to vote when the Council is equally divided on resolutions and non-ordinance matters in which the vote of the City Council results in a tie; on ordinances if the favorable vote is one (1) less than the number required for passage and the Mayor’s favorable vote will result in passage; and on Charter Ordinances.

#### **Ordinary Ordinances:**

To pass, a majority of all members-elect of the Council (5 of 8) must vote in favor thereof. The Mayor may cast a vote when the number of favorable

votes is one less than required (i.e. if there have only been 4 affirmative votes)

Example:

All Councilmembers present: 4-4, Mayor votes.

One Councilmember absent: 4-3,

Mayor votes.

All present, one abstains: 4-3, Mayor votes because when voting on ordinances, abstention does NOT count with the majority.

If Mayor votes yes, ordinance passes 5-3. If Mayor votes no, ordinance fails 4-4.

All present, two abstain: 3-3, Mayor does not vote as 5 affirmative votes are required.

**Charter Ordinances:**

To pass, 2/3 of the members-elect of the governing body (6 of 9) must vote in favor thereof. Mayor is authorized to vote as a member of the Governing Body.

**Rezoning Matters and matters which require a vote of the Governing Body:**

Rezoning: To uphold recommendation of the Planning Commission, Council must pass an ordinance which requires 5 affirmative votes (same as Ordinary Ordinances)

To override recommendation of planning commission, 2/3 majority vote of Governing Body (6 of 9). Mayor is authorized to vote when the favorable vote in support of a zoning ordinance is one less than the number required for passage and the Mayor's favorable vote will result in passage. .

To send back to planning commission, only requires majority of those present.

In case of protest petition, rezoning ordinance requires 3 / 4 vote of all members of the Governing Body (6 of 8). Mayor is authorized to vote when the favorable vote in support of a zoning ordinance is one less than the number required for passage and the Mayor's favorable vote will result in passage.

**H. Abstentions**

No one may be compelled to vote, although Councilmembers do have a duty to vote to express their willingness to share in the responsibility of decisions. If a member desires not to vote, they must abstain when their vote is requested.

Members must comply with the City's Code of Ethics (Sec. 6.0, E). Members with a conflict under the City's Code shall recuse from action and participation, advise of the conflict and leave the room until discussion and action on the transaction is complete.

If a Member wishes to abstain on an item listed on the consent agenda because of a conflict of interest, they must request removal of said item from the consent agenda and advise of the conflict, but may remain in the Council Chambers provided there is no discussion of the item. Removed items will be voted on as separate items by the remaining Councilmembers.

**Non-ordinance matters:** An abstention counts with the majority on non-ordinance matters.

**Ordinary Ordinances:** Five (5) affirmative votes are required to pass an ordinance; an abstention does NOT count with the majority/prevailing side.

**Example:**

All present, one abstains: vote is 4-3, Mayor votes because abstention does NOT count with the majority.

If Mayor votes yes, ordinance passes 5-3. If Mayor votes no, ordinance fails 4-4.

All present, two abstain: 3-3, Mayor does not vote as 5 affirmative votes are required, ordinance fails 3-3.

**Charter Ordinances:** Requires 6 affirmative votes and includes the Mayor. Abstention does NOT count with majority.

**Rezoning Matters:**

To uphold the recommendation of the Planning Commission, Council must pass an Ordinance with five (5) affirmative votes. Abstention does NOT count with prevailing side. (same as Ordinary Ordinance)

To override recommendation of the Planning Commission requires a 2/3 majority of the Governing Body (6 of 8). Abstention does NOT count with majority.

To send back to the Planning Commission, only requires a majority of those present. Abstentions count with the majority. (same as Non-ordinance matters)

In case of protest petition, rezoning ordinance requires 3 / 4 majority vote of all members of the Governing Body (6of 8). Abstention does NOT count with the majority.

**I. Revote**

There are two methods to revote on an issue: (1) a motion to reconsider, or (2) a motion to rescind. A motion to reconsider may be made by any person who voted on the prevailing side of an issue to ask that the issue be reconsidered. This motion must be made at the same meeting in which the original vote was taken. If the motion to reconsider is passed, it annuls the vote previously taken and brings the original motion before the City Council again for consideration. It does not automatically bring about the opposite of the vote previously taken.

A motion to rescind a vote previously adopted actually nullifies a decision that has been made at a previous meeting. The motion to rescind can be brought by any member, regardless of which side they originally voted. If the maker of the motion to rescind verbalizes their intention at a meeting that the motion to rescind will occur at a subsequent meeting, the motion to rescind only requires a majority of the members present for passage. If no notice was given, then the motion to rescind takes a majority vote of the entire membership to pass.

**J. Point of Order**

A point of order is made when there is an assertion that a rule is being violated, and a request is made to the Chair to enforce the rule. It should be made as soon as possible following the violation, and should state the point (violation) simply, without debate or questions. The Chair will then rule on the point.

**K. Appeal from the Decision of the Chair**

Appealing the decision of the Chair is normally infrequent, but can occur when the Chair and a member of the body differ over the correct application of a procedural matter. The appeal process is established to resolve the difference without altering either the authority of the Chair or the rights of the members.

Any decision of the Chair is subject to appeal, whenever a member of the body believes the decision of the Chair is contrary to rule or law. The member should state, "I appeal the decision of the Chair." The Chair shall allow limited debate on the appeal if needed, and then shall put the question, "Shall the decision of the Chair stand as the decision of the Council?" A roll call vote is taken, and a majority vote in the negative is required to overturn the ruling of the Chair. If the decision of the Chair is sustained, no further action is taken. If it is not sustained, the Council goes forward with a discussion of the motion or other matters before the body.

**L. Tabling**

If a motion is made to table an item, discussion must stop immediately and causes a vote to postpone the matter indefinitely or to a time and date certain.

**M. Recess**

At any point in the agenda, the Chair may declare a short recess until a specified time. A meeting may be recessed until a future date certain by a majority vote of the Council.

### **3.0 ORDER OF BUSINESS AND AGENDA**

#### **A. Agenda Order Of Business**

The normal agenda order of business is set forth below. Provided, when in the opinion of the Mayor in consultation with the City Administrator, unusual circumstances warrant a change in the order of business for a specific meeting, such change may be made in the order of business and may be so listed on the agenda.

- Call to Order
- Pledge of Allegiance
- Roll Call
- Public Items
- Public Hearings (or at other relevant point in the agenda)
- Consent Agenda
- Mayor's Report\*
- Planning Commission/ Public Hearings
- Council Items
- Staff Items
- New Business
- Executive Sessions\*\*
- Adjourn

\* Other agenda items that may be included in the Mayor's Report may include, but are not be limited to: Proclamations, Presentations, Recognitions, Designations, Appointments/Reappointments, and Work Session Items.

\*\*Generally held at end of meeting but can be held at any point during the meeting.

#### **B. Agendas and Agenda Material**

Agenda Packets for all meetings are made available online by 4:00 P.M. the Thursday preceding the Monday Council meeting. When possible, the Governing Body is encouraged to contact staff with questions and clarifications prior to the meeting. Copies of the agenda will also be available prior to the meeting for all members of the public. If a member of the public wishes to have copies of detailed information or background material for an agenda item, that information will be made available in accordance with the City's policy on public records and the provisions of the Kansas Open Records Act (KORA).

#### **C. Consent Agenda**

The following items may be listed on the Consent Agenda and are considered by the Governing Body to be routine business items. Approval of these items may be made by a single motion and approved with a majority vote. Should a member of

the Governing Body desire to discuss any item, such member may request the Mayor to remove the item from the Consent Agenda so that it may be considered separately.

Items that are considered to be routine and eligible for the Council consent agenda include:

- Project Completion Certificates
- Letters of Understanding
- Interlocal Agreements
- Bid awards within the project budget
- Financial Statements
- Appropriation Ordinances
- Change orders in excess of the City Administrator's authority.
- Minutes of Council Meetings
- Cereal Malt Beverage Licenses, disposal licenses and other licenses
- Ratification of appointments
- Municipal Code updates
- Resolutions that transfer funds from one account to another
- Final Plats

**D. Change in Agenda Item Sequence**

The Chair may state at any time during the meeting a change in the sequence of discussion of items on the agenda. This exception is particularly useful when a large crowd is in attendance for a particular item.

**E. Preparation of Agenda**

The City Clerk prepares the agenda for each meeting. Determination of what items presented on any agenda is made by the City Administrator through discussion and direction made at previous Council meetings, recommendations made by City Boards and Commissions, staff items which need Council approval, requests made by Mayor or Councilmembers and any items needed to be listed at times throughout the year that cause the efficient running of City business.

Once an agenda has been set and it is subsequently necessary to add an item for discussion due to a time factor or an emergency situation, the City Clerk may amend the agenda after consultation with the Mayor or City Administrator.

An item may be tabled or continued to a future meeting agenda but must be duly noted as such on the set agenda or withdrawn entirely and as such, a minute record is made.

**F. Reading of Minutes**

Unless a Councilmember requests a reading of the minutes, such minutes may be approved without reading, provided the City Clerk has previously furnished a copy to each member.

**G. Adjournment**

The Chair cannot summarily adjourn a meeting. Before there can be an adjournment, the Council must, by proper action, move, second and vote for adjournment. Upon adjournment, the meeting is ended and no further business can be conducted.

**H. Council Meeting Seating Order**

The Mayor will be seated in the center of the dais. Councilmembers from Ward One will be seated to the Mayor's farthest right with Ward Two Councilmembers to the immediate right. Councilmembers from Ward Three will be to the Mayor's immediate left with Ward Three Councilmembers to the farthest left.

**I. Media Devices During Meetings**

Media devices will be used during meetings only to access information pertinent to the current meeting.

The Governing Body shall not communicate with other members of the Council, staff or third parties via electronic communication during meetings pertaining to business on the current agenda.

**J. "CONFIDENTIAL" or "LIMITED ACCESS" Information**

All information deemed to be "CONFIDENTIAL" in nature or of "LIMITED ACCESS" related to Executive Sessions under KOMA provisions will be provided in paper form.

## **4.0 CITIZENS' PARTICIPATION**

### **A. Business from the Floor**

Any member of the public desiring to address the Governing Body on an issue NOT listed on the agenda must secure permission of the Chair during the part of the Council meeting designated "Public Items." Once recognized by the Chair, each person addressing the Governing Body will approach the microphone, communicate their name and address for the record before they speak to the issue, and, if acting as spokesperson for a group, must name such group for the record and, unless further time is granted by the Chair, will limit their remarks for a period of time as indicated by the Chair.

Business presented for discussion will be limited to no more than 5 (five) minutes, unless further time is granted by the Chair.

Petitions or other items of information or correspondence presented during a Council meeting shall also be filed with the City Clerk.

Any person(s) desiring to address an agenda item will be invited to do so during the pre-discussion period. Once recognized by the Chair, each person will follow the procedures set forth in this section. The Chair may deem it necessary to set time limitations for these remarks. Further remarks from persons in the audience will not be invited or permitted once the Governing Body has begun its formal discussion. An alternate method for accepting public comment may be established if special circumstances exist. The Mayor will approve any changes in procedure in advance, and notice of such procedure will be included on the agenda.

### **B. Personal and Slanderous Remarks**

Any person making personal, impertinent or slanderous remarks or becoming boisterous while addressing the Governing Body may be requested to leave immediately and be barred from further audience before the Governing Body by the Chair at that meeting.

### **C. Written or Telephone Communication**

Interested parties or their authorized representatives may address the Governing Body in writing or via telephone regarding any agenda matters prior to the City Council meeting. If such communication regarding an agenda item is received by the City Administrator or Department Director, notification will be made by e-mail to all Governing Body members.

### **D. Ex Parte Contacts**

Ex parte communication occurs when an individual talks to a Governing Body member about an item on the agenda without the applicant present, when

considering quasi-judicial action such as in zoning matters. Governing Body members should disclose on the record any ex parte communications they receive prior to discussing and voting on an item so that the entire board can receive the benefit of their information.

A “quasi-judicial” act is when a City Commission examines specific facts, applies a law or policy to the facts, and renders a decision that has limited effect on those other than the affected party. Zoning decisions are the most common “quasi-judicial” actions.

## **5.0 ORDINANCES, RESOLUTIONS AND MOTIONS**

### **A. Form**

Ordinances and resolutions shall be presented to the Governing Body in print, or electronically provided.

### **B. Ordinance**

An ordinance is a local law that usually regulates persons or property and usually relates to a matter of a general and permanent nature. An ordinance is more formal and authoritative than a resolution. An ordinance should not conflict with federal or state law.

### **C. Resolution**

A resolution is an expression of the will of the Governing Body. Resolutions are used when required by statute, when the formality or permanency of an ordinance is not required, when a separately written record is advisable or when a simple motion, recorded only in the City Council minutes, is insufficient.

### **D. City Attorney to Approve**

The form of all ordinances shall be subject to the approval of the City Attorney.

### **E. Distribution of Ordinances/Resolutions**

The City Clerk prepares copies of all proposed ordinances/resolutions for distribution to Governing Body members as part of the Council packet.

### **F. Reading by Title Only; Two Readings**

Unless otherwise provided by law, each proposed ordinance/resolution is read by title unless a Governing Body member requests a full reading. The Governing Body may waive, by majority vote, its practice of conducting two readings prior to voting on a proposed ordinance. The practice of two readings does not apply to zoning ordinances.

### **G. Numbering Ordinances and Resolutions**

The City Clerk will assign a number to each ordinance or resolution upon approval of the Governing Body.

### **H. Signing of City Documents, Ordinances; Failure to Sign Ordinance; Veto Power**

The Mayor, except in situations in which the City Administrator has been so authorized, shall sign all resolutions and other documents which have been adopted by the City Council and require an official signature. Facsimile signature is permitted for signing a public security or signing of any instrument for payment.

The Mayor shall have the power to sign or veto any ordinance passed by the Council as set forth in K.S.A. 12-3003. Provided, the Mayor shall have no authority

to veto appropriation ordinances or those ordinances on which he casts the deciding vote.

If the Mayor is not present at the Council meeting at which an ordinance is passed or if he refuses or neglects to sign an ordinance on or before the next regular Council meeting, the City Clerk shall indicate on the face of such ordinance the Mayor's failure to sign and the ordinance shall take effect without his signature.

If the Mayor desires to veto an ordinance passed by the Council, he must do so on or before the next regular Council meeting and must state his objection to such ordinance in writing. Any ordinance vetoed by the Mayor may be passed over such veto by a vote of three-fourths of the whole number of Councilmembers-elect (affirmative vote of 6).

The Council president or vice-president shall have no power to sign or veto any ordinance.

## **6.0 OPERATIONAL INFORMATION**

### **A. Officials Taking Office**

Pursuant to Resolution 897, the term of office for all elected members of the Governing Body, including all members of the City Council and the Mayor, shall commence upon their swearing in, which shall occur at the December City Council meeting on the second Monday in December following the certification of the election.

### **B. Orientation**

The City Administrator shall be responsible for a consistent and orderly introduction of City policy and information to all new members of the Governing Body. This orientation process will be accomplished within sixty (60) days of taking office.

