

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
JANUARY 14, 2019  
7:00 P.M.**

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

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

**II. ROLL CALL**

Scott Diebold  
Al Frisby  
Chris Evans Hands  
Nancy Hupp  
Bryan Knaff  
David Neal  
Bob Pape  
Robert Weems

Staff present: Chris Engel, City Administrator; Meredith Hauck, Assistant City Administrator; Kevin Bruemmer, Public Works Director; Nicole Proulx Aiken, City Attorney; Mike Daniels, Police Chief, Bryan Dehner, Fire Chief; Anna Slocum, Parks and Recreation Director; Cindy Ehart, 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.***

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 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 December 10, 2018.

2. Consider approval of an interlocal agreement with Johnson County CARS for 67<sup>th</sup> St. Antioch Rd. to west city limits project.
3. Consider approval of a Cooperative Agreement with Mid-America Regional Council (MARC) for operation and maintenance of the Operation Green Light (OGL) Traffic Control System.
4. Consider approval of the purchase of a fire truck.
5. Consider approval of the 2019 Super Pass agreement.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-5. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**V. MAYOR’S REPORT**

1. Swearing in Police Officers Nick Moeller and Kaleb Bryant.

Mayor Ken Sissom swore in police officers Nick Moeller and Kaleb Bryant.

2. Presentation of Life Saving Award to April Gebke.

Police Chief Mike Daniels presented police officer April Gebke with a Life Saving Award.

**VI. COUNCIL ITEMS**

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER WITH LEGAL COUNCIL AS JUSTIFIED BY K.S.A. 75-4319(B)(2), WHICH ALLOWS THE CITY COUNCIL TO RECESS INTO EXECUTIVE SESSION FOR CONSULTATION WITH AN ATTORNEY THAT WOULD BE DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY AND CITY ADMINISTRATOR. THE OPEN MEETING WILL RESUME IN THE COUNCIL CHAMBERS AT 7:22 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

*The meeting reconvened at 7:22 pm.*

**A. Finance and Administration**

1. Consider approval of a non-discrimination ordinance.

Councilmember Frisby asked if the hearing officer can still use the employee getting their job reinstated as an option during negotiations.

City Attorney Nicole Proulx Aiken responded that the investigator can offer that. If employment was part of the complaint then that can be offered as conciliation. The hearing officer can award actual damages such as back pay as settlement, or a civil fine of \$1,000. But as far as reinstating their employment, that would be for the investigator to offer before it gets to the hearing phase. The hearing officer only has authority to assess the civil penalty or actual damages.

Councilmember Frisby asked if there would be any way to have a court appointed attorney for someone needing to file a complaint but are impoverished.

Attorney Aiken responded that this issue is not a court matter and is a civil issue so there is no mechanism to provide that.

Councilmember Frisby asked the effective date of this ordinance if approved tonight.

The City Clerk responded that the ordinance would be published in the Legal Record and effective next Tuesday, January 22<sup>nd</sup>.

Christian Stallin, Manager, IKEA Merriam entered the following comments:

My name is Christian, and I am the store manager of IKEA Merriam. We are proud to have been an active member of the Merriam community since our opening in 2014, and appreciate the opportunity to speak here this evening. At IKEA, we have a vision, which is to create a better everyday life for the many people. We believe that a better everyday life starts with equal rights for all. We are committed to going all in on equality, recognizing that equality lies at the heart of human rights. We believe in the power of people working together: people from different backgrounds, nationalities, and beliefs, uniting to create a better everyday life for themselves and for one another. We are committed to creating an inclusive work and shopping environment where everyone is respected, valued, and appreciated for who they are.

We believe that each of us has the responsibility to stand up for the dignity and rights of every individual, regardless of their race, ethnicity, religion, gender identity, sexual orientation, or any other individual characteristic. When we say we want to create a better everyday life for the many people, it's not just the people who work for us or our customers – it is society. Our IKEA values clearly tell us that leadership is taking action and standing up for what we believe in. As a result, we applaud the Merriam City Council for its attention to this important issue, and we support the passage of its non-discrimination ordinance.

