

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
March 25, 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  
Bryan Knaff  
David Neal  
Bob Pape

Staff present: Chris Engel, City Administrator; Meredith Hauck, Assistant City Administrator; Nicole Proulx Aiken, City Attorney; Todd Allen, Acting Police Chief; Anna Slocum, Parks and Recreation Director; Cindy Ehart, Finance Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dehner, Fire Chief; Bryan Dyer, Community Development Director 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 March 11, 2019.

2. Consider the acceptance of easements dedicated on Merriam Pointe Seventh Plat at 7050 W. Frontage Road - located in a PUD-G (Planned Unit Development-General) District.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-2. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**V. PLANNING COMMISSION**

1. Consider approval of a Change in Use for 6209 Grandview Street - located in a PUD-G (Planned Unit Development-General) District.

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

The applicant and property owner, David Johnson, is in the process of completing the sale of 6209 Grandview Street to Group 1 Automotive. Group 1 Automotive owns the adjacent Baron BMW and Mini automobile dealerships and is representing the property owner for this application.

The applicant is requesting approval of a change in use to add automotive sales and service (no outside service) as an approved use to the subject property's PUD-G zoning. Group 1 Automotive intends to utilize the property as part of the Baron BMW and Mini dealerships. At this time, no changes are proposed for the existing building. The submitted plan adds additional landscaping and irrigation to the property.

On March 6, 2019, the Planning Commission held a public hearing, there were no comments, and based on information supplied by the applicant, as well as the criteria outlined in the Merriam Code and Kansas law as outlined in the Planning Commission Staff Report, unanimously recommended approval of the rezoning and associated preliminary development plan.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL CONCUR WITH THE PLANNING COMMISSION'S RECOMMENDATION AND APPROVE, WITH CONDITIONS, THE REQUEST FOR CHANGE IN USE TO ADD THE USE OF AUTOMOBILE SALES AND SERVICE TO THE PLANNED UNIT DEVELOPMENT-GENERAL DISTRICT AND THE ASSOCIATED DEVELOPMENT PLAN FOR 6209 GRANDVIEW STREET, AND AUTHORIZE THE MAYOR TO SIGN THE EFFECTUATING ORDINANCE. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**VI. MAYOR'S REPORT**

1. Presentation of the American Council of Engineering Companies of Kansas (ACEC-KS) Engineering Excellence Award for Johnson Drive to Merriam city limits.

Rick Worhl, National Director, American Council of Engineering Companies of Kansas, commented that the Johnson Drive Project was selected for the award based on 5 criteria and evaluated projects across the state based on those criteria. The 5 criteria include uniqueness and innovation, innovative application of existing technologies, enhanced public awareness, socio-economic and sustainable development, complexity of the project and successful fulfillment of the need.

The Johnson Drive project scored high in all areas but, really excelled in the enhanced public awareness. Communication with the public included a robust communication plan including press releases with specific detour maps, communication with businesses to help customers reach the businesses during construction, message boards to alert drivers to changing traffic patterns, two public meetings, and several individual meetings with residents and business owners along the corridor. The result of this comprehensive effort was that there were no complaints received during the construction of the project.

The complexity category was the second category the committee noted. The committee acknowledged that the variety of stakeholders of the project including residential and business owners along the project area elevated the complexity of the project. Most properties along the corridor have direct access to Johnson Drive that would be very disruptive during a construction project, if the project lasted a long time. This project was limited to 14 days and the Johnson/ Merriam Drive intersection was open to north and south bound traffic in less than 7 days. Part of the construction phasing plan utilized an alley to allow access to businesses during construction at the east end of the project.

The improvements enhance the western gateway to Merriam by enhancing safety, enhancing the look and feel of the corridor and providing a catalyst for economic growth. One of the most important elements of the \$1.4 million project is that it came in 10% under budget.

Mr. Wohrl presented the award to Mayor Sissom, CIP Project Coordinator Carl Sanders and project engineer Kristin Leathers.

Fire Chief Bryan Dehner announced that Fire Captain Chris Palmer will be taking over the duties of Captain Doug Crockett who retired after 32 of service. Chief Dehner provided a short bio for Captain Palmer and introduced him to the council.