### **C. Council President and Vice President**

Pursuant to Merriam Municipal Code section 2-28 Council President and Vice-President:

- a. *Elections by Council; term.* The City Council shall elect from its membership a Council President and Council Vice-President. Such election shall take place at a regular meeting of the City Council in January of even-numbered years for a two-year term.
- b. *Temporary absence of Mayor; responsibilities of Council President.* The Council President shall preside as Mayor in the temporary absence or disability of the duly elected Mayor; when so presiding as Mayor, the Council President shall have no power to sign or veto any ordinance, nor to appoint "appointed officers" pursuant to section 2-61(a). The Council President, while temporarily presiding as Mayor, shall retain all voting rights and other prerogatives of Councilmember.
- c. *Temporary absence of Mayor and Council President; responsibilities of Council Vice-President.* The Council Vice-President shall preside as Mayor in the temporary absence or disability of the duly elected Mayor and Council President; when so presiding as Mayor, the Council Vice-President shall have no power to sign or veto any ordinance, nor to appoint "appointed officers" pursuant to section 2-61(a). The Council Vice-President, while temporarily presiding as Mayor, shall retain all voting rights and other prerogatives of Councilmember.
- d. *Vacancy in office of Mayor.* Whenever the Council President becomes Mayor due to a vacancy in the office of Mayor as set forth in section 2-26, the resulting vacancy in the position of Council President shall be filled as set forth in subsection (e) of this section.

- e. *Vacancy in office of Council President.* If a vacancy occurs in the office of Council President, other than a temporary absence or disability, the City Council shall elect from its membership a new Council President to serve the balance of the two-year term. In the event that the Council Vice-President is elected to serve the balance of the Council President's term, the vacancy in the position of Council Vice-President shall be filled by the City Council as set forth in subsection (f) of this section.
- f. *Vacancy in office of Council Vice-President.* If a vacancy occurs in the office of Council Vice-president, other than a temporary absence or disability, the City Council shall elect from its membership a new Council Vice-President to serve the balance of the existing term.
- g. *Removal.* The City Council may remove the Council President or Council Vice-President from such positions by a two-thirds vote of the members of the City Council then in office. The positions of Council President and Council Vice-President which are vacated by such removal shall be filled in the same manner as set forth in subsections (e) and (f) of this section.

#### **D. Governing Body Vacancies**

Pursuant to Merriam Municipal Code Section 2-26 and 2-27:

##### Mayor

If a vacancy occurs in the office of the Mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise, the president of the Council shall become Mayor until the next regular City election.

##### Councilmember

Whenever a vacancy occurs in the position of Councilmember, including when a Councilmember moves from the ward from which elected, or whenever the Council President becomes Mayor leaving a vacancy in the office of Councilmember, the City Council shall appoint an elector of the ward where the vacancy occurs to be Councilmember for the balance of the unexpired term. A notice of vacancy shall be announced at the first regular Council meeting following the occurrence of such vacancy. The vacancy shall be filled by the City Council pursuant to the following procedures:

- a. The deadline for individuals to submit a letter of interest and statement of qualifications for the vacant Council position shall be 30 days from the date the notice of vacancy is announced. If such 30th day is a weekend or holiday, the deadline shall be the next regular business day following the expiration of such 30-day period.
- b. Letters of intent and statements of qualifications for the vacant Council position shall only be considered by the City Council if submitted to the City Clerk's office by 4:30 p.m. on the deadline specified by the City Council as set forth in subsection (1) of this section.

- c. The City Council may use whatever public forum it chooses to disseminate information regarding the vacancy and the associated selection process.
- d. All letters of intent and statements of qualifications and associated documents received for the vacant Council position shall be treated as open records pursuant to the provisions of the Kansas Open Records Act, K.S.A. 45-215 et seq.
- e. The City Council shall interview all qualified candidates (electors of the ward where the vacancy occurred who have timely submitted letters of intent and statements of qualifications) within 30 days following the deadline specified by the City Council as set forth in subsection (1) of this section. Interviews shall be conducted as open meetings of the City Council according to the provisions of the Kansas Open Meetings Act, K.S.A. 45-215 et seq. Nothing herein shall be construed as to limit the number of interview sessions the City Council may conduct, so long as each remaining candidate has the opportunity to be interviewed in each subsequent set of interview sessions.
- f. In the event that eight or more candidates have submitted a letter of intent and statement of qualifications for the vacant Council position, following the completion of candidate interviews, the City Council, in an open meeting and by written ballot, shall narrow the list of candidates to five. Each City Councilmember shall vote for not more than five candidates and may cast no more than one vote per candidate. Each ballot shall include the name of the City Councilmember casting such ballot and shall be considered an open record. The votes will be tabulated by the City Clerk and announced at the open meeting at which the ballots are cast. Those five candidates receiving the greatest number of votes shall be considered as set forth in subsection (7) of this section at the same or a subsequent meeting.
- g. Whenever more than two, but less than eight, candidates have submitted a letter of intent and statement of qualifications for the vacant Council position, or whenever the number of candidates has been reduced as set forth in subsection (6) of this section, the City Council, in an open meeting and by written ballot, shall narrow the list of candidates to two. Each City Councilmember shall vote for not more than two candidates and may cast no more than one vote per candidate. Each ballot shall include the name of the City Councilmember casting such ballot and shall be considered an open record. The votes will be tabulated by the City Clerk and announced at the open meeting at which the ballots are cast. Those two candidates receiving the greatest number of votes shall be considered as set forth in subsection (h) of this section at the same or a subsequent meeting.
- h. Whenever two or fewer candidates have submitted a letter of intent and statement of qualifications for the vacant Council position, or whenever the number of candidates has been reduced to two as set forth in subsection (7) of this section, each City Councilmember shall, in an open

meeting and by written ballot, cast not more than one vote for the purpose of selecting a candidate to fill the vacant Council position. Each ballot shall include the name of the City Councilmember casting such ballot and shall be considered an open record. The votes will be tabulated by the City Clerk and announced at the open meeting at which the ballots are cast. The candidate receiving a majority vote of the City Council shall be appointed as Councilmember for the balance of the unexpired term. In the event the City Council vote results in a tie, the Mayor, at the same meeting as the tie vote, shall cast a vote in favor of one of the two candidates to serve the balance of the unexpired term.

#### **E. Ethics and Standards of Conduct**

Pursuant to Merriam Municipal Code Sections 2-195—2-199:

##### Declaration of Policy, Sec. 2-195

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the citizens; that government decisions and policies be made in proper channels of the governmental structure; that the public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, an article for all City officials and employees is hereby adopted.

The purpose of this article is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or omissions that are incompatible with the best interests of the City and by directing disclosure by such officials and employees of private interests in matters affecting the City. This article is also intended to establish standards of conduct expected of those persons who act on behalf of the public in the performance of governmental duties and responsibilities, maintain high ethical standards in City government and increase public confidence in the integrity of the officials, agents and employees of the City.

##### Ethical Code, Sec. 2-197

Every Public official and employee is expected to maintain the following:

- (1) Always put loyalty to high moral standards and to the City above any loyalty to persons, departments or agencies, or political or other interests.
- (2) Uphold the Constitution, laws and regulations of the United States, the state, and the City and never be a party to their violation or evasion.

- (3) Seek to find and employ more efficient and economical ways to provide service and give to the performance of their duties their best attention, efforts and thoughts.
- (4) Treat every citizen fairly and equally with courtesy and respect and must never discriminate unfairly by dispensing special favors or privileges to anyone, whether for remuneration or not, and should never accept favors or benefits under circumstances which might give the appearance to reasonable persons as influencing the performance of their governmental duties.
- (5) Refrain from making any promise, private in nature, the performance of which would require an act beyond the proper scope of the duties of their office, or to act in a manner which would or could compromise the integrity of their office, or to accept for themselves or family, favors or benefits under circumstances which might give the appearance to reasonable persons as influencing the performance of their governmental duties.
- (6) Never engage in any business with the City government, either directly or indirectly, which is inconsistent with the conscientious performance of their governmental duties.
- (7) Never use any confidential information in the performance of governmental duties as a means for making a private profit or gaining benefit; and never reveal any information made known through their public office which is by law confidential or by custom a protected right of privacy where revealing the information could affect the civil or moral rights of any citizen.
- (8) Always safeguard the public trust and never use or allow the use of government property or funds for private purposes, for purposes other than those authorized or permitted, or for purposes which could mislead the citizens or damage the confidence and reputation of the government.
- (9) At all times, display the highest level of integrity in performing their duties and never knowingly nor negligently mislead or allow others to mislead the public or other government officials nor fail to disclose or report to appropriate officials any corruption wherever discovered.
- (10) Avoid the appearance of improper influence and refrain from ever receiving, soliciting or accepting gifts, gratuities, favors or anything of value for themselves, their family or others, which is intended or has the appearance or effect of influencing the performance of his duties; and should never lobby or attempt to influence others in the performance of their duties by any means which are not a part of their authorized duties.
- (11) Never allow their judgment to be compromised by a personal, family or business interest not a part of his government service and never act upon

any matter in which their family, or business has or may have any financial or beneficial interest; and should always declare and disclose the full nature and extent of any personal, family, or business interest in any matter related to governmental actions or duties.

- (12) Stand as a representative of the government and the public trust and never intentionally act outside the scope of their authority in that representation nor allow himself to be perceived as acting on behalf of the public or government when, in fact they are not.

**F. Mail**

All mail received by the Council will be placed unopened in the individual files in the administrative offices unless authorization to open is given. Mail sent to the Mayor will be placed unopened in the Mayor's office unless authorization to open is given.

**G. Postage Use**

The City will pay for postage on any correspondence sent by a member of the Governing Body associated with routine City business. The City will not provide postage for any City election mailings or Governing Body member newsletters.

**H. Governing Body Expenses**

The City will reimburse elected officials for reasonable business-related expenses including travel expenses, meals, conference registration, hotel, and other incidental expenses for the elected official only (not for spouses or families) for attendance at conferences and meetings as authorized by the Mayor and within budget amounts. Travel expenses as part of official City business are paid in accordance with the Travel Reimbursement Policy (5.09) of the Employee Handbook.

The City will reimburse elected officials for meals and expenses for hosting officials from out of town on City business with the approval of the City Administrator. The City will reimburse elected officials for miscellaneous expenses with the approval of the City Administrator.

**I. Return of Materials, Equipment**

At the completion of service to the Governing Body, any equipment provided, will be returned to the City. Return of all City equipment shall be no later than thirty (30) days after completion of the member's service unless waived by the City Administrator.

**J. Compensation**

Pursuant to Merriam Municipal Code Sec. 2-25:

- a. The annual salary for the office of Mayor shall be set forth in the city's compensation plan. The salary shall be paid in monthly installments until the Mayor's term of office shall cease, or they are removed from office, or for any reason they leave the office. The Mayor's salary shall be adjusted annually in the same percentage as adjustments made to employees' salary ranges; provided, however that the annual adjustment to the salary for the office of Mayor may be waived or reduced as set forth in subsection (c) of this section.
- b. The annual salary for the office of Councilmember shall be set forth in the City's compensation plan. The salary shall be paid in monthly installments until the Councilmember's term of office shall cease, or they are removed from office, or for any reason they leave the office. The salary for Councilmember shall be adjusted annually in the same percentage as adjustments made to employees' salary ranges; provided, however that the annual adjustment to the salary for the office of Councilmember may be waived or reduced as set forth in subsection (c) of this section.
- c. The annual adjustment to the salary for the office of Mayor and the salary for the office of Councilmember may be jointly waived or reduced for any given budget year upon the passage of a resolution approved by the majority of the Council. Any waiver or reduction approved by such resolution shall be applied in the same manner to the salaries for the office of Mayor and office of Councilmember such that a waiver or reduction of one may not occur without the waiver or reduction of the other.

**K. Benefits**

**Retirement:** Governing Body members shall be eligible to participate in Kansas Public Employees Retirement System known as KPERS should they choose. KPERS is a defined benefit retirement plan offered to state and local employees. Participation requires a 6% contribution which will be deducted from each monthly pay accordingly. In addition, the City will contribute the KPERS-defined rate each pay period on behalf of the opted-in Member. KPERS mandates the City rate each year.

**Community Center Membership:** In accordance with Merriam Municipal Code Sec. 47-136. - Waiver of use for City officials.

- (a) *Policy.* It is the policy of the City to provide the use of the community center to all City-appointed advisory boards or commission members and all elected and appointed

officials, and their immediate family members with the charges and fees to be waived as provided in this section.

(b) *Application for annual membership; identification cards.* Such individuals shall make application for an annual community center membership upon standard forms. Identification cards shall be issued.

(c) *Termination of use privileges.* Authorized use of the community center membership shall be discontinued following resignation from City-appointed advisory boards or commissions and elected and appointed positions.



# City Council Policies

REVISED 2021

## **MERRIAM CITY COUNCIL POLICIES**

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## **1.0 Debt Management and Fiscal Policy**

### **1.1 Debt Financing**

This policy shall provide general guidelines for debt financing. The Governing Body shall approve all debt issues. The purpose of the City's debt financing policy is to ensure that debt is issued in accordance with established public policy, and is managed in a fiscally prudent manner which:

- a. Complies with federal and state laws
- b. Seeks to maintain or improve credit ratings
- c. Minimizes cost to taxpayers
- d. Does not adversely affect future generations

Debt financing includes general obligation bonds, special assessment bonds, revenue bonds, temporary notes, lease/purchase agreements, and other City obligations permitted to be issued or incurred under Kansas law.

### **Use of Debt and Debt Issuance Considerations**

The City shall limit the use of debt to the financing of capital projects or equipment identified in the associated multi-year programs.

The City shall avoid the use of debt to fund recurring operating expenditures.

The City may issue debt in those instances where public policy, equity and efficient use of limited resources favor debt financing over funding with current revenues. Decision criteria shall include:

- a. The City's current and projected debt level, legal debt limit, overall financial health and economic conditions.
- b. Availability of alternative financing sources, including use of current revenues (pay-as-you-go financing) and leveraged revenue sources from private and intergovernmental contributions. Projects which include a substantial portion of leveraged financing shall normally be given priority.

The City will consider various factors in determining the capacity to issue debt:

- a. Debt issuance shall not exceed 30% of assessed property valuation, or other amount authorized by state statute. (K.S.A. 10-309)
- b. Debt issuance should not adversely affect the City's credit rating. Rating agency criteria will be reviewed in conjunction with the City's financial advisor.

### **Structure of Debt**

The life of long-term debt will be matched with, or shorter than, the useful life of the underlying assets financed. Generally, the City will not consider debt structures with a final maturity more than 30 years from the date of issuance.

The City will work with its financial advisor to structure amortization of new bonds in light of existing debt and the City's credit profile.

### **Credit Ratings**

The City will seek credit ratings from at least one major rating agency prior to its sale of debt, if such rating will economically benefit the transaction. The City will manage its overall finances and its debt in such a way as to maintain a bond rating in one of the two highest categories (without respect to modifiers such as bond insurance).

### **Credit Enhancement**

The City will evaluate the use of credit enhancement (bond insurance) for its bonds where a cost-benefit analysis shows it to be economically advantageous to do so.

### **Transaction Pricing**

Debt will typically be marketed on a competitive bid basis. A negotiated sale may be undertaken upon the recommendation of the City's financial advisor in some circumstances (i.e. very large or very small issue, market volatility). If advised, the City will competitively select the underwriter(s) needed to structure, market, price, and sell the bonds.

### **Transaction Professionals and Underwriting Team**

The City will hire external financial advisors and bond counsel to provide expert advice for the issuance of debt. In order to prevent real or perceived conflicts of interest and in conformance with municipal market regulations the City's financial advisor may not serve as an underwriter on any City bond issue during its tenure as financial advisor and for two years thereafter.

### **Refunding Considerations**

The City generally will consider refunding opportunities to the extent the following targets can be achieved:

- a. Current refunding, fixed rate: 3% present value savings of refunded principal.
- b. Advance refunding, fixed rate: 5% present value savings of refunded principal with strong maturity-by-maturity refunding efficiency.

The City generally will structure refundings to provide level savings over the life of the refunding bonds and will attempt to structure the refunding debt in the same footprint as the refunded debt (e.g., similar repayment schedule and final maturity).

