

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
DECEMBER 9, 2019
7:00 P.M.**

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

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

Staff present: Chris Engel, City Administrator; Ryan Denk, City Attorney; Meredith Hauck, Assistant City Administrator; Bryan Dehner, Fire Chief; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Darren McLaughlin, Police Chief; Anna Slocum, Parks and Recreation Director; Donna Oliver, Finance Director; Bryan Dyer, Community Development Director 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.***

IV. CONSENT AGENDA

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Consider approval of the minutes of the City Council meeting held November 25, 2019.

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

V. MAYOR'S REPORT

1. Presentation by Lee Kellenberger from Johnson County Public Works on the changes to the Stormwater Management Program (SMP).

Mr. Kellenberger reviewed the changes to the County's Stormwater Management Program. The previous structure included each city dealing with stormwater issues; the new structure will better address stormwater issues by creating watershed groupings, which will include multiple cities that are affected by area watershed receiving common water. Merriam is in the Brush/Turkey Creek watershed area.

The types of projects the program will fund has been expanded to include water quality and system management, which will include pipe repair and replacement. The county will also develop a master plan for countywide watershed that will extend to a 5 to 15 year capital improvement plan.

Councilmember Neal asked if the county would be able to participate with funding the local portion of the Upper Turkey Creek mitigation administered by the Corps of Engineers.

Mr. Kellenberger commented that if that project were to get funded at some point, the County would participate in the local funding portion of that project. Mr. Kellenberger further commented that while the scope of the SMAC program has expanded, the award process remains the same.

There was some discussion regarding the pipe and system repair portion of the program. There was some concern expressed about other cities utilizing a large portion of pipe repair and replacement due to their lack of upkeep on their system over the years. Merriam has done a good job of keeping an inventory of our pipe system and conditions as well as completing replacement and repairs on pipes in poor condition, so some feel as though expanding the program to pipe and system repair might put Merriam at a disadvantage to get those funds.

2. Consider approval of the Agreement for the Establishment of Watershed Organization 1 in Johnson County, Kansas.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE AGREEMENT FOR THE ESTABLISHMENT OF WATERSHED ORGANIZATION 1 AND AUTHORIZE THE MAYOR TO SIGN THE

AGREEMENT. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

VI. COUNCIL ITEMS

A. Finance and Administration

1. Consider participation in the 2020 Superpass program.

Mayor Sissom commented that this issue was discussed in a Work Session on November 25, and discussed at the Park Board which resulted in a recommendation from the Parks and Recreation Advisory Board to not participate in the Superpass program for 2020, but then revisit an opportunity to participate in 2021.

Parks and Recreation Director Anna Slocum commented that this item was before council for consideration at the October 28 City Council Meeting; it was brought back for discussion at a Work Session on November 25. The Park Board recommended pausing participation in 2020 to provide time to better understand the operations of the new facility and reconsider participation in 2021, once staff has had an opportunity to work through operation of the new community center.

Councilmember Frisby submitted the following comments to be entered into the official record regarding his opinion of the Superpass program:

After considerable discussion of the Merriam Superpass options, I would like to explain my evolving viewpoints. I believe the first year opening our community center will be difficult to control if the council votes for Superpass participation, as well as the remaining future years of the Superpass used in our new, unique, community center. Therefore I will suggest we add a 4th option, which is remove all options of issuing a Superpass for 2020 and in all future years. Here are my arguments related to the information in the agenda packet:

The Superpass was only designed in 2009 for an outdoor pool, but we will allow a community center to all our amenities following the check-in to our community center for a fair price. Staff tells us it will be near impossible to prevent nonresident customers from using other opportunities for enjoyment in our community center. There will always be unannounced folks from various cities every year our

community center is operating in the future, disallowing our ability to control the number of nonresidents attending our facility on a given day, weather permitting or not.