## VII. COUNCIL ITEMS

### A. Finance and Administration

1. Consider approval of an ordinance amending sections of the Merriam City Code concerning alcoholic liquor and cereal malt beverages (CMBs).

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING THE CITY CODE REGARDING ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Consider approval of an ordinance authorizing the sale, consumption and possession of alcoholic liquor during the Merriam Drive Live Special Event.(first reading)

Parks and Recreation Director Anna Slocum provided the background for this item.

Merriam Drive Live debuted in 2018 as a new event in downtown Merriam. The goal of the event is to provide an opportunity to build community among residents as well as provide an example of how the land at 5701 Merriam Drive could be utilized. Although weather was less than desirable in 2018, event organizers implemented a weather plan that proved successful for the 325 enthusiastic attendees. This year, the event is scheduled for Saturday, October 5 from 11 am – 6 pm with two stages featuring a variety of musical performances, children’s activities, yard games, food trucks and a Kansas licensed caterer serving beer and wine. In order for beer and wine to be sold and participants not be confined to a specific space, an ordinance is required to allow the sale, consumption and possession of alcoholic liquor on streets and sidewalks within the boundaries permitted. The boundaries, outlined, were displayed.

There will be one change to the ordinance being considered, as there is a change in legislation at the state level going on that will change the statute number listed in the agenda material. At the next meeting, which will be the second reading, that information will be updated to reflect changes at the state level.

Councilmember Frisby inquired about other cities' events and if those events sell alcohol where children also attend the events.

Director Slocum commented that many area cities host family events where alcohol is served.

Mayor Sissom asked if there were any issues last year regarding the alcohol sales and families.

Director Slocum commented that while last year the attendance was not as expected due to rainy weather, she was unaware of any alcohol issues related to the event. The event caterer, who sells and serves the alcohol has very strict guidelines regarding alcohol sales and she did not hear any reports of any issues from the caterer or the police department who had officers at the event.

3. Consider approval of waiving the Caterers License fee for Merriam Drive Live vendor.

Parks and Recreation Director Anna Slocum provided the background for this item.

The City Code allows for the license fee for a caterer license to be waived for a City sponsored and funded event. The caterer's license is a \$500 license and the caterer would be selling alcoholic liquor for the Merriam Drive Live event.

Councilmember Hands commented that it seems a little soon to be approving this item before the ordinance is approved.

Director Slocum indicated that the item could be moved to the April 8<sup>th</sup> meeting if desired.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL WAIVE THE LICENSE FEE AS ALLOWED BY MERRIAM CITY CODE SECTION 5-191 AND 192 WHICH ALLOWS FOR WAIVING THE LICENSE TAX ASSOCIATED WITH A CATERER'S LICENSE FOR A CITY SPONSORED AND FUNDED EVENT. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS APPROVED. COUNCILMEMBER FRISBY VOTED NAY.**

4. Consider approval to authorize the creation and hiring of a Facility Operation Supervisor position.

Parks and Recreation Director Anna Slocum provided the background for this item.

The maintenance needs of the new community center facility will be considerably different from the current facility. The location of the new facility expands the municipal campus. Maintenance is a shared need, which led to the exploration of restructuring City-wide building maintenance. Currently, the existing community center has two full-time facility maintenance workers budgeted within the Parks and Recreation budget. Public Works has one full-time staff member dedicated to City Hall, Visitors Bureau and Police Department.

The concept of combining into one work force, in one department, would provide for an efficiency of labor and resources. The creation of this position will eliminate a vacant facility maintenance position within the Parks and Recreation Department. The new position will be part of the Public Works department and will exercise supervision over the Facility Maintenance staff, Landscape Technician and contract laborers. The general purpose will be to perform a variety of professional, technical and skilled duties in monitoring City-wide facility maintenance operations. The salary range for this position will be \$49,431 – \$74,146 plus benefits. Annual cost of salaries and benefits is estimated to be \$72,320. (In previous years \$55,000 has been budgeted in salaries/benefits in Parks and Recreation.)