Refunding targets are not intended to prevent restructurings of outstanding indebtedness as necessary to achieve other financial goals of the City.

#### **Use of Variable Rate Bonds, Swaps, and Derivatives**

The City generally will pursue traditional, fixed-rate bond structures if feasible.

The City will use variable rate bonds only as part of a comprehensive asset/liability management program and will limit its outstanding, variable rate bonds to levels consistent with the anticipated amount of cash on hand able to produce investment income that can be used as a direct offset to rising rates on the variable rate bonds.

Before the City enters into any swap or derivatives agreement, it will first formally adopt a swap and derivatives policy.

#### **Bond Proceeds Reinvestment**

Bond proceeds shall be invested in accordance with the City Council Policy 2.00 Investment Policy and K.S.A. 10-131, and amendments thereto.

#### **Financial Reporting Compliance**

The City shall insure that it fully complies with all state and federal regulatory requirements including post-issuance compliance related to continuing disclosure, private use and arbitrage rebate. The City maintains a separate post-issuance compliance administrative policy.

The City shall require its financial advisor to prepare an annual debt profile including an assessment of refunding opportunities.

### **1.2 Budget Adjustments**

It shall be the policy of the City of Merriam to authorize budget adjustments as follows:

- a. Budget amendments between line items within the same object classification (account groupings such as "Personal Services" or "Contractual Services") may be approved by the City Administrator.
- b. Budget amendments between line items outside of the same object codes but within the same department budget shall be approved by the City Administrator and ratified by the City Council.

- c. Budget amendments between departments shall be approved by the City Council upon the recommendation of the City Administrator and Finance Director.
- d. Budget amendments between funds shall follow the standard process in conformance with State Statutes.

No purchases which exceed budget authority as amended through the process described above shall be authorized for payment.

### **1.3 Expenditure Authorization**

The City Administrator is authorized to spend according to the City-wide approved budget. For purposes of this policy, the term "City Administrator" or "department director" may also refer to their designee.

Department directors are authorized to spend according to their approved budget, exclusive of purchases greater than \$5,000, which must be approved by the City Administrator.

Purchases of goods, services or professional services from \$5,000 through \$30,000 shall be approved by both a department director and the City Administrator.

For purchases of goods, services or professional services over \$30,000, the City Administrator shall cause requests for bids, proposals or qualifications to be solicited, and shall forward the purchase recommendation to the City Council. If awarded, it will be the responsibility of the City Administrator to make the appropriate expenditures in accordance with the bid or contract approved by City Council.

City Administrator may waive requirements to issue requests for bids, proposals or qualifications in case of an emergency or disaster in order to insure public safety or to continue critical City operations. Such purchases may be made from the City's General Fund Contingency account.

The City Council may waive the requirement to issue bids for construction of public improvements over \$30,000 if determined to be in the City's best interest.

A listing of capital equipment purchases over \$5,000 will be presented monthly to the City Council in the Monthly Finance Report.

The City Administrator has the authority to approve change orders up to a cumulative total of \$30,000. The cumulative total of change orders exceeding \$30,000 must be approved by the City Council. For Capital Improvement Projects,

the change order expenditure(s) authorized by the City Administrator as per this section must be within the project budget as approved by the City Council.

#### **1.4 Capitalization of Assets**

The general policy of the City of Merriam shall be to capitalize any fixed asset item with an actual cost of \$5,000 or more. For purchases under \$5,000 and at the discretion of department heads, items may be capitalized at zero cost basis for purposes of accountability.

City infrastructure will be capitalized according to the following thresholds:

- Streets and bridges: \$100,000
- Sidewalks, parking lots and jogging trails: \$25,000
- Streetlights, traffic signals and road signage: all acquisitions for the year will be added in a lump sum at year-end.
- Drainage structures: \$25,000
- City facilities will continue to be recorded as fixed assets and would therefore have a threshold of \$5,000.

Any variations of this process must be approved by the City Administrator.

#### **1.5 Fund Balance and Reserves**

The City Council is committed to maintaining a prudent level of financial resources to avoid a reduction of service levels or an increase in taxes due to an economic downturn or unforeseen expenditures. The Government Finance Officers Association's (GFOA) best practice recommends that governments establish a level of unrestricted fund balance (reserve) specific to its circumstances.

Relevant factors include the predictability of revenue, volatility of expenditures, cash flow requirements, potential for natural or manmade emergencies, and the government's size. In particular, Merriam relies heavily on sales tax revenues, which may be negatively impacted by economic downturns or state law changes that affect situs of retail sales. Additionally, GFOA recommends that unrestricted fund balance levels be established within the context of long-term financial forecasting to avoid an emphasis upon the balance at any one time.

The fund balance target for the combined General Fund and Risk Management Fund\* is 30 to 35% of budgeted annual General Fund revenues. The target is a goal which may fluctuate from year to year in the normal course of operations.

The combined General Fund and Risk Management Fund balances may be reduced below the target range for emergency needs, prolonged economic downturn, unanticipated expenditure requirements or other non-recurring needs at the discretion of the Governing Body.

If projections indicate the unrestricted General Fund and Risk Management Fund balances will fall below the target range at the completion of any fiscal year, the City Administrator shall prepare and submit a financial plan to restore the minimum target amount within the ensuing five-year financial planning period for the General Fund.

To the extent that budgeted reserves exceed policy requirements, they may be accessed subject to Section 1.3, Expenditure Authorization of the Debt Management and Fiscal Policy.

The Equipment Reserve Fund will maintain a sufficient fund balance to support new and replacement purchases according to the 10-Year Major Equipment Replacement Schedule. Budgeted transfers from the General Fund to the Equipment Reserve Fund will support the purchases and will be calculated to minimize significant fluctuations to the General Fund.

\*For financial reporting purposes, the Risk Management Fund is combined with the General Fund pursuant to criteria of the Government Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. Its balance is classified as “assigned” for risk management purposes as defined in the statement.

## **2.0 Investment Policy**

It is the policy of the City of Merriam, Kansas (the City) to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all Kansas statutes, the City Administrative Code, and all related City Ordinances and Resolutions governing the investment of public funds.

Investments shall be made with judgment and care—under circumstances which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price charges provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

The “prudent person” concept discourages speculative transactions, it attaches primary significance to the preservation of capital and secondary importance to the generation of income and capital gains. The “prudent person” is expected to be a reasonable well-informed person, not a professional investor or market marker, who is obligated to act responsibly.

**Objectives:** The primary objectives, in priority order, of the City of Merriam, Kansas investments activities shall be:

1. **Safety:** Safety of principal is the foremost objective of the investment program. Investments of the City of Merriam, Kansas shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the City develops a portfolio with diverse, high-quality investments and seeks to avoid unplanned early redemptions of securities that would generate a market loss.
2. **Liquidity:** The City of Merriam, Kansas’s investment portfolio will remain sufficiently liquid to enable the City of Merriam, Kansas to meet all operating requirements that might be reasonably anticipated.

3. **Return on Investment:** The City of Merriam, Kansas's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City of Merriam, Kansas's cash flow characteristics.

**Management:** Management for the investment program is hereby delegated to the Finance Director, who shall establish procedures for the operation of the investment program, consistent with this investment policy. Procedures should include: safekeeping agreements, wire transfer agreements, collateral/depository agreements, third-party advisory services agreements and banking service contracts.

Agreements shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under terms of this policy and the procedures established by the Finance Director. The Finance Director shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of investment officials.

### **Oversight of the City's Investment Program**

1. The Finance Director will provide at a minimum an Annual Investment Report to the City Administrator and City Council.

**Safety:** Safety of principal is of the highest priority and can be accomplished by limiting three types of risk: 1) **credit risk**, 2) **interest rate risk** and 3) **liquidity risk**. **Credit risk** is the risk of loss associated with the failure of a security issuer or backer. **Interest rate risk** is the risk that the value of the investments will decline due to an increase in the general level of interest rates. **Liquidity risk** is the risk that the City suffers a market loss by redeeming a security prior to maturity in an unplanned manner.

**All Operating Funds Acceptable Investments:** All investments purchased under this policy shall be governed by K.S.A. 12-1675 *et seq.*, and all amendments thereto, and, if sufficient authority is granted by the State of Kansas Pooled Money Investment Board (PMIB), by K.S.A. 12-1677(b).

**The investments outlined in items #4 through #7 may be utilized only if the investments outlined in item #2 are not available to the City at interest rates equal to or greater than the public fund investment rate as published by the PMIB.**

Below is a summary of acceptable investments for idle funds under current law:

1. Temporary Notes or No-Fund Warrants. Temporary notes or no fund warrants issued by the City.
2. Time Deposits, Open Accounts, Certificates of Deposit or Time Certificates of Deposit. Instruments issued by banks, savings and loan associations and savings banks, which have main or branch offices located in the City which state that specified sums have been deposited for specific periods of time and at specified rates of interest. Deposits are required to be backed by acceptable collateral securities as dictated by State statute. Maximum maturities for such time deposits are limited to two (2) years unless the City's investment policy is approved by the PMIB, in which case the maturity may be up to four (4) years. (This category includes CDs purchased under the CDARS program if certain conditions are met.) **If an eligible (local) financial institution, as described by Kansas Statute K.S.A 12-1675, offers interest rates equal to or greater than the public fund investment rate, the City is obligated (if it elects to make the investment) to place it with that financial institution.**
3. Repurchase Agreements (Repo). The City may invest in contractual agreements between the City and commercial banks, state or federally chartered saving and loan associations, or federally chartered savings banks having main or branch offices located within the City. The purchaser in a repo enters into a contractual agreement to purchase Treasury and government agency securities while simultaneously agreeing to resell the securities at predetermined dates and prices.
4. US Treasury and Agency Securities. Direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities maturing within two (2) years from the date of purchase. If the City's investment policy is approved by the PMIB, the maximum maturity may be for four (4) years.
5. Kansas Municipal Investment Pool Fund (MIP). A pool of investments consisting of Certificates of Deposit, U.S. Treasurys, U.S. Agencies, Commercial Paper, and Repurchase Agreements. The MIP is administered by the State of Kansas Pooled Money Investment Board pursuant to K.S.A. 12-1677a.
6. Bank-Sponsored Multiple Municipal Entity Investment Pools. Investments may be made with trust departments of commercial banks with offices located in Johnson County or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto. These accounts will be secured as provided for under K.S.A. 9-1402, and amendments thereto. Authorized investments in

these pools will be subject to the same terms, conditions and limitations as are applicable to the Kansas Municipal Investment Pool.

7. **Kansas General Obligation Bonds.** General obligation municipal bonds or other obligations issued by Kansas local governments (cities, counties, school districts, certain other authorities and districts defined in K.S.A. 10-1101).

**Bond and Note Proceeds, Equipment Reserve Fund, Capital Improvement Funds Acceptable Investments:** Proceeds of bonds and notes issued by the City and held within the City's treasury or by a third-party on behalf of the City are invested pursuant to K.S.A. 10-131. Moneys credited to the municipal reserve fund or capital improvement funds from annually budgeted transfers may also be invested in accordance with the provisions of K.S.A. 10-131 (as provided by K.S.A. 12-1,117 and K.S.A. 12-1,118).

Investments outlined by K.S.A. 10-131 *et seq.* are not subject to the requirement that such funds be first offered to the financial institutions within the City. The tenor of the investments of capital/bond moneys should not exceed the expected timing of draws on such funds. The investment options are as follows:

1. **Other Permitted Investments.** The investments permitted for the investment of operating funds.
2. **Bank Deposits in Johnson County.** Interest-bearing time deposits in any bank, savings and loan association or savings bank located in Johnson County.
3. **Repurchase Agreements with any Bank or Primary Securities Dealer.** Repurchase agreements for U.S. Treasurys and Agencies effected with any bank, savings and loan association or savings bank or a primary securities dealer.
4. **Investment Agreements.** Investment agreements with or other obligations of a financial institution, the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's Investors Service or Standard and Poor's Corporation.
5. **Money Market Funds.** Investments in shares or units of a money market fund or trust the portfolio of which is comprised entirely of U.S. Treasury or Agency securities.
6. **Receipts.** Receipts evidencing ownership interests in securities or portions thereof of U.S. Treasury or Agency securities.

7. Pre-Refunded Bonds. Bonds of any municipality of the State of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, or U.S. Treasury or Agency securities.

**Safekeeping of Securities:**

1. Safekeeping Agreement

Collateral will be registered in the City's name. Joint custody receipts will be issued for all securities pledged to certificate of deposits, repurchase agreements, open accounts and other investments by depositing same with the Federal Reserve Bank of Kansas City, the Federal Home Loan Bank of Topeka (or such other Federal Home Loan Bank as shall be acceptable to the City), or a Kansas bank or trust company not affiliated with the financial institution pledging the securities and in accordance with K.S.A. 9-1405 *et seq.*

All security purchases shall settle delivery-versus-payment. All securities shall be perfected in the name of City of Merriam and shall be delivered to the safekeeping agent(s).

2. Handling of Certificate of Deposit Collateral

The collateral for certificates of deposit in banks will be registered in the name of the City of Merriam, Kansas. Custodial receipts will be received and logged by the Administrative Office staff. Letters from custodial agent(s) assigning the collateral and fax transmittals will be acceptable for release of funds.

3. Handling of Repurchase Agreement Securities

The securities for which repurchase agreements will be transacted will be limited to Treasury and government agency securities. Securities will be delivered either to the City's designated Custodial Agent or to a third party custodian agreed upon by the City and the second party to the Repurchase Agreement. Funds and securities will be transferred on a delivery versus payment basis. Confirmations will be received and logged by the Administrative Office.

Securities underlying a repurchase agreement must be maintained at the following levels, with respect to par value accrued interest:

<b>U. S. Treasury Securities</b>	<b>U.S. Agency Securities</b>
<b>1 Year or Less</b>	101%
<b>1 Year to 5 Years</b>	102%
<b>Over 5 Years</b>	103%
	104%

4. **Verification of Security**

Verification of collateral and repurchase agreement securities will be part of the City's annual independent audit.

**Collateral Requirements:** K.S.A. 9-1402 requires that all deposits, including those for investment of public funds, must be secured by collateral of the depository institutions. The depository institutions are authorized to use and the City is authorized to accept the following types of collateral as security for deposits:

1. The institution may provide a personal bond in double the amount of the deposits.
2. The institution may provide a corporate surety bond in an amount equal to the amount of deposits.
3. A pledge or assignment for the City's benefit of sufficient securities, acceptable to the City, in the following amounts:
  - a. Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations, including but not limited to, letters of credit and securities of United States sponsored corporations which under federal law may be accepted as security for public funds. (not less than 100% of deposits by market value);
  - b. Obligations and securities of U.S. sponsored corporations, which under federal law may be accepted as security for public funds (not less than 100% of deposits by market value for direct obligations of U.S. Agencies; not less than 105% of deposits by market value for any mortgage-backed securities);
  - c. Bonds of any Kansas municipality which have been refunded and are secured by U.S. obligations (not less than 100% of deposits by market value);
  - d. Bonds of the State of Kansas (not less than 102% of deposits by market value);

- e. General obligation bonds or notes of any Kansas municipality which carry a rating in the third highest category or higher with respect to bonds and in the second highest category or higher with respect to notes (not less than 102% of deposit by market value).

**Release of Collateral:** At the time the investment is to be liquidated or when other collateral is substituted, the authorization to release the collateral will be telephoned, emailed or faxed to the safekeeping agent by the Finance Director or their designee.

**Monitoring Collateral/Security Adequacy for Deposits and Repurchase Agreements:** The Finance Director or their designee will monitor adequacy of collateral each time investments mature or are purchased, but at least monthly. The City requires monthly reports with market values of pledged securities from all financial institutions with which the City has deposits and/or repurchase agreements, but relies on independent sources of valuation to ensure collateral sufficiency. The City reserves the right to refuse to accept any collateral offered that cannot be priced through its independent valuation service or has questionable marketability in the event of a bank failure.