We have a unique community center, no other city has our design. Other cities will not allow Superpass members to use all their amenities, and our Merriam residents should not pay more than a nonresident on a Superpass at our community center. There will be no need to use any form of ID for Superpass members because all are welcome to pay nonresident fees.

If a Merriam resident desires to use another pool in the area, they would have to pay nonresident prices, but still attend. Options should be available to facilitate their visits to other pools. If the weather is undesirable for swimming outdoors, nonresidents would still have the opportunity to use our community center as long as they pay their nonresident price, while Merriam residents would be at a lower cost.

The staff has stated that the community center would be overwhelmed the first year. That will probably occur with or without a Superpass, but predictably less overwhelmed if we do not join in the Superpass chaos. Our teen employees or volunteers will not be asked to decide who swims in the indoor pool or who uses our amenities, as all are welcome. Our first impression the first year, along with every other year we are in operation, should be consistent; all are welcome, for a price that is fair.

Staff has predicted and has apparently confirmed that our community center will open on time, so there is no need to create a fall back option. The #4 option, to not participate in Superpass any longer, will work on the 1st day, as well as opening in July.

As I understand it, the pro forma regarding nonresidents was for them to pay full price, not less to use all our amenities. We should never have a 2nd class nonresident, or one of "them", swimming in our community center; we welcome all to attend at a fair price, which is regrettably unknown at this time.

Even though by not participating in the Superpass in all forthcoming years, this will offend 6-7% of our residents that attend our community center, the city could actually offer the few Merriam residents a refund for the difference between a full price and a Superpass fee to attend other pools in area cities or offer a discount

on the next Merriam community center visit after showing evidence of paying full price at a local pool. A small price to support those that want extended aquatic experiences, like a high dive that we will not offer our residents.

Remember, because we built a great community center, they will come, Superpass or full price.

I would like to foster a discussion based on adding a 4th option.

Councilmember Pape commented that he continues to hear from several ward 4 residents that they want the Superpass program. Going to other pools without Superpass will cost them more than the Superpass add on and is an unrealistic option for their family.

Councilmember Neal submitted the following comments to be entered into the official record regarding his opinion on the Superpass program:

We are again here tonight to make a decision that has significant ramifications for Merriam residents. For two council meetings and a work session staff has presented their view that the Superpass would be just too much trouble to continue under the new community center design.

We did have significant Council discussions about this issue but did no polling or community outreach about this. The changing rationale in the past two months for the policy recommendation appears to be a policy in search of a reason. I think we've tried different arguments until a majority of votes for the staff favored policy could be obtained. Toss new reasons against the wall until enough stick.

At first, in October, it seems the staff argument as presented by the Director of Parks & Rec was more about the money. Superpass reimbursements would mean non-residents would supposedly be paying less than Merriam residents to access our pool. Later it was about the possibility of overcrowding at our smaller new pool. Remember this was a design choice. I distinctly remember hearing, "The Merriam Aquatic Center is oversized" when we were debating the aquatics design in the summer of 2018. The now-predicted overcrowding will supposedly create such a bad first impression for full paying members that it can't be risked.

Then it was about the difficulty of keeping cheaters from buying a Superpass so they could sneak in and use our gym and exercise equipment without paying for those amenities. Then, in late

November, it was about the weather. Everyone would come to our facility on rainy days, although we could limit Superpass visitors to the outdoor pool only which would also be closed during rain periods.

Then it was too much to ask the teenage pool staff to ask Superpass visitors to stay in the outdoor pool area only. We recently approved the hiring of additional full time staff, not teenagers, for the Community Center. I hope they stay fully busy with other duties during the summer. Then it was about the unfairness of making Superpass visitors wear some kind of marking with a wristband or hand stamp because they would be targets of animosity when the pool was crowded, not enough deck chairs, deck space, etc. which would create a second class group of patrons.

One by one, Council members seem to have been swayed by the staff PowerPoint presentations of these ideas. What is the right thing to do for our Merriam residents on a budget seems of less importance.

