

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
OCTOBER 28, 2019
7:00 P.M.**

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

Council President Christine Evans Hands called the meeting to order at 7:00 pm.

II. ROLL CALL

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

Mayor Ken Sissom and Brian Knaff were absent

Staff present: Chris Engel, City Administrator; Ryan Denk, City Attorney; Meredith Hauck, Assistant City Administrator; Mike Casey, Deputy Fire Chief; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Darren McLaughlin, Police Chief; Anna Slocum, Parks and Recreation Director; Sari Maple, Human Resource Manager; 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 October 14, 2019.
2. Consider approval of the Official Holidays for 2020.
3. Consider approval of a Resolution cancelling the May 25 and December 28, 2020 City Council meetings.
4. Consider approval of final payment to Mega Industries and acceptance of the Shawnee Mission Parkway over Turkey Creek Bridge Repairs project.

COUNCILMEMBER PAPE MOVED THAT THE CITY APPROVE CONSENT AGENDA ITEMS 1-4. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

V. MAYOR'S REPORT

Council President Hands reminded the council that on November 6 at 7:00 pm the Planning Commission and City Council will hold a joint Work Session to discuss the update to the city's Comprehensive Plan.

VI. COUNCIL ITEMS

A. Finance and Administration

1. Consider approval of a resolution to submit to the electors of the City of Merriam the question of renewing a one-quarter percent Special Sales Tax for Capital Improvement projects.

City Administrator Chris Engel provided information regarding this item. In 2000, Merriam voters approved two concurrent five-year 1/8-cent special sales taxes for use on city street improvements and downtown infrastructure. In 2005, Merriam voters approved a five-year renewal of those taxes in the form of a single combined 1/4-cent sales tax for streets and stormwater. In 2010, Merriam voters approved a ten-year renewal of the 1/4-cent sales tax for streets, stormwater, bridges and drainage improvements.

Between 1/1/2001 and 12/31/2020, the 1/4-cent special sales tax will have generated approximately \$29 million dollars for the exclusive use of maintaining city infrastructure. When taking the city's pull factor into account, the highest in Kansas, non-residents have actually paid for over \$23 million of those \$29 million dollars. Also, with that reliable revenue stream in place, the City has been able to use those funds to secure

millions of additional dollars in matching County, State, and Federal grants. Primarily due to those non-resident dollars, the city will be able to complete more than \$53 million dollars in projects with the \$29 million dollars collected by the sales tax.

The current ten-year sales tax is set to expire on 12/31/2020 and there is no other dedicated revenue stream identified to fund our ongoing infrastructure needs. However, necessary infrastructure improvements will still need to be completed using either this funding source or another. Should the sales tax ballot initiative fail, city staff and City Council would need to (1) reassess the levels at which the community expects our infrastructure be maintained, (2) identify existing services to eliminate or reduce so as to reprioritize those funds, (3) identify another revenue source (i.e. property tax) to maintain our infrastructure, (4) periodically issue debt for necessary infrastructure improvements, or (5) some combination of the above.

However, this is a decision for the community and the entire electorate deserves the opportunity to have a voice on the matter. He further commented that this item has been presented and discussed at several city council meetings and those presentations are available for public viewing at <https://www.merriam.org/maintainingmerriam> . Staff will continue to provide information to educate Merriam residents about the tax.

Mr. Engel read the following ballot language for the record:

Shall the following be adopted?

Shall the City of Merriam, Kansas be authorized to levy a special purpose city retailers' sales tax in the amount of one-fourth of one percent (0.25%) and to use revenue from such tax to pay the cost of improving certain City streets, bridges and associated drainage, which improvements may include grading, curbs, gutters, pavement and other surfacing, driveway entrances and structures, drainage work incidental thereto, service connections from utility mains, conduits or pipes necessarily lying within curb lines, streetlights, street lighting systems, storm water drains, retaining walls and area walls on public ways or land abutting thereon, sidewalks, street trees and landscaping, stormwater drainage projects, and all related improvements ("Improvements") and all things necessary and related to such Improvements, and be authorized to pledge such sales tax for the payment of the principal and interest on general obligation bonds issued to pay the cost of such Improvements, provided that such retailers' sales tax shall expire ten (10) years from the date it is first collected (expiration date of December 31, 2030), all pursuant to K.S.A. 12-187 et seq. and other applicable state statutory provisions?