**Investment Diversification:** The City of Merriam, Kansas will diversify its investments by security type and institution. The following guidelines represent maximum limits established for diversification by instrument:

1. Certificates of Deposit. Consistent with PMIB policy, the City has no restrictions on the amount it may deposit with local banks, including in CDs, so long as all deposits are FDIC insured and properly collateralized.
2. U.S. Treasury Securities. The City has no restrictions on the amount it may invest in US Treasury securities.
3. U.S. Agency Securities. The City has no restrictions on the amount it may invest in U.S. Agency securities with the explicit full faith and credit guaranty of repayment by the US Government. The City limits to no more than 75% of its portfolio those US Agency securities that do not carry an explicit full faith and credit pledge.
4. Investment Pools and Money Market Funds. The City limits its holdings in investment pools and money market funds to 25% of its total portfolio, except during periods of high liquidity, such as the months in which it receives its property tax distributions.

5. Repurchase Agreements. The City limits repurchase agreements to 25% of its total portfolio. Repurchase agreement holdings also count against limits, if any, for US Treasury and Agency securities.
6. Kansas General Obligation Bonds. The City limits Kansas general obligation (GO) bonds to no more than 35% of its total portfolio. In addition, it generally limits its holdings of any single issuer to no more than \$1.0 million if the issuer maintains a GO rating of A3/A- or better at purchase and to no more than \$0.5 million if the issuer has a rating lower than A3/A- or is unrated.

The City considers pre-refunded bonds where the escrow is funded with U.S. Treasurys and Agencies to be U.S. Treasurys and Agencies for the purpose of these limits.

**Liquidity:** As stated in the Investment Policy, liquidity is second in priority in evaluating investment alternatives. As a function of this procedure, the City's demands for cash must be projected using reliable techniques and investment maturities must be continually evaluated to ensure that funds are available to meet all cash demands. To ensure adequate liquidity of City funds, investments of idle funds shall be structured to comply with statutory limits and its portfolio design shall be such that it maintains adequate liquid balances in cash, cash-equivalents and near-cash securities (such as short-lived U.S. Treasurys).

**Return on Investment:** The City of Merriam shall seek to optimize return on investments within the constraints of safety and liquidity. The investment portfolio of the City will be designed to attain a market-average rate of return throughout the budgetary and economic cycles, taking into account the City's investment risk constraints, state statutes, cash flow characteristics of the portfolio, and prudent investment principles. Progress on this objective will be reported to the City Administrator and the City Council on a quarterly basis at a minimum.

**Investment Maturity Management:** When structuring the maturity composition of the investments, the Finance Officer shall evaluate current and expected interest rate yields. The longer the time remaining to maturity for a security, the greater the price fluctuation which will occur given a change in interest rate levels.

**Competitive Placement of Funds:** It is in the interest of the City to solicit competitive rate quotations for investment purchases, where possible, consistent with state statutes. The City will maintain a list of interested bidders. Financial institutions may call the Finance department to request to be added to the list.

Pursuant to state law, the City first bids any moneys to be invested pursuant to K.S.A. 12-1675 or 12-1677b to those banks, savings and loan associations and savings banks, which have main or branch offices located in the City. Offers received from local financial institutions will be compared to the public funds investment rate. If an offer is greater than or equal to the public funds investment rate, the financial institution with the highest bid is awarded the investment. If no offers from eligible financial institutions are greater than or equal to the public funds investment rate, the City will seek offers on other permitted investments from any securities dealer eligible to do business in the State of Kansas.

**Ethics:** The Ethical Code, as adopted in sections 2-195 through sections 2-199 of the City of Merriam Municipal Code shall apply and provide guidance. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Attorney and Finance Director any material financial interests in financial institutions that conduct business within this jurisdiction and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City of Merriam, Kansas' portfolio. Employees and officers shall subordinate their personal investment transactions to those of the City of Merriam, Kansas, particularly with regard to the timing of purchases and sales.

**Authority:** The City of Merriam, Kansas' investment policy shall be adopted by the City Council of Merriam, Kansas.

The above policies shall remain in full force and effect until revoked by the City Council. If, after adoption of this policy, there is any conflict of this policy with Kansas' laws and/or statutes, the Kansas laws and/or statutes will dictate.

## **3.0 Tax Use Policy**

### **3.1 City Sales Tax and County 1/4 Cent Sales Tax**

Monthly funds from the State of Kansas transmitting proceeds of the 1% City Sales Tax shall immediately be credited in equal portions to the General Operating Fund and to the Capital Improvement Fund. Earnings on funds from sales tax deposits shall accrue to the same accounts.

Expenditures from the General Operating accounts shall be in accordance with the adopted budget for the current year.

Monthly funds from the Johnson County 1/4 cent sales tax (established in 1995, which has no sunset) shall be credited to the Capital Improvement Fund.

Expenditures from the Capital Improvement Fund shall be in accordance with the Capital Improvement Plan.

### **3.2 Capital Improvement Funding**

The objective of the policy is to fund the Capital Improvement Program without unduly increasing the ad valorem tax burden or adversely affecting City services. When applicable, the City shall seek additional sources of funding for capital improvement projects, including special City sales taxes, grants, impact fees, intergovernmental and interlocal agreements, and contributions from developers.

The General Fund budget will support the multi-year Capital Improvement Program with monthly transfers of a portion of the 1% City Sales Tax to the Capital Improvement Fund. Transfers will not exceed amounts per the adopted budget. Actual transfers may be reduced if City Sales Tax collections fall short of budgeted revenues. The target level for transfers shall be less than or equal to 50% of the available 1% City Sales Tax.

City Use Tax collected by the General Fund which exceeds 1% shall be transferred to the Capital Improvement Fund. Such transfers should not be considered in the calculation of the target level for transfers of the 1% City Sales Tax as described above. The City will continue a multi-year Capital Improvement Program that considers citizen input. The program will be reviewed and revised annually.

### **3.3 Transient Guest Tax**

It shall be the policy of the City of Merriam to use the revenue generated from the transient guest tax in a manner consistent with Charter Ordinance No. 23.

The Visitors Bureau Advisory Council shall consist of the Director of the Visitors Bureau; a representative from each hotel/motel/executive suite facility; a representative of the City's Parks and Recreation Department; and up to four

representatives from the hospitality industry (e.g. restaurants, entertainment, etc.) selected by the Director of the Visitors Bureau.

Expenditures made from the Transient Guest Tax Fund shall be consistent with the purposes set forth in Charter Ordinance No. 23 and shall further adhere to one or more of the following guidelines:

- a. Funding for projects designed to attract people to Merriam including, but not limited to maps, brochures, festivals, banners, art and craft events, and the administrative cost associated with producing such items.
- b. Funding for projects designated specifically towards community enhancement projects of a capital nature such as decorative lighting, streetscapes, and other improvements designed to attract people to Merriam.
- c. Funding for projects designated for use by the Merriam Visitors Bureau to fund programs and expenditures for promotion of tourism and to attract people to Merriam.
- d. Funding for projects designated specifically towards enhancement efforts, economic development initiatives and projects designated to attracting shoppers and visitors to Merriam.
- e. Funding for the operation, maintenance, expansion and development of City facilities, in a manner consistent with the purpose and objective of Charter Ordinance No. 23; and/or
- f. Funding for the creation of innovative projects and activities that relate to the promotion of convention and tourism.

The City may utilize employees or may contract with an agency, organization, or group of firms to promote the purposes of Charter Ordinance No. 23.

The Visitors Bureau Director shall present an activity report to the City Council on an annual basis or upon request of the Council.

## **4.0 Council Relations**

### **4.1 City Staff**

It shall be the policy of the City to direct communication between elected officials and City staff through the City Administrator. Members of the Governing Body will forward all requests for service through the City Administrator. If the City Administrator is absent from the City, action requests or directives to the staff shall be routed through the City Clerk or the administrative designee, to appropriate department director, to the City Council or to the Mayor.

Requests for information that do not involve action on the part of the City staff may be made directly to the City staff without contact with the City Administrator. However, staff members having such contacts with elected officials should report them to the City Administrator.

In public and private, the elected officials and City staff shall treat one another with respect and in a professional manner. Concern about the unprofessional conduct of a staff member or of a City Councilmember should be discussed with the City Administrator.

### **4.2 Boards and Commissions**

Appointments to boards and commissions shall be made by the Mayor with the consent of the City Council. This shall not prohibit members of the Council from recommending potential board of commission members to the Mayor for consideration.

The City Council often has a statutory duty to hear appeals from or approve or disapprove decisions of City boards and commissions. Unless a member of the Council is a member of one of such boards or commissions, Councilmembers should not participate in any way in the deliberations of the board or commission. If a member who is not the Council liaison does so, they will refrain from participating in the deliberations of the City Council on that issue, and will abstain from voting.

If the Council has no review prerogative over the board or commission except to seek judicial review of its decision, members of the Council may participate as they choose. In no case shall a member of the Council exercise undue influence over the board or commission as it relates to the appointment or retention of board or commission members.

City staff members serving as staff to boards or commissions are encouraged to forward independent analyses to the board or commission based on the City's best interests.

Regular Boards and Commissions include:

- Planning Commission
- Parks and Recreation Advisory Board
- Board of Zoning Appeals
- Board of Structure Appeals

#### **4.3 Ad-Hoc Committees**

##### **Committee Members**

The committee members will be appointed by the Mayor and reported as an information item to the City Council. The Mayor will coordinate with the City Administrator to appoint a staff liaison to assist the committee in coordinating its efforts and ensure compliance with KOMA. The Mayor will appoint the committee chair. Committee meetings will be scheduled as needed.

All meetings are open to the public and shall be scheduled in compliance with the Kansas Open Meetings Act (KOMA).

All meetings shall be held at City Hall unless otherwise specified. Additional meetings may be held upon the call of the Chair, staff liaison, or upon the call of a majority of committee members, provided that all members shall be notified of such meeting at least 24 hours in advance of the announced start of the meeting, and provided that such is consistent with Kansas Open Meeting laws.

##### **Agenda**

An agenda shall be developed by the chair and related staff before each meeting. Such agenda shall be followed as much as possible; however, business not appearing on the agenda may be taken up under the heading "Other Business."

##### **Votes**

Meetings shall be conducted in an orderly manner. Generally, the Governing Body Rules of Procedure of the City of Merriam should serve as a guideline in the conduct of committee meetings. Passage shall require a majority of those present and voting, including the chair. Tie votes shall be considered to be a failure of the motion.

##### **Minutes**

Minutes shall be kept of all committee meetings by staff assigned by the City Administrator. Distribution shall be made to the Mayor and Council.

##### **Committee Responsibilities**

Committees shall be responsible for the review of policy matters dealing with their assigned task or project. Committee members shall not be involved in daily administrative tasks. Direction of the daily operations of a department shall be left to the department director under the direction of the City Administrator. If a

committee has specific operations problems, these are to be directed to the attention of the City Administrator or Mayor who will expedite any necessary actions.

**Significance of Committee Actions**

Action of committees shall constitute recommendations to the full Council. No binding decision can be made in committee on matters that should be brought before the full Council at Council meetings.

**Responsibilities of Committee Chair**

1. Conducting meetings of the committee.
2. Approve agendas for committee meetings.
3. Encourage participation and attendance of committee members, including soliciting motions.
4. Serve as principal liaison between the committee and the staff and City Council on issues for which the committee had principal responsibility.
5. Appoint Acting Chair in the event of absence of the Chair.

## **5.0 Operational Policy**

### **5.1 Donation of Public Funds**

Occasionally, the City is asked to donate public funds to organizations or groups. It shall be the policy of the City to donate public funds only to charitable organizations which have:

- a. clear link to the City through City membership or sponsorship, or
- b. a clearly defined public purpose which complements the City's purposes.

In each case, requests for contributions shall be made to the City Council and shall first be reviewed by the City Attorney to determine the legality of the contribution. Applicants have the burden of defining the role of their organization and how it qualifies under Sections a. and b. herein.

### **5.4 Legal Notices**

The City designates the Legal Record of Johnson County as the official City newspaper. All legal notices requiring legal publication shall be published in the City's official newspaper.

As a courtesy to the public, the City will also provide the following notices and publications whenever possible.

- All City Council public hearing notices and invitations to bid will be placed in the Legal Record of Johnson County and posted on the City's website. Other publications may include trade magazines, contractor journals and other websites as deemed appropriate.
- Planning Commission public hearings involving legislative issues shall be placed in the Legal Record of Johnson County and posted on the city's website. Legislative issues include changes to the zoning ordinances, sign code and comprehensive plan.

## **6.0 Development Policy**

### **6.1 Acquisition of Right-of-Way and Easements for Public Projects**

**Policy It** shall be the policy of the City of Merriam to deal equitably and fairly with property owners impacted by City capital projects. Projects requiring acquisition of right-of-way, permanent, and/or temporary easements shall be carried out in accordance with applicable law providing just compensation to property owners as set forth in Compensation below. For projects where federal funds are used, the acquisition of easements shall comply with the Uniform Relocations Assistance and Real Property Acquisition Act of 1970 as amended.

**Compensation** Just compensation will be derived by determining fair market value of the property interest to be acquired by the City. The fair market value will be derived either by the most current property values as determined by the Johnson County Appraiser's Office or by a licensed professional appraiser retained by the City. The City will compensate the property owner for appurtenances removed, destroyed, or severely damaged by the project at fair market value.

**Eminent Domain** Eminent Domain may be utilized to acquire property when negotiations have been exhausted or in special circumstances. Use of Eminent domain will be utilized on a case-by-case basis and in accordance with State Statute.

### **6.2 Architecture and Engineering Services**

It is the intent of the City to exercise efficiency and effectiveness in the selection of all architectural and engineering services. The City Engineer is expected to handle routine matters.

#### **Selection Criteria:**

The selection of architectural or engineering services is a discretionary responsibility of the Governing Body. Firms shall be selected on the basis of their ability to meet the specific needs of the City for each specific project. Best bid selection criteria may include the following:

1. Quality of similar work that has been provided for the City of Merriam or for other public and private entities.
2. Comparable experience and background of the specific personnel that shall be assigned to the team that shall serve the City on the project.
3. Extent of applicable resources available to the firm.
4. Understanding of services required by the City.
5. Financial considerations.

For all capital improvement projects, the City Council shall review the project objectives along with staff recommendations. Then initiate the process to be undertaken in the selection of professional services, as provided below:

**Requests for Proposal**

For capital improvement projects with an estimated total cost of over \$400,000, requests for proposals for architectural and engineering services shall be solicited and reviewed by the Public Works Director and City Engineer. The City Engineer shall prepare a recommendation to the Governing Body. Professional services for projects costing less than \$400,000 may also be contracted out in certain situations, as the City may determine.

**Establishment of qualified engineers and architects**

The city may from time to time establish a list of qualified engineers and architects for capital improvement projects.

**6.3 Stormwater Detention Waiver Alternative Mitigation Measures Participation Level Obligations**

The City of Merriam has adopted a Stormwater Management Ordinance (Chapter 26, Article 3 of Merriam Municipal Code) which establishes the stormwater runoff management criteria and the standards for the City's secondary or major drainage system and its components.

As part of the Stormwater Management Ordinance Section 26-171(g) establishes the criteria for the granting of detention waivers. Although Section 26-171(g) *Detention Waivers* requires the developer to either propose or participate in alternative mitigating measures if the increase in runoff from the development will cause or aggravate downstream flooding or overtax existing inadequate or obsolete drainage facilities it does not establish a method for determining a level of participation in alleviating any mitigating measures.