The goal is to fill the position by the end of summer to allow time to learn existing facility systems before the installation of systems begins in the new community center. The supervisor can assist with the creation of maintenance and equipment replacement plans to help maximize their life expectancies.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL AUTHORIZE THE CREATION AND HIRING OF A FACILITY OPERATIONS SUPERVISOR POSITION. COUNCILMEMBER KNAFF SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

5. Consider approval of budget adjustments from Parks & Recreation and General Fund Contingency to Public Works.

Parks and Recreation Director Anna Slocum provided the background for this item.

With the creation of the Facility Operations Supervisor and authorization to hire this position in 2019, it is necessary to identify a funding source. The expected hiring range is \$49,431 – \$54,374 plus benefits. The total requested budget adjustment for the remainder of 2019 is \$37,500.

Since the position will eliminate the vacated facility maintenance position budgeted for the current fiscal year in Parks and Recreation budget, there is some funding available within this salary line for the new position. The budget adjustment form included in the agenda packet proposes funds be transferred from two sources:

First, a transfer of funds from Parks and Recreation salaries/benefits to Public Works salaries/benefits. Second, the remaining funds be transferred from General Fund Contingency to Public Works salaries/benefits. The Finance Director has reviewed and City Administrator has approved this budget adjustment.

**COUNCILMEMBER FRISBY MOVED THAT THE COUNCIL APPROVE THE BUDGET ADJUSTMENT OF \$23,000 FROM PARKS AND REC SALARIES/BENEFITS AND \$14,500 FROM GENERAL FUND CONTINGENCY TO PUBLIC WORKS SALARIES/BENEFITS. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

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

1. Consider approval of a Professional Services Agreement (PSA) with Confluence for Comprehensive Plan updates.

Community Development Director Bryan Dyer provided the background for this item. The Five Year Capital Improvement Program (CIP) budgets \$250,000 for the updating of the Merriam Comprehensive Land Use Plan. The allocation is \$125,000 for 2019 and \$125,000 for 2020.

To initiate this project, the City published a Request for Proposal (RFP) for services related to updating the comprehensive plan. The city received six responses to the RFP. A Selection Group consisting of Brian Knaff, Council Member; Bill Bailey, Planning Commissioner; Chris Engel, City Administrator; Holland Schellhase, Administration Intern; John Hollis, Planner; and Bryan Dyer, Community Development Director, reviewed and rated the responses.

Following the review and rating of the responses the Selection Group identified three firms to interview. Four of members of the Selection Group (Brian Knaff, Chris Engel, John Hollis, and Bryan Dyer) conducted the interviews. Following the interviews, the Selection Group identified

Confluence as the firm it would recommend to the City Council to perform the Comprehensive Plan Update.

The recommendation is based on a number of factors, including Confluence's project team, methodology and approach and their experience with Comprehensive Plans, the City of Merriam, and the Kansas City Metro area.

The City has worked with Confluence on several projects in the past, so staff was familiar with their work.

Councilmember Hands asked Councilmember Knaff to provide any additional feedback on the selection process.

Councilmember Knaff commented that it was a good process and all six submittals were competent. He personally spent a lot of time going through the resumes. Two firms really stood out from the competition and Confluence was the selected company based on prior experience and their plan to have a very interactive website to reach out to folks that may not be able to attend the public meetings.

**COUNCILMEMBER KNAFF MOVED THAT THE COUNCIL CONCUR WITH THE SELECTION GROUP'S RECOMMENDATION TO ENGAGE CONFLUENCE FOR PROFESSIONAL SERVICES RELATED TO THE UPDATING OF THE MERRIAM COMPREHENSIVE LAND USE PLAN AND AUTHORIZE THE MAYOR TO SIGN THE PROFESSIONAL SERVICES AGREEMENT. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Presentation on Merriam Town Center allowable uses.

Mayor Sissom commented that he asked the Community Development Director to provide this information to the council as he has had many inquiries from the public asking to get certain businesses in the center. The public also had concerns about the types of businesses that could locate in the center. Residents don't always understand that the city has very little power to bring businesses into a city. Merriam Town Center is privately owned and leased by the owner and while we may want a certain business in the center it is ultimately the owner and leasing agent of the center that can bring businesses to the center.