Billy Crook, 6636 Wedd St. commented that extending this tax is a decision for the voters of Merriam. There have been rumors that the tax is not needed and that the council is forcing the tax down the throats of Merriam citizens. He wanted it noted on the public record that that claim is false. Merriam residents will be given the opportunity to decide for themselves whether they want to renew this tax by passing this resolution and putting it out for a public vote.

COUNCILMEMBER FRISBY MOVED THAT THE GOVERNING BODY APPROVE A RESOLUTION TO SUBMIT TO THE ELECTORS OF THE CITY OF MERRIAM THE QUESTION OF RENEWING A SPECIAL ONE-QUARTER PERCENT CITYWIDE RETAILERS' SALES TAX FOR THE PURPOSE OF FUNDING CERTAIN STREET, STORMWATER AND DRAINAGE IMPROVEMENTS. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of an interlocal agreement with Johnson County Parks and Recreation District for the 2020 Turkey Creek Festival.

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

The Facility Use Agreement between the City and Johnson County Park and Recreation District (JCPRD) for the annual Turkey Creek Festival at Antioch Park is for one year with terms to renew for two additional years. The festival dates for this agreement are: May 16, 2020; May 15, 2021; and May 21, 2022.

Beginning in 1993, the event was co-produced by Merriam Chamber of Commerce and Merriam Parks and Recreation Department. In 1996, Merriam Parks and Recreation Department assumed primary responsibility for the organization of the event. The first Facility Usage agreement with JCPRD was approved in 1997 for use of Antioch Park. The mission of the event is to provide activities that appeal to all ages with special emphasis on events and activities to attract children and families.

In preparing for this agreement, staff from both agencies met to review the agreement to ensure the tool is working for both agencies. Through these discussions, staff requested that JCPRD evaluate the Special Event Permit fee as well as the compensation to JCPRD for concession vendors. Through this discussion, JCPRD has agreed to waive the fees requested in return to be listed as a sponsor in all promotional materials. With these changes, the fees paid to JCPRD are anticipated to decrease \$55 for rental and \$1,300 for concession vendor reimbursement (\$100 for each vendor participation varies).

The agreement states that the City will reimburse the JCPRD in accordance to the schedule of fees and charges shown in Exhibit B. The charges reflect the fees for 2020. JCPRD reviews fees each September. Any increase is anticipated to be less than 10 percent and will affect the following year. The fees charged are to compensate the JCPRD for use of four shelters, fire circle, Rose Garden, and 8 pedal boats.

Merriam Parks and Recreation Advisory Board reviewed the changes to the agreement at the October meeting and unanimously recommended continuation of this agreement with Johnson County Parks and Recreation.

Councilmember Pape asked about the pedal boats reduced from 10 to 8. As a member of the Kiwanis Club who operate the pedal boats during the festival, he is familiar with the frequent breakdown of the pedal boats. His concern is that they will have less boats to run and if they breakdown, that will result in even less boats in operation during the festival. The Kiwanis Club rents the boats from JCPRD at \$100 each and uses this event as a fundraising event. He is concerned that they will have even less boats to run when starting with only 8 if the boats break down.

Ms. Slocum replied that JCPRD has upgraded their inventory of pedal boats and all boats supplied for the festival next year will be new. These new boats are larger in size and can only fit 8 per trailer. She also informed councilmember Pape that the city will be paying the fee for the use of the boats next year. If there any breakdowns with the pedal boats during the festival, that can be addressed with JCPRD.