Hardly considered was the impact that taking the Superpass option away from Merriam residents who might want to use other pools on occasion in the summer as they have in the past. Such concerns were dismissed as unimportant because only 24 passes were purchased by Merriam residents in 2018. People, like some families who have reached out to me, are expected to pay the other city's daily non-member rate if they want to use some other pool than ours.

As has been pointed out, Merriam residents using another pool more than twice in the summer under non-resident daily pass rates would likely cost more for these Merriam families than the Superpass cost for an entire summer of use. The Superpass was in fact a significant benefit for Merriam residents. According to current staff thinking, it was used by too small a number of residents in 2018 when we had the larger Merriam Aquatics Center open to justify its continuation.

Placating 24 resident families and possibly more now who find the new pool's design less desirable is apparently not worth the possibility that the quality of the experience for some full price community center members might be somehow lessened by the presence of the excess under-paying non-residents using a Superpass.

After under-sizing an outdoor pool, the city is planning to market heavily outside the city so other non-residents will buy memberships at full price and fill up the pool. This need to keep the hordes of supposedly curious Superpass outsiders from our outdoor pool really

seems to be about money at its core. We are actively seeking full-price outsiders based on our marketing plan. According to staff, the finances of the new Merriam Community Center are dependent on attracting enough full price non-resident members.

The membership pricing that staff now recommends we use for the new Merriam Community Center is significantly higher than the advertised fees in the original pro-forma operating budget presented to voters in the 2017 Parks & Rec Facilities Master Plan in advance of the tax vote on the new Community Center. The new community center's operating finance assumptions apparently are now predicted by staff to be more difficult to hit under the Master Plan's assumed fee structure than was thought when they developed and got Council to approve the 2017 Master Plan marketed to voters.

So with the proposed non-participation of Merriam in the Superpass program, and even before we have had the City Council level discussion about Merriam Community Center finances, we seem willing to take away something else from our residents who have been core patrons of summer swimming in Merriam.

I expect a non-trivial number of Merriam residents will go elsewhere for their membership as a result of the combination of three factors: significantly less Merriam outdoor pool amenities than in the old Merriam Aquatic Center; lack of an affordable option to visit other pools; and higher than anticipated membership fees to use our new Merriam Community Center.

Our new all-in-one membership model is designed around the idea that as a Merriam resident, you must now pay for use of the fitness center and gym even if you only want to swim, dive and play in outdoor water in the summer when kids are out of school. We seem to have built a year-round health club for affluent non-residents based on our marketing plan, rather than go to the trouble to continue and provide summer recreational experiences for our own residents similar to our reasonable-cost Merriam aquatics tradition of the past.

Keeping the Superpass is a way to show Merriam's own residents they matter too.

I still believe on balance that option 2 would be best, which was the outdoor pool access only. I think if our participation was only for the outdoor pool, not that many Superpass holders from outside would use it at our outdoor pool smaller recreational swim area, limited kid's area, no slides, limited diving, etc.

By continuing with the Superpass, our residents would still have the option of going to a summer outdoor pool that has more amenities like the old one did. Kids are out of school all summer. Expecting them to go day after day to the same pool is not optimal for parents. If they are going swimming all the time as a main summer recreational activity, it's nice to be able to go to other pools as a change of pace. Merriam families might join our community center for the other programmatic features and feel like the additional cost of a Superpass allowed them an option for the summer pool experience they were expecting based on our past aquatics offerings.

I actually think from a marketing perspective, providing the Superpass option would alleviate concerns about our pool deficiencies if they are raised by Merriam residents.

It could even be a selling point for the overall membership marketing. For example, "Our Superpass gives residents the option to use any of the wonderful outdoor pools in NE Johnson County, but after the summer season, our unique indoor pool facilities will still be available year round!" I think the Superpass could be a selling point for general memberships.