Community Development Director Bryan Dyer presented information on allowable uses for businesses in Merriam Town Center. Mr. Dyer explained that there are two factors that dictate the types of businesses allowed in Merriam Town Center. The first factor is the City Code which is related to the zoning of a property. Merriam Town Center is zoned Planned Unit Development General (PUD-G). PUD-G zoning does allow the planning



commission and council to place additional restrictions on properties during the re-zoning process, if desired. For Merriam Town Center, no additional city restrictions were placed on the zoning. Zoning violations are enforced by the city.

In addition to allowable uses under the City zoning code, developments can have their own Private Reciprocal Easement and Operation Agreement (REA). An REA is similar to a homeowners association's covenants and restrictions. An REA can be amended and it is not required to notify the city if the REA is changed. Merriam Town Center has an REA document that is very large and very complex.

The REA for Merriam Town Center has specific restrictions for certain buildings and sites that do not apply to the center as a whole. There are a few buildings within the site that are owned by the tenant and those owned building have certain restrictions. The out lots have certain restrictions that the interior main buildings do not, which makes the REA a rather complicated document.

Mr. Dyer displayed a list of allowable uses under the current PUD-G zoning for Merriam Town Center. He then displayed a list of REA restricted uses. The REA allows for amendments which require certain anchor tenants to agree to before it can be amended. Mr. Dyer noted that while some sites and buildings are tenant owned, the majority of the center is owned by Site Development which was formerly DDR. The ownership of the center has not changed, just the name.

City Administrator Chris Engel commented that this information is very helpful to help the council and the public understand the level of control the city has over the site. In addition, some retailers have their own restrictions on where stores can be located or they require a companion retailer be located at the same site. They may not locate within a certain number of miles of a similar type business or within a certain distance of their own stores. Retailers are able to dictate a lot of restrictions on locations and competitors when deciding on a site and this can make it difficult to get the types of retailers folks want at a certain location.

### 3. Community Development Update.

Community Development Director Bryan Dyer provided the following development updates:

The lot next to Infinity continues along with the relocation of the sanitary sewer. The weather this winter has really slowed that project down, however, it is still moving forward.

The B.E. Smith Center at the hospital should be completed by the end of March.

The hospital parking garage is going up very quickly; using tilt-up concrete helps project go up fast.

The Audi dealership is moving along well; it is nearly complete and is very visible from I-35.

The first application for the exterior grant program has been completed.

Freddy's Steak burgers has submitted a building permit for the old Winstead's restaurant. There will be visible activity at that location soon.

4. Consider the approval of purchases necessary to install 16 residential streetlights.

City Administrator Chris Engel provided the background for this item.

Staff has determined 16 new residential (brushed aluminum) streetlights can be on Switzer from 69<sup>th</sup> street to 75<sup>th</sup> street for a total cost of \$69,800. This is a portion of street lights that were omitted from the approval at the last city council meeting. As part of the joint project with Shawnee to overlay Switzer the city will be installing new street lights along the Merriam side.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE PURCHASE AND INSTALLATION OF 16 STREETLIGHTS NOT TO EXCEED \$69,800. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## VIII. STAFF ITEMS

City Administrator Chris Engel commented that the CIP tour will be held on Friday April 19<sup>th</sup>. Staff will send out an invitation with additional information.

The 5701 Merriam Drive Committee met last Monday and that information will be posted to the website by tomorrow.

Councilmember Hupp commented that a group of residents did a trail clean up over the weekend. She let Public Works Director Bruemmer know where they placed the trash bags so public works staff could go retrieve them for disposal.

Councilmember Neal asked about the meeting schedule for the public on the Sidewalk Infill project, and when those meetings are scheduled to provide council a copy so they can relay the information to residents who contact them.

Councilmember Frisby asked if Councilmember Neal could provide a briefing of his trip to the National League of Cities. Mayor Sissom commented that he could provide that at the next council meeting.

**VII. NEW BUSINESS**

**IX. EXECUTIVE SESSION**

**IX. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 8:25 PM. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

APPROVED: April 8, 2019

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick  
City Clerk