Councilmember Frisby asked about a voter registration table being allowed at the festival.

Ms. Slocum responded that there should not be any issue with having a voter registration table at the festival.

Councilmember Hands asked about the comment that shelter #2 would be moved closer to the kid's activities.

Ms. Slocum responded that her understanding is that the shelter will be rebuilt in another location due to ADA accessibility issues as a result of a recent ADA survey completed at the park.

Billy Crook, 6636 Wedd St., thanked Ms. Slocum for working with JCPRD to get this agreement finalized. The Park Board had expressed a desire to reduce costs for the festival as much as possible. Ms. Slocum took those

ideas from the Park Board and presented them to JCPRD and there was significant costs savings as a result.

COUNCILMEMBER HUPP MOVED THAT HE COUNCIL APPROVE AN INTERLOCAL AGREEMENT WITH JOHNSON COUNTY PARKS AND RECREATION DISTRICT FOR THE 2020 TURKEY CREEK FESTIVAL. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. Consider participation in the 2020 Superpass program.

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

The cities of Fairway, Leawood, Roeland Park, Mission and Merriam began the Superpass program in 2009 to allow residents of each City the option to use all of the pool facilities with the purchase of a special pass. At the time of the agreement, all cities were operating a seasonal outdoor pool with similar amenities and operating schedules. Each city retained half of revenue received from the sale of this special pass with the additional monies held for shared revenue. The shared revenue was distributed proportionately to each City based on the visits from Superpass holders.

In 2019, Merriam created a separate agreement with each of the cities, in which Merriam residents were able to purchase a pass to the “Merriam Aquatic Center” and the city provided them with a free Superpass to visit area pools. Total visits to the five area pools was 3,976 with Mission Family Aquatic Center receiving the most at 1,708 and Prairie Village second with 1,127.

In preparation for operating the new Merriam Community Center, participation in the Superpass program needs to be determined. Merriam will have the only facility with indoor/outdoor aquatics; fitness center, walking track and gymnasium. The membership structure is such that one fee provides access to all amenities so once past the front desk, Superpass visitors now have access to the entire facility not just outdoor aquatics which was not the intent of the agreement in 2009.

Participation in the Superpass program by Merriam residents in 2017 was 23. In 2018 only 24 Merriam household participated in the Superpass program. Those same years there were 374 and 368 resident season passes sold, resulting in only 6.1 and 6.5% participation in the Superpass program for 2017 and 2018.

This issue was discussed at the August Park and Recreation Advisory Board meeting. Although this opportunity was thought to be a good way to bring people to the new center there were many more concerns from an operational standpoint that currently are difficult to address since the building is still under construction. Ultimately, the board determined that due to the uncertainty of grand-opening; logistics of managing Superpass visitors coupled with nuances of a new facility, it might be in the best interest of Merriam residents to opt out of participating in 2020 and evaluate how the program might work moving forward.

Park Board recommended with a four to two vote to not participate in Superpass for 2020.

Councilmembers expressed several concerns about non-participation in the Superpass program. Those concerns included non-participation in Superpass may prohibit Merriam residents from going to other pools to experience amenities that the new outdoor will not have such as a high dive; the Superpass is a way to attract non-residents to the new facility, and it being unfair to the other Superpass cities that allowed Merriam to participate in Superpass last year when there was no outdoor pool but now that there will be a new outdoor pool in Merriam we don't want to participate.

Director Slocum commented that the only Superpass city that has a high dive is Prairie Village and anyone can utilize their pool by purchasing a daily pass or a non-resident season pass for the Prairie Village pool. She further commented that typically when a new facility opens there is no problem attracting visitors. The facility is brand new and folks really want to experience a new facility. Last year the City of Merriam had a separate agreement to participate in Superpass because we did not have an outdoor pool. In order to make the Superpass equitable last year, Merriam had to reimburse the other Superpass cities \$3.74; previous years that reimbursement rate was only \$1 per visit.