Billy Crook 6633 Wedd entered the following comments:

The January 14<sup>th</sup> memo, Item 1-Staff recommended keeping the “valid business necessity” exemption. Staff noted this can result in disparate impact or “unintentional discrimination”. I thought the purpose of this ordinance was to prevent discrimination in Merriam. Whether it's intentional or not is beside the point to me and as mentioned at the last council meeting, it's silly to think someone's sexual orientation or gender identity is of material impact to business necessity. Removing the ‘valid business necessity’ exemption will protect Merriam citizens by encouraging employers to rectify even unintentional discrimination in the workplace.

Mr. Crook asked that the council protect Merriam residents by removing ‘valid business necessity’ exemption in section 4(a) of the ordinance. He further commented that in item 4, staff verified that the city could require employers found in violation to reinstate employment. He feels there is a precedence to be able to do this in Kansas and feels it is worth including the ability in the ordinance, as part of the remedy from a complainant. He asked the council to give victims of discrimination the ability to have their employment reinstated if they are found to have a valid complaint and have requested such remedy.

Mr. Crook wanted to clarify his statement from the last council meeting and its summary in the minutes. The minutes indicated that he felt that Title VII and our NDO were similar enough to allow exception for religious groups in the non-discrimination ordinance. This was the opposite of what he intended to convey. The point he was trying to make last time was that even Title VII does not give religious groups total exemption and asked the following change be on record:

I understand that even Title VII has exceptions but, I do not feel Merriam should exempt religious organizations

because Title VII's exemptions for religious organizations are limited to discrimination on religious identity, not discrimination based on age, race, national origin or other basis. He would like our ordinance to lean upon and reuse existing precedent as possible.

He asked that the city protect Merriam residents by removing the 'religious organization' in sections 4, d (2) and 2, h (1) of the ordinance.

**COUNCILMEMBER FRISBY MOVED THAT THE COUNCIL APPROVE A NON-DISCRIMINATION ORDINANCE. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Community Center Update.

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

3. Consider approval of pool features at the New Community Center.

Assistant City Administrator Meredith Hauck presented the background for this item and displayed the pool features for the new community center as recommended by the Design Committee.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL CONCUR WITH THE RECOMMENDATION OF THE COMMUNITY CENTER DESIGN COMMITTEE AND APPROVE THE POOL FEATURES AT THE NEW COMMUNITY CENTER. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

4. Consider approval of 2019 Legislative Priorities.

Holland Schellhase, Management Intern, presented the 2019 Legislative Priorities.

Each year, the City Council adopts a legislative agenda that establishes its legislative priorities. The Board of County Commissioners also annually approves a legislative agenda geared toward the common interests of all Johnson County cities. The joint agenda is the result of meetings with local managers to identify the common interests we should collectively assert in Topeka.

An updated Legislative Agenda has been provided to each councilmember as staff has decided to keep the Local Control of Right of Way on the 2019 Agenda. The Action Form included in the City Council Agenda Packet indicated that this item had been removed from the Legislative Agenda.

The 2019 Draft Agenda incorporates the following substantive changes from the 2018 Agenda:

Non-Partisan Elections – Removed from Agenda. There is not likely to be sufficient support in the legislature to make elections partisan.

Internet Sales Tax – Added to Agenda. An internet sales tax will provide a new opportunity to generate more revenue for cities, counties, and the State. Because consumers' online purchases would be taxed, the internet sales tax could encourage buyers to purchase goods from local businesses.

Alternative Property Valuation – Added to Agenda. If there is legislation allowing alternative property valuation (aka dark store theory valuation), it will negatively impacting schools and increase home owners' property taxes.

Repeal of Property Tax Lid – Changed to Adoption of Previous Exemptions to the Property Tax Lid. Exemptions to the property tax lid is more politically feasible than repealing the property tax lid. Exemptions would include employee benefit costs, KPERS costs, Public Building Commission debt, infrastructure, intellectual and developmental disabilities services, and mental health services.