Since the amount of stormwater run-off is directly related to the amount of the impervious surface within a development, the City Council has adopted the following method for determining participating levels for alternative mitigation measures related to the granting of a detention waiver.

The participation level is based on the number of equivalent dwelling units (EDUs) within a proposed development. In the case of a detached single family residential property, an EDU is a single unit. For all other development types, an EDU is calculated as 2,750 square feet of impervious surface.

The City Council shall establish an associated EDU fee which shall be approved as part of the City of Merriam, Kansas Fees and Charges for City Services Schedule.

The participation level shall be calculated in the following manner: the number of EDUs multiplied by the EDU fee. It should be noted that the participation level for alternative mitigation measures does not limit the responsibility of the developer to address localized flooding or localized inadequate or obsolete existing drainage facilities as required by an approved stormwater study.

The participation level for alternative mitigation measures shall be paid prior to the issuance of any building, grading or stormwater permit. All fees collected as part of the alternative mitigation measures participation would be set aside for use on stormwater infrastructure related improvements within the City of Merriam.

## **7.0 Tax Increment (TIF) Financing Policy**

### **Objectives**

The purpose of this Policy is to establish the official position and procedures of the City of Merriam, Kansas, for considering applications for Tax Increment Financing (TIF) used for economic development and redevelopment purposes in accordance with the provisions of K.S.A. 12-1770 through 12-1780.

### **Scope**

The City recognizes that the proper use of Tax Increment Financing can promote, stimulate and develop the general and economic welfare of and quality of life in the City. The City is committed to the high quality and balanced growth and development of the community; to preserving the City's unique character and distinctive atmosphere; and to revitalizing and redeveloping areas of the City. Although the City does not encourage the practice of subsidizing private business with public funds, insofar as the City's objectives are substantially advanced by the expansion of the tax base and enhancement of the local economy, the City will consider, on a case-by-case basis, the approval of TIF projects where, but for the availability of TIF, such projects would not be economically viable. It is the policy of the City that any decision regarding the approval of TIF projects will be made in accordance with the guidelines, criteria, and procedures outlined in this Policy. Nothing herein shall imply or suggest that the City be under any obligation to approve a TIF Project for any applicant.

### **Definitions**

For the purpose of this Policy, the words or phrases as used in either the Kansas Constitution, applicable State statutes, or this Policy shall have meaning or be construed as follows:

***Applicant:*** The individual or business and its officers, employees, and agents requesting approval of the TIF Project.

***Associated therewith:*** As used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.

***Blighted Area:*** An area of real property qualifying as such, in the opinion of the Governing Body, pursuant to K.S.A. 12-1771.

***City:*** The City of Merriam, Kansas, and its Governing Body.

***Conservation Area:*** An area of real property qualifying as such, in the opinion of the Governing Body, pursuant to K.S.A. 12-1771.

**Feasibility Study:** A comprehensive study, prepared as required under K.S.A. 12-1771, which shows the benefits derived from the TIF Project will exceed the costs and the income therefrom will be sufficient to pay for the Project.

**Redevelopment Plan:** A description of a TIF Project, which includes the requirements of K.S.A. 12-1772.

**TIF District:** An area determined to be a redevelopment district by the Governing Body pursuant to the requirements of K.S.A. 12-1771.

**TIF Project:** The improvements to real property for which Tax Increment Financing has been approved.

**Tax Increment:** The difference between the amount of *ad valorem* property taxes assessed against the TIF District prior to completion of the TIF Project and the amount of *ad valorem* property taxes assessed against the TIF District after completion of the TIF Project. For example, if the taxes assessed prior to completion of the TIF Project were \$5,000, and the taxes assessed after completion of the TIF Project were \$50,000 annually, the "tax increment" would be \$45,000.

## PROVISIONS

### A. Legal Authority

Pursuant to K.S.A. 12-1771, the City may create TIF Districts in blighted areas, conservation areas, and enterprise zones created pursuant to K.S.A. 12-17,110. Certain costs of improvements within the TIF District may be reimbursed to the developer or paid through the issuance of special obligation bonds or full faith and credit bonds. Funds to pay the reimbursement or to retire the bonds are generated by the tax increment and other sources that may be pledged by the City. This authority is discretionary and the City may provide for Tax Increment Financing in an amount and for purposes more restrictive than that authorized by statute. No privately owned property shall be acquired and redeveloped under the provisions of the Act if the Johnson County Board of County Commissioners or the Board of Education levying taxes on property proposed to be included in the TIF District determines that the proposed TIF District will have an adverse effect on such county or school district.

### B. Eligible TIF Expenses

The Act specifies permissible TIF expenses, including:

- a. acquisition of property within the TIF Project area;
- b. payment of relocation assistance;
- c. site preparation;

- d. sanitary and storm sewers and lift stations;
- e. drainage conduits, channels and levees;
- f. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- g. street lighting fixtures, connection and facilities;
- h. underground gas, water, heating, and electrical services and connections located within the public right-of-way;
- i. sidewalks and pedestrian underpasses or overpasses;
- j. drives and driveway approaches located within the public right-of way;
- k. water mains and extensions;
- l. plazas and arcades;
- m. parking facilities;
- n. landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- o. all related expenses to redevelop and finance the Redevelopment Project.

The costs of construction of buildings or other structures to be privately owned are not eligible TIF expenses.

**C. Bond Authority**

The City may use proceeds of special obligation bonds or full faith and credit tax increment bonds to finance the undertaking of a redevelopment project, as provided in K.S.A. 12-1774. The maximum maturity of any such special obligation bonds or full faith and credit tax increment bonds shall be twenty (20) years. The City may also issue industrial revenue bonds or private activity bonds to benefit a developer located within a TIF District.

**1. Special Obligation Bonds**

The City may issue special obligation bonds to finance permissible expenses of the TIF District. Such bonds shall be payable, both as to principal and interest: (1) from property tax increments allocated to, and paid into a special fund of the City; (2) from revenues of the City derived from or held in connection with the undertaking and carrying out of any Project; (3) from private sources, contributions or other financial assistance from the state or federal government; (4) from the increased franchise fees and City sales tax, or (5) from any combination of these methods.

Special obligation bonds are not general obligations of the City, nor in any event shall they give rise to a charge against its general credit or taxing powers or is payable out of any funds or properties other than those sources set forth above. Should the annual increment fall short of the amount necessary to pay the principal and interest

of the special obligation bonds issued under this Policy, the remaining amount payable is the responsibility of the applicant, not the City.

If a special obligation bond issued under this Policy is offered to the public, an investment grade rating must be assigned to the issue; if the bond is privately placed, it may be issued without a rating, but must be sold to an accredited investor as that term is defined by securities industry standards.

**2. Revenue Bonds**

Revenue bonds may be issued by the City pursuant to K.S.A. 12-1740 *et seq.* to benefit a developer within the TIF district. All state law benefits associated with such bonds shall be available, except that no *ad valorem* tax abatement shall be available.

**D. Reimbursement Authority**

Pursuant to Attorney General Opinion 96-45, TIF can be used to reimburse a developer for eligible TIF expenses as opposed to issuing bonds; this is the preferred method of granting TIF benefits. Under this method, the City agrees to reimburse the developer for eligible TIF expenses over a period of time not to exceed twenty (20) years with interest on the outstanding reimbursement amount. The reimbursement amount and interest is paid solely from 411 or a portion of the tax increment, and the developer takes the risk that the portion of the increment pledged for reimbursement will be insufficient to retire the eligible TIF expenses and interest.

**E. Amount of Tax Increment Financing Available.**

**1. Criteria** The primary objectives of the City in granting TIF for economic development are: (a) promote, stimulate and develop the general and economic welfare of the state of Kansas and the City; (b) promote the general welfare of the citizens of Kansas and the City through assisting in the development, redevelopment, and revitalization of central business areas, blighted areas, conservation areas, and environmentally contaminated areas located within the City; (c) create new jobs and retain existing jobs; and (d) expand the economic and tax base of the City. The City recognizes that a simple system of determining the amount of TIF to be granted in order to reach these objectives may not always be equitable if applied uniformly to different kinds of redevelopment plans. As a result, in determining the actual amount and duration of TIF to be granted, the City shall consider the factors and criteria set forth in this Policy under the Analysis of Costs and Benefits, as

well as the amount and duration of previous TIF Projects supported by the City.

2. **Capital Investment** To be considered for TIF, an individual or business should be making a minimum capital investment in the City of \$1,000,000.00. The term "capital investment" means the acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes. The minimum amount of capital investment required for TIF Projects, as provided herein, may be waived by the City based upon the unique nature of the project as determined by the Governing Body.

#### F. **Analysis of Costs and Benefits**

Prior to granting TIF, the City shall prepare, or direct to be prepared, a cost benefit analysis examining the costs and benefits to the public of the proposed TIF Plan. The Cost-Benefit Analysis shall be performed on a model approved by the City and shall be in addition to the Feasibility Study. The cost of preparing the Cost-Benefit Analysis shall be paid by the applicant. This cost will be in addition to the application fee required under this Policy. The City shall use the Cost-Benefit Analysis to assist in its decision-making process, but the results of the analysis will not be determinative or obligate the City to any course of action. The Cost-Benefit Analysis shall consider, but not be limited to, the following factors, as applicable:

1. The market value of the applicant's investment in real and personal property;
2. The property tax, sales tax, franchise fees, transient guest tax, and other tax and fee revenue that may result and directly benefit the City;
3. The number and average employee salary of full-time equivalent jobs that will be created;
4. The expenditures that local government will need to make to provide streets and utilities, police and fire protection, and other services as a result of the TIF Project;
5. The expenditures for police and fire protection, recreation, street maintenance, social programs, etc., for the new residents associated with the TIF Project;

6. The expenditures for public capital investments (library, streets, airport, sewer plants, etc.) for the new residents associated with the TIF Project;
7. The expenditures by the local school district(s) to provide the facilities and to educate the students of the new residents associated with the TIF Project;
8. Other public or private expenditures associated with attracting a new business;
9. The kinds of jobs created in relation to the types of skills available from the local labor market;
10. The degree to which the ultimate market for the applicant's business products and services is outside the community, recognizing that outside markets infuse "new money" to the local economy;
11. The potential of the applicant's business for future expansion and additional job creation;
12. The indirect costs and benefits the applicant's business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing;
13. The compatibility of the location of the applicant's business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services;
14. An evaluation of the applicant's current and projected financial strength and market viability.
15. The number and average employee salary of full-time equivalent jobs that will be retained in the City, community, or State as a result of the applicant's decision to locate or remain in the City; and
16. The value added, including intangible costs and benefits such as City reputation, congestion, environment, and quality of life to the City and community as a result of the unique nature of the applicant's business.

**G. Application Of "But-For" Principle**

All TIF applications shall be considered in light of the "but-for" principle, i.e., the TIF must make such a difference in the decision of the applicant that the Project would not be economically feasible but for the availability

of TIF. The Governing Body does not encourage the subsidy of private businesses with public funds, the indirect consequence of TIF, unless some measurable public good results, as determined by the City, and the public subsidization can reasonably be expected to make a significant difference in achieving one or more objectives of the City.

**H. Unfair Competition**

In reviewing TIF proposals, the Governing Body shall consider whether or not such financing is likely to create an unfair advantage for the applicant over any existing competing business within the City.

**I. Distribution of *Ad Valorem* Taxes**

All tangible taxable property located within a TIF District shall be assessed and taxed for *ad valorem* tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all *ad valorem* taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected.

Some or all of the increment in *ad valorem* property taxes resulting from a redevelopment district may be apportioned by the City to a special fund for the payment of the eligible TIF expenses of the TIF Project, including reimbursement or the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued.

**J. Condemnation**

The use of condemnation, permitted under K.S.A. 12-1773, will be considered by the Governing Body only upon a finding that the applicant has attempted, in good faith, to acquire the property privately. In the event condemnation is approved by the Governing Body, the applicant shall be responsible for all costs associated with the proceedings, including court and litigation costs, attorney's fees and the final condemnation awards made.

**K. Waiver of Requirements**

The Governing Body reserves the right to grant or deny TIF for the development or redevelopment of a District under circumstances beyond the scope of this Policy, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any procedural requirement of State law.

## **PROCEDURES**

The following basic procedures shall govern the approval of TIF Projects within the City. All requests for Tax Increment Financing shall be considered and acted upon in accordance with this Policy.

**A. Proposal**

The applicant shall apply for approval of a TIF Project by filing with the City Clerk five (5) copies of a written proposal on a form provided by the Finance Department. The proposal shall include, but is not limited to: (a) a proposed comprehensive plan that identifies all the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area; (b) description and map of the proposed redevelopment district; (c) description of the proposal boundaries of the redevelopment district; (d) information regarding expected capital expenditure by the applicant; and (e) a proposal for development assistance. The City Clerk shall distribute the copies to: City Administrator, City Attorney, Chief Financial Officer, City Financial Advisor, and City Bond Counsel. The City will consider full and complete proposals, and additional information as may be requested by the Governing Body. Any inaccuracy, misstatement of or error in fact may render the proposal null and void and may be cause for the repeal of any development assistance rendered through the TIF statutes granted by the City in reliance upon said information.

**B. Proposal and Renewal Fees**

All proposals shall be accompanied by an application fee of \$1,000. This fee is in addition to other fees which may be required by the City, including fees for the issuance of tax exempt or taxable bonds, costs incurred for preparation of the Feasibility Study as required by K.S.A. 17-1441, costs associated with the Cost and Benefit Analysis required by the City and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. Actual costs incurred for review shall be billed by the City Clerk for payment within thirty (30) days of the review process.

**C. Initial Review Procedure**

On receipt of the completed proposal and the required fee, the City Administrator shall determine whether the proposal is complete and sufficient for review. If the proposal is incomplete, the City Administrator shall immediately notify the applicant of the need for such changes or additions as deemed necessary. The matter shall then be referred to the City Attorney for a decision as to whether the proposed area of redevelopment meets the requirements of a redevelopment district, as described under K.S.A. 12-1771. The City Administrator shall notify the

Governing Body, if the proposal is found complete and is for a purpose, which appears to be authorized by law.

**D. Review of requests and applications.**

Requests and applications for TIF may be reviewed by the City Council or an Ad-Hoc Committee appointed by the Mayor. The City Council or Committee, with the assistance of City staff, shall evaluate the proposed TIF District and verify that redevelopment is necessary to promote the general and economic welfare of the City, gather and review such additional information as may be deemed necessary to determine if the applicant meets the objectives of this Policy, conduct preliminary discussions with the applicant, discuss terms of an agreement to be drafted by the City Attorney or his/her designee for Governing Body consideration. The Committee may make a recommendation to the Governing Body whether the proposal should be favorably considered. In reviewing the information, the Council or Committee may utilize the services of consultants, including but not limited to bond counsel and financial advisers. Records, including proposals submitted for TIF, may be withheld from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.

**E. Governing Body Action**

**1. Reviewing and Establishing the TIF District**

After reviewing the proposal, TIF request and Committee reports, the Governing Body shall determine whether to reject the TIF proposal or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall take action to establish a TIF District, unless such District is already in existence. The Governing Body must conclude that redevelopment of the proposed area is necessary to promote the general and economic welfare of the City. If such a finding is made the Governing Body may adopt a resolution.

**a. TIF District Resolution**

The resolution shall state that the City is considering the establishment of a TIF District; additionally, it shall: (1) give notice that a public hearing will be held to consider the establishment of a redevelopment district and to fix the date, hour and place of such hearing; (2) describe the proposed boundaries of the redevelopment district; (3) describe a proposed comprehensive plan that identifies all of the proposed redevelopment project areas and that identifies in

a general manner all of the buildings and facilities that are proposed to be constructed or improved in each development project area; (4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated; and (5) state that the Governing Body will consider findings necessary for the establishment of a redevelopment district.