The Park Board had a discussion about Superpass visits being equitable. Their concern was a Superpass holder can visit the new Merriam outdoor pool at a cost of approximately \$1-\$1.25 per visit and a daily visit fee for Merriam residents may be between \$7-\$9, therefore non-residents with a Superpass would get to use the new pool for less than a Merriam resident. The fees have not been set for the new Community Center and pool, so trying to make an accurate comparison at this point is difficult. She added that the other participating Superpass cities recognize that Merriam's new

outdoor pool and facility is nothing like the old outdoor pool and regulating the Superpass users to only the outdoor portion of the facility will be a challenge, as once you enter the new community center, folks have access to all areas of the facility such as the walking track, indoor pool, weight rooms etc.

Ms. Slocum commented that discussion at Park Board included reimbursement rates for Superpass visits, as well as the experience of pool patrons if there is a huge influx of Superpass pool visitors from other cities and our own residents may not have an enjoyable experience due to so many visitors at the outdoor pool. The city of Fairway had 3,263 Superpass visits in 2014, after opening their new outdoor pool in 2015, they had 8,000 Superpass visits and average about 10,000 Superpass visits each year since. In 2017, the Merriam pool had 1,900 visitors, in 2018 there were 1,748 visitors. These numbers are a pretty clear indication that a new facility attracts new visitors.

There was some discussion about regulating the Superpass visitors to only the use of the outdoor pool at the new community center. Suggestions included hand stamping and wristbands to identify Superpass users. There was some discussion regarding the fees for residents vs. non-residents and access to the outdoor pool using the suggested wristband system, including logistics and the pool experience in a facility that has not been operational.

City Administrator Chris Engel commented that it is not an issue that staff is unsupportive of a Superpass program, it is more of an issue of managing the facility the first year with all the new amenities of the new community center and the outdoor pool combined, which has never occurred. Once the facility has been operational for a year, and there is data on the number of visitors that are using the facility, staff will have a better understanding of how a Superpass program could work at the new facility. Currently there is no experience or data to base that on.

There was some discussion over concerns that the pool may not open by Memorial Day next year and there would be no outdoor pool experience offered to our residents. The Superpass would provide an outdoor pool option in that case.

Assistant City Administrator Meredith Hauck commented that the community center project is on schedule currently, and there has been no indication that the center or pool would not be open on time.

Some councilmembers expressed concern that it might seem that the city is taking away a service from our residents by not offering the Superpass. They felt it would be better to offer the Superpass program the first year the new center is open to see if it would work. If a Superpass program does not work well in the new facility, then it could be eliminated the next pool season.

There was also support from some councilmembers to wait until the new community center is open for a year to give staff the opportunity to work through the logistics and see the visitation numbers of the outdoor pool. This would give staff solid data to better understand if the Superpass program would work for the outdoor pool portion of the new community center. Not having established fees for the new community center makes finding the equity of the Superpass program difficult.

Billy Crook, 6636 Wedd St., commented that the council can use this opportunity to come up with a different option as they don't just have to say yes or no to this item. The Park Board's official recommendation was to not participate in Superpass for 2020. He feels that just because the Park Board vote was not unanimous, the City Council should not negate the Board's recommendation. He feels that not participating in the Superpass this year might further alienate some residents who are unhappy about the changes to the outdoor pool with the design of the new community center.

Brian Shapley, 8904 W. 49th Ter., commented that his family was a Superpass member last year. They had not previously purchased the Superpass add on until last year when it was offered at no charge. He plans to utilize the outdoor pool at the new community center next year and will not be purchasing the Superpass option. He has concerns that the new outdoor pool may not be open at the beginning of the outdoor pool season.

Because there was not a consensus from the council, there was discussion regarding tabling this item until the new community center fees have been set and to give the council more time to think about the options and have staff provide some options to possibly make the Superpass program work for the first year.