On balance, I think continuing the program is best. The 2018 Superpass purchase numbers are an unrepresentative statistic. We had a very different scale of outdoor aquatics facility, so Merriam members mostly stayed at their hometown pool. They may be happy with the new pool. But for those who are not, the Superpass provides a relief valve.

Councilmember Hands commented that after spending a lot of time discussing this item and listening to everyone's point of view, she still concurs with the recommendation of the Parks and Recreation Advisory Board and experienced staff to pause the program this year and keep it simple for the first year of opening the new facility. Next year this can be revisited.

Billy Croan, 6633 Wedd St., suggested that we make everyone equal at the door. While there are other options for residents without the Superpass program, not all are as easy or affordable as Superpass and he does not feel it fosters as diverse community with our Northeast Johnson County neighbors as Superpass does. He encouraged the council to consider all options regarding Superpass.

He feels the overall aquatics in the new facility will be outstanding but the outdoor aquatics will not be as big as the previous Merriam pool. He offered another option to make everyone equal at the door, instead of marking Superpass holders with ink; simply charge them a small upgrade fee for a full access pass to all the amenities of the new center. He suggested up charging Superpass users and offering discounts to other visitors will be a way to make all users equal.

Bruce Kaldahl, 7210 Mastin St., Ward 3 councilmember elect, commented that while some folks may not be happy with the decision of the council tonight, they can't say the matter was taken lightly. He commended the staff and Parks and Recreation Advisory Board for their hard work on this issue and on working toward opening the new Community Center. He further commented that the new facility will include new equipment, new staff, new programs and many new patrons, and while staff had done a great job planning for what they think will happen when the facility opens, until the center is up and running, no one really knows what will actually happen.

After listening to all the discussion regarding the Superpass, he has concluded that we don't know the impact of Superpass participation the first year. If we choose to participate, we will be inviting everyone with a Superpass to our new pool, while not knowing how many will come, what days or hours they will come, or if they will all come at the same time. What is known, is that if they all come on the same day at the same time, our staff will be overwhelmed at the expense of our patrons. Once we are in the Superpass agreement, there is no going back. If our pool becomes the new cool place to be in Northeast Johnson County, and the Superpass users overwhelm the facility and staff, we could be overwhelmed the entire summer, at the expense of our patrons. He further commented that if he could vote on this issue, it would be to take a pass on the Superpass.

COUNCILMEMBER FRISBY MOVED THAT THE COUNCIL CONCUR WITH THE RECOMMENDATION OF THE PARKS AND RECREATION ADVISORY BOARD AND NOT PARTICIPATE IN SUPERPASS PROGRAM FOR 2020 OR EVER. THE MOTION DIED DUE TO LACK OF A SECOND

COUNCILMEMBER NEAL MOVED THAT THE COUNCIL CONTINUE PARTICIPATION IN THE SUPERPASS PROGRAM AND DIRECT STAFF TO DEVELOP SPECIFIC OPERATIONAL PROPOSALS TO FACILITATE THE FOLLOWING POLICY OBJECTIVE: ALLOW SUPERPASS PATRON ACCESS TO THE MERRIAM OUTDOOR POOL AS EQUAL RECIPROCITY FOR OTHER SUPERPASS CITIES ADMITTING MERRIAM SUPERPASS HOLDERS TO THEIR OUTDOOR POOLS. COUNCILMEMBER PAPE SECONDED. THE MOTION FAILED. COUNCILMEMBERS HANDS, HUPP, KNAFF, DIEBOLD AND FRISBY VOTED NAY.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL CONCUR WITH THE RECOMMENDATION OF THE PARKS AND RECREATION ADVISORY BOARD AND NOT PARTICIPATE IN THE SUPERPASS PROGRAM FOR 2020 AND REEVALUATE THE PROGRAM FOR 2021. COUNCILMEMBER HUPP SECONDED. THE VOTE RESULTED IN A TIE. COUNCILMEMBERS FRISBY, NEAL, PAPE AND SILVERS VOTED NAY. MAYOR SISSOM VOTED AYE AND THE MOTION PASSED.