No elected or appointed officer, employee or committee of the City, and no Chamber of Commerce, Board, Development Council, or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the provision of TIF, nor to the establishment of a TIF District. Such resolution shall be an expression of good faith intent, but shall not in any way bind the City to establishing a TIF District.

**b. Notice and Hearing**

No TIF District shall be established, nor TIF granted, by the City prior to notice and a public hearing as required by K.S.A. 12-1771. Upon request, the City Clerk shall provide any public agency with a copy of the proposal and a description and map of the proposed TIF District. The applicant is required, to attend the public hearing.

**C. Establishing the TIF District**

Upon the conclusion of the public hearing and determination by Merriam City Attorney that the proposed area complies with K.S.A. 17-1771, the Governing Body may establish the TIF District by ordinance. Any addition of area to the TIF District or any substantial change to the comprehensive plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the District.

**2. The Redevelopment Project**

The Governing Body and the Planning Commission will consider the redevelopment project as proposed. Together, they will prepare a redevelopment plan. The Planning Commission must determine that the Plan is consistent with the comprehensive general plan for the development of the City.

**a. Redevelopment Plan**

The redevelopment plan shall include: (1) a summary of the Feasibility Study; (2) a reference to the redevelopment district that identifies the

redevelopment project area that is set forth in the comprehensive plan that is being considered; (3) a description and map of the area to be redeveloped; (4) the relocation assistance plan, as required by K.S.A. 17-7777; (5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and (6) any other information the Governing Body deems necessary to advise the public of the intent of the Plan.

A copy of the redevelopment plan shall be delivered to the Johnson County Board of Commissioners and the Board of Education of any school district levying taxes on property within the proposed redevelopment project area. Upon a finding by the Planning Commission that the redevelopment plan is consistent with the comprehensive general plan for the development of the City, and determination by the Governing Body that said Plan shall be further considered, the Governing Body will or may adopt a resolution.

**b. Redevelopment Plan Resolution**

The resolution shall state that the Governing Body is considering the adoption of the Plan. Such resolution shall: (1) give notice that a public hearing will be held to consider the adoption of the redevelopment plan and fix the date, hour and place of such public hearing; (2) describe the boundaries of the TIF District within which the redevelopment project will be located and the date of establishment of such a district; (3) describe the boundaries of the area proposed to be included within the TIF Project area; and (4) state that the redevelopment plan, including a summary of the Feasibility Study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped are available for inspection during regular office hours in the office of the City Clerk.

Where the Governing Body determines that it will or may issue full faith and credit tax increment bonds to finance the redevelopment project, in whole or in part, the resolution shall also include notice thereof. The date fixed for the hearing shall be no less than 30 or more than 70 days following the date of the

adoption of the resolution fixing the date of the hearing.

**3. Hearing**

At the public hearing, a representative of the City shall present the City's proposed redevelopment plan. Following the presentation of the Plan, all interested persons shall be given an opportunity to be heard. The Governing Body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

Following the public hearing, the Governing Body may adopt the redevelopment plan by ordinance passed upon a 2/3 vote. Any substantial changes to the Plan as adopted shall be subject to public hearing.

No full faith and credit bonds or special obligation bonds may be issued until the sixty- day protest period expires after the date of the public hearing.

**F. Acquisition of Land**

The City may proceed to acquire property within the TIF District by purchase or eminent domain (with 2/3 vote of the Governing Body) and implement the Plan. However, the City may not exercise eminent domain in conservation areas.

**RESPONSIBILITY FOR ENFORCEMENT**

The City Administrator shall be responsible to the Governing Body for the enforcement of this Policy. The City's Chief Financial Officer shall assist in the implementation of this Policy.

**REFERENCES**

K.S.A. 12-1770 through 12-1780; 12-17,110; and 12-1740.

## **8.0 Private Activity Bond Policy**

### **Issuance of Private Activity Bonds**

The Governing Body of the City may evaluate all requests for the City to issue new private activity bonds for the purposes allowed by law and may approve the issuance of such bonds when, in the opinion of the Governing Body, the project being financed in whole or in part by the proceeds of such bonds is reasonably expected to promote, stimulate and develop the welfare of the City through the promotion and advancement of physical and mental health, industrial, commercial, agricultural, natural resources and recreational development in the City; to encourage and assist in the location of new business and industry in the City and the expansion, relocation or retention of existing business, industry and health development, and the infrastructure related thereto.

### **Private Activity Bonds - New Issues**

In reviewing requests to issue private activity bonds, the Governing Body may be guided by whether such an issue would help the City achieve a combination of the following objectives:

- a. Contributes to the general welfare of the City as stated above;
- b. A substantial increase in the number of jobs in the City;
- c. Significant additional diversification of the local economy;
- d. A positive impact on a particular area of the City;
- e. Expansion of the type of job skills available to the job market in the City or utilization of key skills of locally unemployed persons;
- f. Economic growth through the production of goods and/or services which will be exported from the City or which will replace goods and/or services which currently are imported into the City;
- g. Increasing the property tax base of both residential and commercial properties to further support expanding cost of municipal services provided by the City of Merriam;
- h. Enhance the credit worthiness of the City of Merriam with a broader tax base, thus enhancing the City's ability to have its borrowings at a reduced interest cost to its residents and taxpayers;
- i. Accomplish any other needs of the City.

### **Refinancing**

In reviewing requests to refinance private activity bonds, the Governing Body may be guided by whether such an issue would help to achieve a combination of the following objectives:

- a. Interest savings;
- b. Reduced maturity schedules;
- c. Expansion of existing facilities;
- d. Other financial considerations.

### **Approval Conditions**

Approval of private activity bond issued by the Governing Body may be subject to the following conditions:

- a. Publicly offered bonds The applicant must provide reasonable assurance that the bonds are secure and marketable and that the bond issue complies with applicable state and federal law. The City may require some type of credit enhancement such as a letter of credit, bond insurance, personal guarantees, pledges of other collateral, a bond reserve account, or a combination thereof.
- b. Privately placed bonds The applicant must provide reasonable assurance that the bonds are secure and marketable to sophisticated investors, approved by the City, and that the bond issue complies with applicable state and federal law.
- c. Secondary Market Disclosure The City in its discretion may require secondary market disclosure to bond investors relevant to material information in properly valuing the bonds.
- d. Required City Advisors The City requires the use of its designated bond counsel. The City reserves the right to approve the selection of other participants including, but not limited to, the underwriter and trustee/fiscal agent. The City, at its discretion, may retain additional independent advisors to assist the City in analyzing the merits and making a determination of its approval at the applicant's expense, such as: Economic Specialist, Environmental Specialist, Certified Public Accountant, Financial Advisor, etc.
- e. Fees The City may charge an administrative fee based on the following schedule:

<b>Principal Amount of Issue or Refinancing (cumulative)</b>	<b>Fee</b>
\$ 0 to 999,999	.5 of 1%
\$1,000,000 to 1,999,999	.4 of 1%
\$2,000,000 to 2,999,999	.3 of 1%
\$3,000,000 and above	.2 of 1%

Further, the City may retain special legal counsel in the transaction. In that event, the special legal counsel fee shall be negotiated between the special legal counsel and the applicant. In the event there are any post-closing costs incurred, these charges will be direct billed to the applicant for reimbursement to the City. These might cover a wide range of circumstances including, but not limited to: events of default, transfer of ownership, transfer of bonds, remarking issues.

- f. Use The proposed use must be clean, non-polluting and consistent with all planning and community development policies, ordinances and codes, and all applicable Kansas State Statutes.
- g. Refunding Generally, the City of Merriam would not consider a refunding issued that would diminish the security interest of the bondholders from the original issue. The refunding issue must serve a valid economic purpose.

Examples would include:

- 1. Interest Savings
  - 2. Reduced Maturity schedule
  - 3. Expansion of existing facilities
  - 4. Change of ownership
- h. Abatements The City of Merriam will consider granting abatements on a case-by-case basis for projects that demonstrate a favorable cost/benefit relationship to the City.
  - i. Pirating Generally, it is the City of Merriam's policy to discourage applications for tax abatement incentives which deliberately encourage and cause the pirating of business from another Johnson County community and to avoid participating in "bidding wars" between cities or areas competing for the location or expansion of existing businesses with the area, through attempts to offer the largest tax exemption incentive or other public inducement, which is detrimental to the area's economy and the public interest.

### **Procedure Regarding Issuance**

Potential applicants are entitled to a pre-application meeting with the City's Finance team to explore applicant's interest prior to formally submitting an application. The procedure for the issuance of private activity bonds of the City shall be substantially as follows:

- a. The prospective applicant shall submit five (5) completed copies of the application form to the City Clerk.

- b. Application Fee - \$2,500.00 (non-refundable). Application fees shall be deposited in the General Fund. Applied to Administrative Fee if approved.
- c. Applicant shall be responsible for the pre-payment of other professional fees including, but not limited to, fees paid to the City's Bond Counsel and the City Attorney, regardless of whether the project is ultimately approved or bonds are issued or refinanced. The amount of pre-payment to be determined by the Finance Director.
- d. Presentation before the City Council.

**Responsibility for Enforcement**

The City Administrator shall be responsible to the Governing Body for the enforcement of this debt policy. The Finance Director shall assist in the implementation of this policy. This policy is meant to be a guide to the Governing Body in evaluating different options for private activity debt issuance.

## **9.0 Guidelines for Requests for Reasonable Accommodations under the Fair Housing Act Policy**

The Fair Housing Act (42 U.S.C. §§ 3601-3619, the “Act”) prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status, and disability. The purpose of these guidelines is to provide a procedure for a person with a disability to request a reasonable accommodation with respect to a rule, policy, practice, or service under the Merriam Code or a policy regulating housing, when such accommodation may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).

**Definitions** All applicable terms shall have the meanings set forth in the Act and the applicable City Codes. In the event of any conflict, the terms of the Act shall take precedence.

### **Requesting a Reasonable Accommodation**

- a. A request for a reasonable accommodation is made whenever a person makes it clear that the person is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of the person’s disability. The person must explain what type of accommodation is being requested, and, if the need for accommodation is not readily apparent or not known to the City, explain the relationship between the requested accommodation and the person’s disability. The request should be made in writing to the City Clerk.
- b. A person with a disability need not personally make the reasonable accommodation request. The person’s request may be made by a family member or someone else who is acting on the person’s behalf. The City may require that a request being made by someone on behalf of a disabled person, be accompanied by evidence of consent on the part of the disabled person or other legal authority to act on behalf of the disabled person.
- c. There is no requirement that a request be made on any particular form or at any particular time.
- d. There is no fee for requesting a reasonable accommodation.
- e. A person is not entitled to receive a reasonable accommodation unless the person or someone on the person’s behalf requests one.

## **Review of Requests for Reasonable Accommodation**

- a. Hearing Officials. The Community Development Director, Police Chief, and Fire Chief (or their respective designees) are designated as hearing officials to make determinations on requests for reasonable accommodation.
- b. Review and Hearing. Upon a request for reasonable accommodation, the City shall schedule a hearing before the hearing officials; provided, the applicant may request a decision to be made without a hearing. The review and hearing will be conducted in an informal fashion, but will be thorough. The person making the request will be given a full opportunity to present relevant information and evidence for consideration by the hearing officials.
- c. Additional Information. The hearing officials may request additional information to evaluate if a requested reasonable accommodation is necessary because of a disability. Provided, the requests should not conflict with the Act and privacy rights of the person with the disability. (For example, questions as to why the requested accommodation is necessary or what, if any, land use impact would result from granting the accommodation are within the legal scope of inquiry under the Act. The City may not ordinarily inquire as to the nature and severity of a disability; however, in response to a request for a reasonable accommodation, the hearing officials may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability, (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.) If additional information is requested, the hearing date may be continued as necessary.

This procedure is intended to expedite the information gathering process and facilitate the issuance of a timely decision by the hearing officials. It is in the best interest of the applicant seeking accommodation to provide the requested information as soon as possible to obtain a speedy decision.

- d. Conditions of Approval. In granting a reasonable accommodation, the hearing officials may impose any conditions of approval deemed reasonable and necessary.
- e. Alternative Reasonable Accommodations. If appropriate, the hearing officials may consider and discuss any alternative reasonable accommodation with the person making the request.
- f. Decision. The hearing officials will issue a written decision on the request for reasonable accommodation within 30 days of the hearing, unless additional time is required and the requesting party is notified of the projected time necessary to render a decision. The written decision shall be sent by certified mail unless an

alternative manner of notification is agreed upon by the requesting party. The written decision shall describe the request, any relevant facts relied upon, the hearing officials' decision, and any applicable conditions of approval, if any.

### **Factors for Considering Requests for Reasonable Accommodation**

- a. Whether the housing that is the subject of the request will be used by a person protected under the Act (i.e., the person has a disability as defined by the Act).
- b. Whether the request for reasonable accommodation is necessary to make specific housing available to a person protected under the Act.
- c. Whether the requested accommodation would impose undue financial or administrative burdens on the City or would require a fundamental alteration in the nature of the City's regulation thereby making the request not reasonable.
- d. Whether any conditions of approval for the reasonable accommodation are deemed reasonable and necessary.
- e. Whether alternative reasonable accommodations should be approved to afford the necessary benefit under the Fair Housing Act.

**Review** A person denied a reasonable accommodation request or otherwise unsatisfied with the hearing officials' decision may request a review by the City Administrator. The request for review shall be in writing and must be filed with the city clerk within ten (10) days of the date of the decision. The person should state the reasons for dissatisfaction and include specific reasons they believe the decision should be altered. The City Administrator shall review the case and make a written decision, which will be forwarded to all applicable parties in the same manner as the hearing officials' decision.

## **10.0 Councilmember Requests for Records and Information**

It is the policy of the City of Merriam that Councilmembers be provided the information and records reasonably necessary to perform the essential functions of the office of City Councilmember. The Council respects the day-to-day operations of the City and wishes to further its policy of access to information and records without causing unnecessary and undue negative impact on such daily operations. This policy sets forth the procedures the Council believes will best accomplish its goals of information access and respect for staff time and City resources.

**Existing Records** A Councilmember may request access to, or copies of, open public records that are reasonably necessary to the performance of his/her official duties. All Councilmember record requests shall be submitted to the City Administrator.

**Closed Records** If a record requested by a Councilmember is either mandatorily or discretionarily closed by law, the City Administrator will so advise the requesting Councilmember and shall not release such record for inspection or copying.

The requesting Councilmember may appeal to the City Council the determination of the City Administrator regarding closure of the requested record. If a majority of the membership of the City Council determines that the discretionarily closed record should be open and is necessary for the performance of the Councilmember's official duties, the City Administrator shall comply with the request and provide access to, or copies of, such record within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or copies will be assessed to the Councilmember.

**Open Records** If a record requested by a Councilmember is an open public record as defined by the Kansas Open Records Act (KORA), K.S.A. 45-215, et seq., the City Administrator or their designee shall determine the approximate amount of time necessary to fulfill the Council member record request.

If the City Administrator or their designee determines that it will take less than two (2) hours to comply with a Councilmember's record request, the City Administrator will comply with the request and provide access to, or copies of, such records within a reasonable time period, taking into consideration the current workload of City Administrator and staff. No charge for staff time or copies will be assessed to the Councilmember.

If the City Administrator or their designee determines that it will take two (2) or more hours to comply with a Councilmember's record request, the City Administrator shall so advise the requesting Councilmember and shall forward the record request (in writing) to the Mayor and Council President who will determine within a reasonable time whether the records requested are reasonably necessary for the performance of the Councilmember's official duties.

