

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
October 12, 2020  
7:00 P.M.**

**This was a virtual meeting via Zoom.**

**I. CALL TO ORDER**

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

**II. ROLL CALL**

The following Councilmembers were present via Zoom meeting:

Scott Diebold  
Chris Evans Hands  
Bruce Kaldahl  
Brian Knaff  
David Neal  
Bob Pape  
Jason Silvers  
Whitney Yadrich

Staff present via Zoom meeting: Chris Engel, City Administrator; Ryan Denk, City Attorney; Meredith Hauck, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Donna Oliver, Finance Director; and Juli Pinnick, City Clerk.

**I. PUBLIC ITEMS**

In response to COVID-19-19, public comment that normally occurs during the City Council meeting has been temporarily suspended. Members of the public are still encouraged to share comments about matters that may or may not appear on the agenda. Public Comments are limited to five (5) minutes or a maximum of 850 words for written submissions.

**Please note: Public Comments will only be taken *via email* to the City Clerk at [jpinnick@merriam.org](mailto:jpinnick@merriam.org) prior to 6:00pm on the date of the meeting. *In accordance with the Governing Body Rules of Procedure, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.***

The following public comments were read:

Joann Atchity, no address provided, commented, no elected or appointed official has the authority to require anyone to veil their face.

Rachel Baker, Lifelong resident of Kansas, commented, this proposed public uniform code that includes fines and possibly jail time for not wearing a mask is egregious. It's draconian. Total overreach. Please vote no.

Kate Grace, no address provided, commented, your mandate is unconstitutional and any so called law you pass will be too. Me and my family will not comply.

Bonnie Morris, no address provided, commented, I think people should use their own judgement on this matter. If you feel that if you are at risk, by all means, wear a facemask, but to make it mandatory is wrong. There are people that cannot wear a mask for medical reasons, PTSD, etc. And to fine these people or make them prove it over and over again is wrong. Maybe they should tell us what we need to do in case we catch the virus, better diet, extra vitamins, supplements, sun, exercise etc. instead of hiding behind a mask and hiding in our homes. I read this morning that 70% of people that got COVID-19 - were wearing a mask and 3.9% of people that got COVID-19 were not wearing a mask. Kids are getting strep throat from wearing masks all day, my sister in-law got pneumonia from wearing a mask all day. Doesn't make sense to me. If I am not allowed in a store, because I cannot wear a mask, that is fine and I am ok taking my business elsewhere but to force me to wear a mask is government over-reach as far as i am concerned. What if our city council, government worked on making companies get rid of the toxic crap that they put in your household cleaners, candles, air fresheners, etc. that cause cancer, asthma, seizures etc. Our bodies are made to fight off the common cold, flu etc. Building a stronger immune system by eating right, exercise, vitamins, supplements etc. would be the smart way of going about it. What's next, only one car per household, one pet per household, seriously give them an inch they will take a mile. I'm sorry if I offend anyone but enough is enough. Our rights are slowly getting taken away and once they are gone, there is no getting them back. Ridiculous.

Jessica Moore, no address provided, commented, I am a lifetime resident of Johnson County, KS. I am now raising my own children here in Merriam and I want them to grow up not fearing illness and disease- it is a part of the circle of life. The factual mortality numbers are unknown because there were not strict guidelines on

how to qualify COVID-19 and this continues to be a very blurry line which should be the very first priority on everyone's list. Now we are living in a world where mothers are afraid to let their children play outdoors on a playground with my children. Leaving both children confused as the unnatural state of self-isolation is not human nature. We need one another to survive and thrive. But now the fear that has been instilled in these families and children's brains, without proper causation (6 months' worth) is disenfranchising our city of community.

Flatten The Curve campaign is out the window. What is next? Where are the guidelines stating real numbers, outlining the end to this governmental imposition on our "free" country and medical and health autonomy?

As a registered nurse in the great state of Kansas, I am pleading that you remove the mask mandate. That clear guidelines and numbers are set so that we are all on the same page- when does isolation begin and when does it end? Where are the studies being done, second and third party non-affiliated research being done with virus appropriate masks? How does the virus really work/spread/die/thrive/etc. This isn't stuff that's never been done before, why aren't we doing it?