2. Community Center Update

Assistant City Administrator Meredith Hauck presented the monthly Community Center Update.

3. Monthly Finance Report.

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

B. Community Development/Public Works/CIP

1. CIP Update.

Public Works Director Jim MacDonald provided the following CIP updates:

2019 Sidewalk In - Fill (Switzer 53rd Ter to 55th St, SMP ramp to Merriam Dr, 66th Ter/Burnham, 56th Ter east & west of Goodman, 56th

Ter east and west of Farley, and 56th St west of Farley)-The contractor has completed the placement of Phase III sidewalks. There are a few areas where the contractor still has to complete backfilling/grading around some sidewalks and driveways. After grading has been completed, the contractor will seed or sod all areas.

2019 CARS 67th Street Improvements - The contractor has completed the placement of asphalt surface, polymer overlay on the Turkey Creek Bridge, and permanent pavement marking. As soon as Staff verifies quantities, a final payment and acceptance will be brought to Council for approval.

CARS 2020 Johnson Drive (BNSF to East City Limits) - After the completion of the project walk through with our design team from Affinis Corp on November 6th, Affinis has completed preliminary plans and staff attended a utility meeting on Wednesday December 4th. Staff and Affinis will be meeting with BNSF representatives on December 20th to discuss phasing and coordination of track improvements with our street improvements. This project is scheduled to be advertised for bids late January 2020, with construction anticipated to begin May 2020.

Mastin Storm Drain and Street Improvements (Johnson Drive to Shawnee Mission Parkway) - Staff will be adding the Mill and Overlay of Mastin Rd. from Johnson Drive to Shawnee Mission Parkway, and some storm drain repairs to this project. This project is scheduled to be advertised for bids early February 2020, with construction anticipated to begin June 2020.

2020 Sidewalk In-Fill/2020 Sidewalk Maintenance - GBA has completed the design of our Phase IV Sidewalk In-Fill. These areas include Perry Ave. from 55th St. to 57th St, 57th St from Perry Ave. to Perry Ln., and 56th Ter. west of Knox. Staff is putting together plans to repair existing sidewalks around these general areas.

VII. STAFF ITEMS

City Administrator Chris Engel thanked Parks and Recreation for the hard work for the Mayor's Christmas Tree Lighting Event held on Friday and Breakfast with Santa, which was held the next day on Saturday and was a sold out event.

The CIP Sales Tax renewal Public Meeting will be held in the Community Training Room tomorrow evening. There is a video that has been created to explain the tax renewal which will be available on the City's website after the meeting.

Last Friday, staff and the Chamber met with Site Centers leasing representative regarding the future of tenants at Merriam Town Center. While the leasing agent has just been assigned to the center, he was very positive about the future of tenants for the center.

Community Development Director Bryan Dyer commented that Site Centers has a local leasing agent that is listed on their signage who will be working on the tenant leases for the spaces in the center.

Councilmember Hupp thanked Parks and Recreation Director Anna Slocum and her staff for the High School Art Completion event at the art gallery. There were over 400 attendees for the award ceremony.

Councilmember Frisby inquired about LED street lighting. While he understands that the payback on these lights is a 20-year period, he asked that this issue be revisited. He will no longer be on the council after January, but he wants this to be continually looked at to see if it will be feasible in the near future.

Councilmember Hands commented that she supports LED lighting and will continue to champion this item.

City Administrator Chris Engel commented that city staff continues to look at this issue and currently have an area in the city which is our test area for LED Street lights. Just last week, staff installed three different types of LED lights to see which ones are the most effective.

VIII. NEW BUSINESS**IX. EXECUTIVE SESSION****X. ADJOURNMENT**

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HUPP MOVED TO ADJOURN AT 8:40 PM. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Approved: January 13.2020

Respectfully submitted,

Juliana Pinnick

Juliana Pinnick
City Clerk