If, upon review of the record request, the Mayor and Council President determine that such records are necessary for the performance of the Councilmember's official duties, they shall so inform the Councilmember and City Administrator in writing. The City Administrator shall then comply with the request and provide access to, or copies of, such records within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or copies will be assessed to the Councilmember.

If, upon review of the record request, the Mayor and Council President determine that such records are not necessary for the performance of the Councilmember's official duties, they shall so inform the Councilmember and City Administrator in writing, and neither access to, nor copies of, the records shall be provided to the requesting Councilmember.

The requesting Councilmember may appeal the determination of the Mayor and Council President to the City Council. If a majority of the membership of the City Council determines that the records requested are necessary for the performance of the Councilmember's official duties, the City Administrator shall comply with the request and provide access to, or copies of, such records within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or copies will be assessed to the Councilmember.

If a majority of the membership of the Council determines that the requested records are not necessary for the performance of the Councilmember's official duties, the requesting Councilmember shall be so informed, and neither access to, nor copies of, the records shall be provided to the requesting Councilmember.

If, upon review of the record request, the Mayor and Council President are unable to reach a consensus regarding whether the records requested are necessary for the performance of the Councilmember's official duties, the request shall be forwarded to the full Council for discussion and consideration at the next scheduled meeting of the Council.

If a majority of the membership of the City Council determines that the requested records are necessary for the performance of the Councilmember's official duties, the City Administrator shall comply with the request and provide access to, or

copies of, such records within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or copies will be assessed to the Councilmember.

If a majority of the membership of the Council determines that the records are not necessary for the performance of the Councilmember's official duties, the requesting Councilmember shall be so informed, and neither access to, nor copies of, the records shall be provided to the requesting Councilmember pursuant to this Policy.

Nothing herein is intended to preclude a Councilmember from requesting a record pursuant to the provisions of KORA or other applicable law. If a Councilmember desires the application of the provisions of KORA to their record request, such request should be made pursuant to the requirements of Merriam Code Section 2-150 et seq. and KORA, including the payment of reasonable fees associated therewith.

**Requests for Research, Creation of Documents or Other Information.**

Any Councilmember request for research, creation of documents or information that is not in the form of an existing record or document shall be made to the City Administrator. Upon receipt of such request, it shall be the responsibility of the City Administrator to estimate the amount of time it will take City staff to respond thereto.

If the City Administrator or their designee determines that it will take less than two (2) hours to comply with a Councilmember's request, the City Administrator will comply with the request and provide the requested information within a reasonable time period, taking into consideration current workload of City Administrator and staff. No charge for staff time or generation of documents will be assessed to the requesting Councilmember.

If the City Administrator or their designee determines that it will take two (2) or more hours to comply with a Councilmember's request, the City Administrator shall so advise the requesting Councilmember and shall forward the request (in writing) to the Mayor and Council President who will determine within a reasonable time whether the information requested is reasonably necessary for the performance of the Councilmember's official duties.

If, upon review of the Councilmember request, the Mayor and Council President determine that such information is necessary for the performance of the Councilmember's official duties, they shall so inform the Councilmember and City Administrator in writing. The City Administrator shall then comply with the request and provide the requested information within a reasonable period of time, taking into consideration the current workload of the City Administrator and

staff. No charge for staff time or generation of documents will be assessed to the requesting Councilmember.

If, upon review of the Councilmember request, the Mayor and Council President determine that such information is not necessary for the performance of the Councilmember's official duties, they shall so inform the Councilmember and City Administrator in writing and the requested information shall not be provided to the requesting Councilmember pursuant to this Policy.

The requesting Councilmember may appeal the determination of the Mayor and Council President to the City Council. If a majority of the membership of the City Council determines that the information requested is necessary for the performance of the Councilmember's official duties, the City Administrator shall comply with the request within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or generation of documents will be assessed to the Councilmember.

If, upon review of the Councilmember request, the Mayor and Council President are unable to reach a consensus regarding whether the information requested is necessary for the performance of the Councilmember's official duties, the request shall be forwarded to the full Council for discussion and consideration at the next scheduled meeting of the Council.

If a majority of the membership of the City Council determines that the requested information is necessary for the performance of the Council member's official duties, the City Administrator shall comply with the request within a reasonable period of time, taking into consideration the current workload of the City Administrator and staff. No charge for staff time or generation of documents will be assessed to the Councilmember.

If a majority of the membership of the Council determines that the requested information is not necessary for the performance of the Councilmember's official duties, the requesting Councilmember shall be so informed, and the requested information shall not be provided to the requesting Councilmember.



## AGENDA ITEM INFORMATION FORM

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**AGENDA ITEM:** Consider approval of an ordinance amending Chapter 14 – Businesses and Business Regulations of the Ordinances of the City of Merriam by adding standards for the regulation of mobile food vendors (food trucks). (First reading)

**SUBMITTED BY:** Bryan P. Dyer, Community Development Director

**MEETING DATE:** October 11, 2021

### PROJECT BACKGROUND/DESCRIPTION:

The City of Merriam Code does not have standards for the operation of mobile food vendors (food trucks) within the city limits. Staff regularly receives inquiries from food truck operators wishing to do business in Merriam. Staff reviewed neighboring communities' food truck regulations prior to crafting the attached draft ordinance. The draft ordinance utilizes different aspects from those communities' regulations to create criteria for the operation of food trucks in Merriam. The draft ordinance amends Chapter 14 – Businesses and Business Regulations by adding licensing standards for mobile food vendors. The ordinance has been reviewed by department heads and the city administrator.

The goal of the ordinance is to provide standards for the operation of a food truck in the city in a manner that is minimally disruptive to city streets and neighborhoods. The ordinance includes allowances for food truck operations at city approved events. One of the primary tenets of the draft ordinance is that all food trucks operating within the city must have a Merriam Occupational License (MOL). This will provide the city with operator contact information and assurance that the food truck has the proper state license and has been inspected by the fire department or an approved inspection agency.

The following are some of the significant points in the draft ordinance.

- All food trucks will need a MOL to operate within the city
- To obtain an MOL, the food truck operator must provide proof of a valid Kansas Food Establishment License and fire department inspection
- Food trucks cannot operate in a city street unless they are part of a City approved event
- Food trucks cannot block any street, pedestrian, bicyclist, etc.
- Food trucks can only operate on private property that is zoned Commercial or Industrial unless they are part of a City approved event.
- Food trucks must operate on a hard surface, unless they are part of a City approved event
- Food trucks cannot operate within 150 feet of a brick and mortar restaurant unless they have permission from the restaurant or part of a City approved event
- Food trucks can only serve alcohol if they have a state and city caterer license
- The city administrator can waive any or all of these regulations for a unique or special event

The City Attorney has reviewed the ordinance.

**CITY COUNCIL GOALS AND OBJECTIVES****FINANCIAL IMPACT**

Amount of Request/Contract:

Amount Budgeted:

Funding Source/Account #:

**SUPPORTING DOCUMENTS**

Draft ordinance

**ACTION NEEDED/STAFF RECOMMENDATION**

This is a first reading. No action required.

**ORDINANCE NO.\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 14 – BUSINESSES AND BUSINESS REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS CONCERNING MOBILE FOOD VENDORS (FOOD TRUCKS).**

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS:**

**SECTION 1.** That Chapter 14 – Businesses and Business Regulations of the Code of Ordinances, City of Merriam, Kansas, is hereby amended by adding the following:

**ARTICLE VI. MOBILE FOOD VENDORS**

**Sec. 14-300. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

*City approved event* means any event organized and operated by the City including but not limited to city approved neighborhood block parties in which a portion of the public right-of-way or private street is blocked off.

*Mobile Food Vendor* or *Vendor* means any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.

*Mobile Food Unit* or *Unit* shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale.

**Sec. 14-310. Operating Conditions.**

Mobile food vendors may operate within the city under the following conditions:

- (1) *Location.* With the property owner's consent, mobile food vendors may vend on private property that is zoned I-1, C-3, C-2, C-1, C-O, IP-1, or PUD-G District in accordance with this article. mobile food units may not be parked on any city owned property or public right-of-way, unless as part of a city approved event. Mobile food units may not be parked where a line of customers would hinder the flow of traffic on any street, the flow of bicycles within any bike lane or route, or the flow of pedestrians along any sidewalk. No accessible route providing access to persons with disabilities may be blocked or reduced to less than five (5) feet in width. If any such hindrance occurs, the vendor must either instruct customers to move to a safe location outside of the flow of traffic, bicycles, and pedestrians; temporarily stop vending from its unit; or move its unit to a different location.
- (2) *Paved Surfaces.* All mobile food vendor operations must occur on paved surfaces constructed in accordance with section 74-535(e)(2) unless as part of a city approved event.

- (3) *Distance from Restaurants.* No mobile food vendor may vend within a one hundred fifty foot (150') radius of the main entrance to a brick and mortar restaurant during such restaurant's posted hours of operation unless the mobile food truck vendor has written permission from the restaurant owner and maintains a record of such permission in its Unit for inspection or is part of a city approved event.
- (4) *Hours of Operation.* Mobile food vendors are prohibited from offering for sale any food and/or beverage from the same general location for more than four (4) hours out of every day, from the same general location for three consecutive days in a calendar month, or outside the hours of 7:30 A.M. to thirty (30) minutes after sunset except as part of a city approved event.
- (5) *Serving of Alcoholic beverages.* In order to serve alcoholic beverages, the mobile food vendor must obtain the appropriate state and city caterer licenses in addition to a Merriam occupational license.
- (6) *Signage.* No sign or device prohibited by Chapter 53 Signs and Other Advertising may be erected, placed, installed, and/or maintained in association with a mobile food unit, except a mobile food unit can be used as a sign. Signage mounted on a mobile food unit shall not exceed the dimensions of the unit by more than one (1) foot in any direction. No sign on a mobile food unit may be illuminated.
- (7) *Lights.* No flashing lights or attention-attracting devices (as defined in section 53-3) are permitted on or in association with the use of a mobile food unit. No direct light may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles or pedestrians from a mobile food unit.
- (8) *Accessory Structures.* Unless otherwise provided in this Article, no tables, chairs, or other accessory structures may be erected by a mobile food vendor outside of a mobile food unit.
- (9) *Trash and Recycling.* If trash and recycling receptacles are not readily provided on-site, trash and recycling receptacles shall be provided with each mobile food unit. Such receptacles must be attached to the unit or located within fifteen (15) feet of the unit and cannot interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public.

## **Sec. 14-320. Licenses.**

- (a) All mobile food vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of mobile food units from all applicable jurisdictions. Evidence of all such licenses and/or permits shall be kept in the unit and produced upon request.
- (b) All mobile food vendors must have a current Merriam occupational license. When applying for or renewing a Merriam occupational license, the mobile food vendor must provide

evidence that their mobile food unit has passed an inspection by an authority approved by the city's fire department and a valid Food Establishment License from the State of Kansas.

**Sec. 14-330. Applicability.**

The city administrator or their designee can determine that a Mobile Food Vendor and/or Unit does not have to meet some or all of the sections of this Article in the case of a unique or special event.

**SECTION 2.** Severability. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**SECTION 3.** Savings Clause. Neither the adoption of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof be construed as a waiver of any license, fee or penalty at said effective date and unpaid under either Ordinance, nor be construed as affecting any of the provisions of these Ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, and all rights and obligations thereunder shall continue in full force and effect.

**SECTION 4.** Existing Sections. Those sections of Chapter 14 Businesses and Business Regulations, of the Code of Ordinances, City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

**SECTION 5.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the official City newspaper, all as provided by law.

PASSED by the Governing Body this \_\_\_\_ day of October, 2021.

APPROVED AND SIGNED by the Mayor this \_\_\_\_\_<sup>h</sup> day of October, 2021.

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Ken Sissom, Mayor

ATTEST:

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Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

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Ryan Denk, City Attorney



## INTEROFFICE MEMORANDUM

MERRIAM



**TO:** MAYOR AND CITY COUNCIL  
**FROM:** JIM MACDONALD, PUBLIC WORKS DIRECTOR  
**SUBJECT:** OCTOBER UPDATE  
**DATE:** October 11, 2021

### HIGHLIGHTS

#### **2021 Street Improvements program**

East Frontage Road- 67<sup>th</sup> to 75<sup>th</sup> St CARS project, 2021 Mill and Overlay Program, 2021 Sidewalk Maintenance/Repair Program. J.M. Fahey Contractor

- The 2021 mill and overlay program is substantially complete, Hydro seeding is scheduled to be completed the week of October 11<sup>th</sup>
- The sidewalk maintenance and repairs along 61<sup>st</sup> street, 60<sup>th</sup> terr, Knox and 60<sup>th</sup> street have been completed. Hydro seeding is scheduled to be completed the week of October 11<sup>th</sup>
- Carmax and East Frontage Road is substantially complete. Sod restoration is scheduled to be completed the week of October 11<sup>th</sup>

#### **West Vernon Place Preliminary Engineering Study (PES)**

- BHC has completed the existing condition evaluation and estimated construction cost for each option of the PES. The draft was reviewed by staff, BHC is finishing up the recommendations and conclusion of the report.

#### **Miscellaneous storm pipe lining improvements**

- Waiting on contractor to return signed project manuals to give the notice to proceed.

## Capital Improvement Active Project List

Last Updated 10/6/2021

PROJECT NAME	FUNDING SOURCES	BUDGETED CONSTRUCTION COST	ACTUAL CONSTRUCTION COST	STATUS	DESIGN CONSULTANT	PUBLIC MEETING #1	PUBLIC MEETING #2	PUBLIC MEETING #3	ENGINEER'S ESTIMATE	BID OPENING	AWARD AT COUNCIL	CONTRACTOR	CONTRACT AMOUNT	NOTICE TO PROCEED	PROJECTED SUBSTANT COMPLETION DATE
<b>2020</b>															
East Frontage Road Improvements 67th to 75th	CARS/Sp. Sales Tax Street/Stormwater	\$1,549,000		Under Construction	Affinis	4/1/21			\$1,343,617.50	2/17/21	3/9/21	J.M Fahey	\$1,046,464.35	5/3/21	
Sidewalk Maintenance/Repair Program	CIP Maintenance Program	\$150,000		Substantially Complete	Affinis	4/1/21			\$177,700.00	2/17/21	3/9/21	J.M Fahey	\$206,234.00	5/3/21	
West Vernon Place PES	CIP Maintenance Program	\$50,000		Draft Completed	BHC Engineering						3/9/21	BHC Engineering	\$49,682	3/12/21	
2021 Storm drainage repairs	CIP Maintenance Program Drainage Repairs	\$350,000		Awarded	BHC Engineering				\$456,690.00	9/21/21	9/27/21	Municipal Pipe Tool Company LLC	\$288,337.50		



# CIP

## Capital Improvement Program

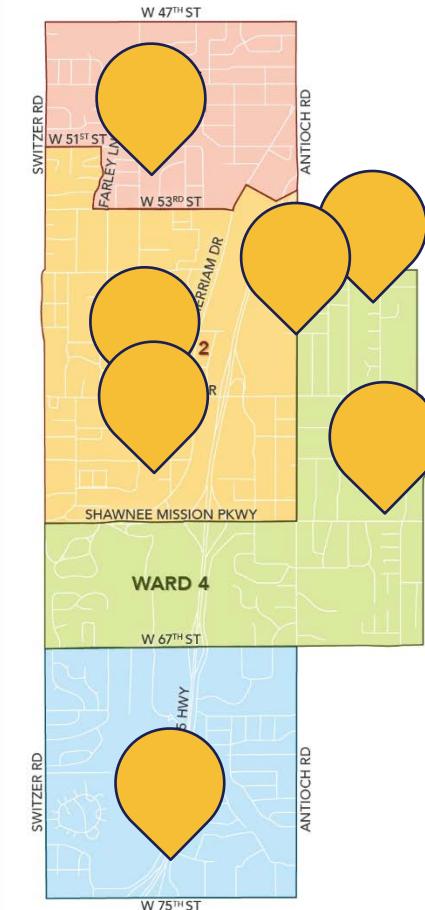


# 2021 Street Improvements Program

## TIMELINE 2021

### UPDATES

- ▶ East Frontage Road – 67<sup>th</sup> to 75<sup>th</sup> St. CARS project; 2021 Mill and Overlay Program; 2021 Sidewalk Maintenance/Repair Program.
  - ▶ The 2021 Mill and Overlay Program is substantially complete.
    - ▶ Hydro seeding is scheduled to be completed this week.
  - ▶ Sidewalk maintenance and repairs along 60<sup>th</sup> St., 60<sup>th</sup> Terrace, Knox, and 61<sup>st</sup> St. are complete.
    - ▶ Hydro seeding is scheduled to be completed this week.