COUNCILMEMBER NEAL MOVED TO CONTINUE THIS ITEM UNTIL THE NOVEMBER 25, 2019 CITY COUNCIL MEETING. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS APPROVED. COUNCILMEMBER HUPP VOTED NAY.

B. Community Development/Public Works/CIP

1. Discussion regarding temporary vehicle storage.

Community Development Director Bryan Dyer presented some information regarding temporary vehicle storage.

This discussion has been brought forward as a result from inquiries from auto dealerships looking for locations to temporarily store vehicle inventory. There are a few parking lots located within the city that are underutilized and city staff receives many inquiries from auto dealers wanting to utilize these parking lots.

Mr. Dyer reviewed a concept of how this could work:

A Conditional Use Permit (CUP), which would be administratively approved would be required for temporary vehicle storage.

It would only be allowed on existing commercial, industrial, and PUD-G zoned parking lots.

The parking lot cannot be immediately adjacent to single, two, or three unit family residential uses or zoning; unless separated by a city designated arterial street.

The parking lot must have a commercial building on the same property.

Stored vehicles must be complete, in good repair, and capable of being moved under their own power.

The CUP would be valid for 30 days.

The parking lot with an occupied building must demonstrate that there are parking spaces in excess of that required by Merriam Code. Only the excess spaces can be utilized as temporary storage.

The parking lots with unoccupied buildings, may use 50 percent of the parking lot spaces as temporary storage.

The parking lot utilized for temporary storage must be adjacent to a city designated arterial street.

Vehicle loading and unloading shall not occur on the public right-of-way.

The applicant must be the property owner or their representative.

The entity temporarily storing vehicles must be located in Merriam have a valid Merriam Occupational License for automobile sales.

Applicant must provide a site plan showing the location of the temporary storage and loading and unloading area.

A parking lot can be issued three CUP's for temporary storage in a calendar year.

No display, showing, or sale of vehicles can occur on the temporary storage lot.

Mr. Dyer displayed three parking lots that staff receives a lot of call about. Those lots include the former Kmart parking lot at Shawnee Mission Parkway and Antioch; the former Lee Jeans parking lot on 67th St; and the Synchrony Financial parking lot on 67th St.

Billy Crook, 6636 Wedd St., commented that his concern with this type of permit and use would be light pollution. He quoted a section of the City Code regarding parking, however that code section would not pertain to this type of parking allowances and regulations.

After some discussion, the council was not supportive of exploring temporary vehicle storage allowances.

2. Community Development Update.

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

Reed Automotive has obtained a grading permit for their new dealership.

Freddy's Frozen Custard and Steak burgers continues to make progress on their project. Their timeline has changed a bit due to the magnitude of work needed on the existing structure on the lot.

Baron BMW has been doing an extensive remodel for the past year and they are finally complete with that project.

The Community Development Department is nearing a record year for the number building permits issued. While the number of permits issued is

expected to set a record this year, the construction valuation of those permits are less than previous years.

At the November 25th City Council meeting there will be a presentation from Lee Kellenberger with Johnson County Public Works regarding the SMAC program. The program is being overhauled and Mr. Kellenberger will be reviewing those changes.

VII. STAFF ITEMS

City Administrator Chris Engel introduced the new Finance Director, Donna Oliver. Today was her first day of work.

Councilmember Hupp thanked Public Works Director Jim MacDonald and his crew for their work on the large item cleanup. She also thanked Parks Director Anna Slocum and her staff for the Halloween Happening held last Saturday.

Councilmember Hands commented that this is the last City Council meeting before the election. She thanked all the candidates and encouraged everyone to get out and vote.

IX. NEW BUSINESS

X. EXECUTIVE SESSION

XI. ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL,
COUNCILMEMBER HUPP MOVED TO ADJOURN AT 9:08 PM.
COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS
UNANIMOUSLY APPROVED.**

APPROVED: November 11, 2019

Respectfully submitted,

Juliana Pinnick

Juliana Pinnick
City Clerk