Merriam Lobbyist Stuart Little has reviewed the proposed 2019 agenda, and he will be at the January 28<sup>th</sup> City Council meeting. Staff recommends approving the 2019 Legislative Agenda prior to meeting with state representatives on January 23, 2019.

There was some discussion regarding the Internet Sales Tax item and the council suggested adding language emphasizing proper distribution of these taxes to cities based on geo location software.

Councilmember Hands asked that the Statewide Expansion of Medicaid accurately reflects the dollar amounts for 2019. The numbers are the same as 2018 and she wants to be sure those figures are current.

She further commented that she has always felt this Legislative Agenda should be in more of a bullet point format and as concise as

possible. A two-page Agenda with lots of verbiage is not likely to be read in its entirety by our legislators.

Councilmember Neal commented that regarding the K-12 Education item, he would suggest that we state we support the work that has been done to date and encourage them to build on that as opposed to starting all over.

Councilmember Frisby agreed and suggested the inflationary rate is the issue that they are now dealing with and perhaps adding that language to that item.

Councilmember Pape asked about the reduction or elimination of sales tax on food issue and if that was gaining any traction. He suggested adding that item.

Councilmember Frisby suggested adding the Non-discrimination issue on the Legislative Agenda.

There was some discussion regarding the number of items on the Legislative Agenda and the likelihood of each of the items actually getting addressed during this legislative session.

City Administrator Chris Engel commented that the city has good representation in Topeka, with our lobbyist, and local representatives who are familiar with our stance on these items. Adding more items can be done, but it always unclear which items will be addressed each legislative session. Our lobbyist and representatives often inform us of items that are being considered during the legislative session.

Councilmember Diebold asked if the list was prioritized. And he feels that maybe having these items listed in a priority order might be more helpful to our legislators. Recognizing that determining the items in priority order as a council could be a challenge.

Mr. Engel commented that Holland met with our lobbyist Stuart Little while developing the 2019 Legislative Agenda, and these items were placed on the agenda as they were items Stuart felt would most likely be taken up this legislative session.

Councilmember Neal commented that he has heard there is a likelihood that the internet sales tax and sales tax on food will be addressed this legislative session and feels those two items should be emphasized on the Legislative Agenda.

Hearing support from several councilmembers, Mayor Sissom recommended that sales tax reduction on food be added to the 2019 Legislative Agenda.

City Administrator Chris Engel commented that staff will make the noted changes and send it the revised copy to the council by the end of the week.

Sam Matier, 8515 W. 57<sup>th</sup> St., commented that regarding the internet sales tax issue, he does not feel the council will get a lot of support from the residents on this issue as they don't want to pay more sales taxes. He would like to see more effort put toward reducing taxes for the residents like the Drainage District recently did by reducing their mill levy.

Councilmember Neal commented that he agrees there should be an attempt to keep taxes as low as possible, however, the no internet sales tax issue negatively effects local retailers. Collecting sales taxes from internet sales may cause the pot of sales tax money to grow which might then allow the overall sales tax rate to be reduced which will help local retailers. He feels sales tax on internet sales will help create a level playing field.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE 2019 LEGISLATIVE PRIORTIES AS MODIFIED BY THE COUNCIL. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

5. Monthly Finance Report. (included in packet)

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

1. CIP Update. (included in packet)

Mayor Sissom thanked Public Works Director Kevin Bruemmer and his staff for the excellent job they did clearing the snow this past weekend.

**VII. STAFF ITEMS**

City Administrator Chris Engel commented that the 5701 Merriam Drive committee has held their first meeting and there is an RFP for a facilitator to assist the committee in narrowing down some of

the numerous options for that site. Interviews for the firm selection will take place at the end of the month.

There will be a limb drop off at public works for one week to help folks get rid of any tree limbs from the storm. If there is a need to extend that timeframe, that decision will be made after the initial drop off period. The regular limb pick up will take place in mid-March.

**VIII. NEW BUSINESS** - no New Business.

**IX. EXECUTIVE SESSION** –Executive Session has held earlier in the meeting.

**X. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:31 PM. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

APPROVED: January 28, 2019

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick  
City Clerk