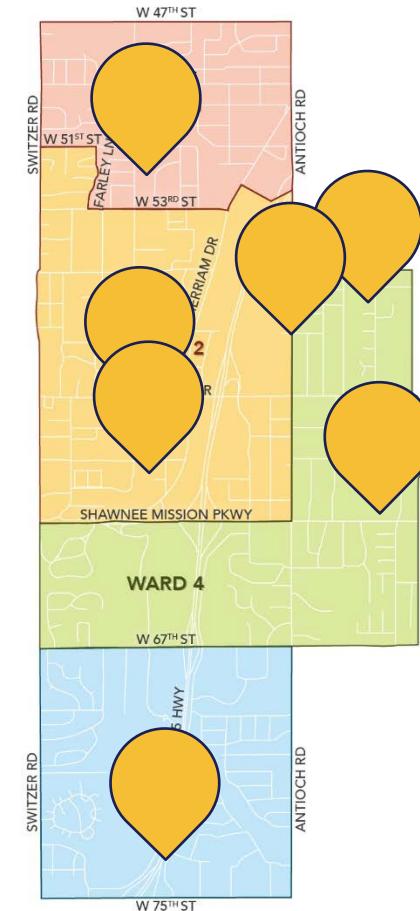


# 2021 Street Improvements Program

## TIMELINE 2021

### UPDATES

- ▶ Carmax Drive and East Frontage Road are substantially complete.
  - ▶ Sod restoration is scheduled to be completed this week.



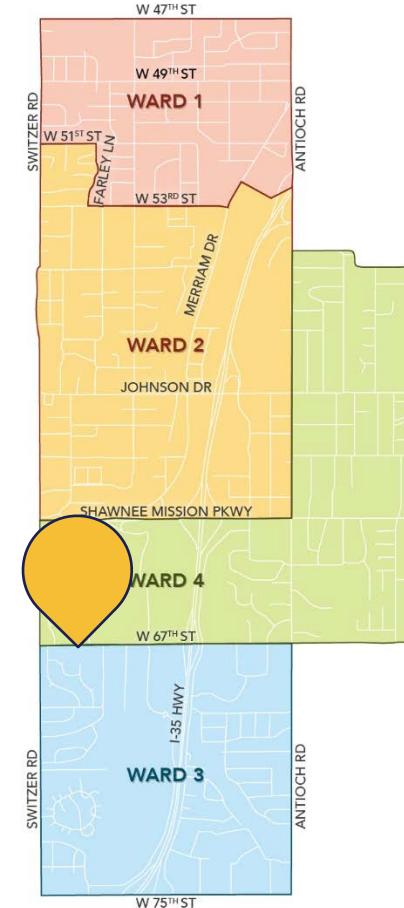
# West Vernon Place PES

## TIMELINE 2021

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### UPDATES

- ▶ BHC Engineering completed the PES existing condition evaluation and estimated construction cost.
- ▶ Staff reviewed the draft, and BHC is finalizing report recommendations and conclusion.



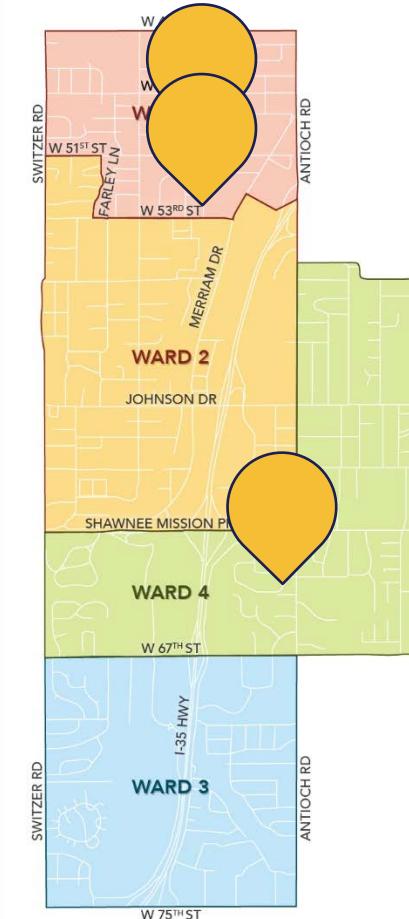
# Misc. Storm Pipe Lining Improvements

## TIMELINE 2021

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### UPDATES

- ▶ Waiting on contractor to return signed project manuals to give notice to proceed.



# Questions?

**Staff Contact:**

**Jim MacDonald**

913-322-5571

[jmacdonald@merriam.org](mailto:jmacdonald@merriam.org)



## **CITY COUNCIL SUGGESTED MOTIONS FOR YOUR CONSIDERATION**

### **CONSENT AGENDA**

- 1. Move that the council approve Consent Agenda Items 1-2.**

### **MAYOR'S REPORT**

- 1. No motion.**
- 2. No motion.**
- 3. No motion.**

### **COUNCIL ITEMS**

- 1. No motion.**
- 2. Move that the council waive the customary first reading of an ordinance amending sections 1-3 and 2-29 of the Merriam Code of Ordinances.**
- 2a. Move that the council approve an ordinance amending sections 1-3 and 2-29 of the Merriam Code of Ordinances.**
- 3. Move that the council approve the Governing Body Rules of Procedure and City Council Policies as presented; repealing City Council Policies 104, 107-110, 112, 122 and 123.**
- 4. No motion. (first reading)**
- 5. No motion.**

### **STAFF ITEMS**

### **EXECUTIVE SESSION**

- 1. Move that the council recess into Executive Session for consultation with the City Attorney as justified by K.S.A. 75-4319 (b)(2) which allows the city council to recess into executive session for consultation with legal counsel which would be deemed privileged in the attorney-client relationship. Present will be the Governing Body, City Attorney, City Administrator and Community Development Director. The meeting will reconvene in the Council Chambers at \_\_\_\_\_ pm.**

**CITY OF MERRIAM PARK AND RECREATION  
ADVISORY BOARD MEETING MINUTES**  
**Tuesday, September 28, 2021**  
**6:00PM**

**Roll Call**

The September meeting of the Merriam Parks & Recreation Advisory Board was called to order at 6:00 p.m. by Chairperson Staci Chivetta. Board members in attendance included: Billy Croan, Kathy Stull, LaVera Howard, Christopher Leitch, Katie Leary, Evan Quinley and Tony Scott. Staff member in attendance was Anna Slocum, Director. Public in attendance included Nancy Hupp

**Public Comments**

Nancy Hupp shared the Merriam Park, Recreation, and Community Center Foundation support of scholarships. In 2021, the Dolphin Fund supported 4 children on the swim team and 9 children in swim lessons and funded 5 household scholarships. In total, \$2,746 in funding to help families that qualify.

**Approval of Meeting Minutes**

Billy Croan made a motion to approve the August minutes. LaVera Howard seconded the motion. No questions or discussion of the minutes. Motion passed unanimously.

**Staff Reports Director's Report**

Community Center Update

A detailed memo was included in the packet. Updates to information shared in the memo included:

- No other staff are available this evening due to vacation and a work injury.
- While McCarthy has been approved to release materials, with the supply shortage they are anticipating at least a 4 – 8-week delay if not longer. As supplies are received they will coordinate installation.
- Staff has been working with Westport Pools to schedule winterization. At this time the timeline is slated for either the week of 10/4 – 10/11. As part of the construction contract, this is the last winterization training.

There was no discussion.

Membership / Visit Reports

- The membership and visit report was included in the packet. Memberships continue to grow with 163 added during August of 2021 compared to 88 in 2020. The year-to-date cancellations, suspended and expired memberships have been corrected after the error was discovered in August.

- Visits did fall slightly from July, which was expected with school starting but was still the third best attended month of the year averaging 369 visits per day. The highest attended day was right before school started on August 9.
- Insurance visits continue to increase. In August, Sylvester Powell was closed for several weeks which caused many people to seek MCC to continue their routine. In addition, this week staff was informed that a gym in Shawnee will be closing as many people are now exploring new facilities.

There was a question about insurance reimbursement. Typically, the reimbursement is a month behind. For Silver Sneakers, the reimbursement for August was received in late September and was approximately \$1,800.

#### Summer Recreation Report

Included in the packet was a recap of enrollment and participation in programs for the Summer 2021 season. Next year there will be a comparison opportunity between Summer 2021 and Summer 2022 but with the complications of COVID in 2020 there were minimal classes offered and the comparison did not seem impactful. To provide some insight into the number of visits for 2021 with 45,119 people participating in programs, events and visits to the community center; in 2019 IBFCC had a total visitation of 9,961 and in the last operating season of the MAC which was 2018 there were 18,216 for a total of 28,177. So while staff had been prepared that the volume would significantly change, this was still less than anticipated due to COVID impacts.

#### **Assistant Director Report**

##### Farmers' Market Update

The update was included in the packet through the second weekend of September. The final report will be in October reflecting the last two weeks of the season. One item to point out is the difference in vendor participation with the Turkey Creek Car Show from 2020 to 2021. Visitation did drop slightly this year with the relocation to the IBFCC parking lot. This is a free weekend for vendors recognizing that they are impacted by the event. This year there was a parking concern for visitors used to parking close to the market. Staff learned a lot about parking as this was the first time to have field parking for an event. There will be modifications next year to simplify the process.

##### Program Evaluations

Included in the packet was the Concert in the Courtyard evaluation. Staff is proposing to continue this event on an annual basis. In addition promote it as "free day" for Merriam residents. There will be other free days offered throughout the year that will center around days that Shawnee Mission School District is out of school.

Discussion:

- There is an appearance that the event made money. Are sponsors provided a refund? Several of the expenses associated with this event were credits for 2020 so the money had been expended in a different budget year. In addition, the expenses listed are the hard costs associated with the event. There is no staff time calculated so the event did not make money. When sponsors decide to participate, depending on the level of sponsorship, there is a list of marketing items that are promised. As long as staff met those obligations we have fulfilled our commitment to the sponsor.
- There was a suggestion that staff consider offering one-day camp for children when the school district has a one-day professional development day. These days provide a child care issue for parents.

## Upcoming Events

### A Moment in Time, Thursday, October 7, 2021

The October art exhibit opening reception will take place at the Tim Murphy Art Gallery featuring the work of Laura Hewitt, Geoffrey Ristau and Sylvia Augustus. As with all reception in 2021 beverages will be served.

In addition, on Thursday, October 14 at 5:30 p.m., "Celebration" will be unveiled in the lobby of the community center. This piece of work was commissioned by Nancy Hupp in memory of Ron. Nancy had asked staff if there was a need within the new community center in which she could use memorial funds from Ron and donations received for her service on City Council. Staff gave Nancy a proposal of the idea along with the recommendation of Michael Walsh, knowing how much Ron and Nancy admired his work. Nancy worked closely with Michael Walsh to design the piece.

### Merriam Drive Live Saturday, October 2, 2021

Volunteers are still needed for the race on several of the corners and as a DJ Spotter. Anyone interested in volunteering, please reach out to Renee or Dave. Staff is closely monitoring the weather. Unfortunately, rain will cancel cornhole but the other activities can easily be moved under the Marketplace. There are approximately 50 runners registered for the race.

### Discussion:

- Could cornhole be moved to the gym at MCC? Staff considered that option but anyone participating would not have access to the other activities of the event and would be completely secluded. In years past, IBFCC was in the footprint of the event allowing for participants to have access to food and beverages. There was discussion of moving it under the pavilion, but the bags are loud when they hit and the echoing of the market would exacerbate the noise.

### Garage Sale, Saturday, October 9, 2021

The garage sale returns for the first time in many years to the Merriam Marketplace. Participants will rent a stall for \$15 and must provide their own tables. It will run from 7 a.m. – 1 p.m.

## New Business

### 2022 Schedule of Fees

On an annual basis, staff is tasked to review fees charged for various services. Throughout the first operating year of MCC there have been three areas identified that could be enhanced for patron experience.

1. Add a Nanny Pass – this would be an add-on option for a household membership purchased by the head of household. This would allow for the household to add a Nanny or baby sitter to their pass. The pass could be in a specific name offered as a benefit to the staff member or left generic for more fluid babysitter situations. This must be purchases as an add-on membership; it is not a stand-alone membership for someone who has the job as a nanny or babysitter. The proposed rate structure is:

Nanny Pass	Annual	Monthly	Summer
Resident	\$200	\$25	\$70
Non-Resident	\$250	\$30	\$80

2. Add a Youth/ Senior Rate Day pass rate. Over the course of the summer, staff received many comments that children do not have access to all of the amenities of the facilities. In addition, seniors pointed out that there is a reduced membership rate but not a reduced day pass rate. Youth are defined as someone 2 – 17 and seniors are defined as someone 60+. The proposed rate structure for this change is:

Day Pass Fee	
Resident Youth / Senior	\$7
Non-Resident Youth / Senior	\$9

3. The last proposed change is related to how fees are charged for child watch. Prior to operating the area, the fee was established as a per child per hour rate. Upon implementation, feedback from staff there is a significant concern in applying consistency to the visit rate. The change is to move from a per rate per hour but to a per visit rate. This would align charges to neighboring facilities. The proposed rate structure change is:

Child Watch Fees	Currently	Proposed
Member	\$3 / hour / child	\$3 / visit / child
Non-Member	\$4 / hour / child	\$4 / visit / child

Discussion of the rate changes:

- There was clarification on Child Watch fees that the rate remained even though it was per visit. This will be a reduction to the fees collected if a patron remains longer than an hour. Staff acknowledged that would be the case, but the convenience for staff coupled with the information that this is a service and not designed to cover expenses drove the decision to eliminate any possible dispute on how a charge was calculated.
- There was concern that the Nanny pass could be abused. While that it a possibility, it is an add-on fee to a household membership. It cannot be purchased as a stand-alone

membership. If a family wants to add a grandmother or another adult there is no way to monitor that occurring. Other facilities that offer this pass see it mainly in the summer with older children.

- Christopher Leitch made a motion to recommend all three changes to the fee schedule for the 2022 fiscal year be approved by City Council. Kathy Stull seconded the motion. Motion passed unanimously.

## **Other Business**

### Johnson County Public Art Library Committee

Kathy Stull reported that the committee has shortlisted the applicants to four, one from the Kansas City metro area. The artistes will visit the site and various libraries in the coming weeks. The goal is to have the recommendation of artist to be presented to the Public Art Commission at the November 4, 2021 meeting.

### Downtown Corridor Update

The committee has not had any additional meetings but staff have attended several events seeking public input.

### **Adjournment**

Christopher Leitch called for a motion to adjourn. Bill Croan seconded. The meeting adjourned at 7:15 p.m.