Our State should step up as a role model for the rest of this country and honor freedom of speech and physical freedoms as well as lead research into effective PPE for this and any other virus that has a mortality rate, because apparently one death is too many. Perhaps share tips for building, supporting and maintaining a healthy immune system so when people do get sick, they can run the course of illness and continue to thrive on.

So many more thoughts, but my main concern today is that you vote no on punishing those who wish to live a life of freedom and autonomy, without fear until a clear outline of how we are defining COVID-1919 deaths, infection trends and effective PPE is addressed. No more throwing shots in the dark. Turn on the light and let's get this done right. The idea that Merriam would choose to throw their citizens in jail for choosing what is best for themselves and their family is frightening. The people that choose to wear masks should have the right to do so, even if it is deteriorating the general population's health in a slower, less noticeable manner. I beg that you do not go down this slippery slope of criminally enforcing a Public Uniform.

Mark Peterson, no address provided, commented, we, the citizens of Johnson County will boycott the City of Merriam, should you chose communism over liberty. Make not wearing a mask, a criminal offense, you will lose. You cannot jail us all and you cannot survive without revenue. Concerned American us.

Daniela Hermann, no address provided, commented, I got word that the council is voting on whether or not to fine and/or jail people for not wearing masks. Do not do this. It's absolutely absurd and utterly infringes on the Constitutional rights and freedoms of American citizens. My kids and I have several medical reasons why wearing a mask is dangerous for us. So it's not physically or medically possible for everyone to wear a mask. Also, people will choose to not shop in Merriam and will simply take their business elsewhere. My family and I will never set foot in Merriam again. And neither will many other families I know. We are many. And we will make sure that everyone knows not to go to Merriam. This will hurt your town financially and hurt its businesses. It'll hurt the schools, churches, businesses & anyone else in Merriam. And it'll hurt Shawnee too, because these towns are so close as we're not always sure where Shawnee ends and Merriam begins. You'll hurt the entire area. Can your town suffer this massive revenue loss?

People certainly won't want to buy their house in Merriam. I'm sure property values will decrease. I'm about to buy a new home and I will definitely leave the Shawnee/Merriam area if you do this. I'll take my money to another part of the county or outside the county.

You've already deterred me from buying anywhere close to Merriam. So the damage has already been done. Let's hope other new buyers don't get wind of this, for your sake. But we are prolific on social media this this won't be quiet for long. Also, police have far better things to do. And this will create an unpleasant, antagonistic, nasty relationship between law enforcement and the people. Is that what you want?

You'll turn Merriam into an unfriendly, hostile, morose, fearful, negative, unwelcome, nasty place. And your town will be shunned by 1000's of people. It'll just be too much trouble & such a headache to go to Merriam for any reason. And people will just stay away. Can your town afford that? Think carefully. It would be a big mistake if you did this.

Brian Hague, Overland Park (but with plenty of money to spend wherever I choose), commented, if you vote to make not wearing a mask punishable by fine and/or jail time, this Johnson Countian will be sure and never spend one dime in your city again. Focus on the real problems your city faces, like schooling and mental health, and quit wasting the taxpayers' (and voters', don't forget) money talking about mandating face diapers.

Martin Oehmler Jr., Ward 1 resident, commented, as a resident of Ward 1 in the City of Merriam, Ks I do not agree with the changes proposed to the Uniform Public Offense Code for the state of Kansas by adding Section 10.29 "violation of a Public Health Order" I feel it is an overreach of any City to make it a Criminal offense to not follow an order that the county health officials thinks is best when it has the likelihood of negatively affecting more than it might help.

Amy Hall, no address provided, commented, I want to weigh in on the addition of language making non-mask use a criminal offense punishable by jail time and/or fine.

Wearing a mask is believed by some to have a positive benefit for their health; it is also widely documented to have potential negative effects for the wearer. For that reason no city has any business making it a criminal offense not to wear one. In addition, there are many people who cannot wear them due to medical conditions and mental health reasons. And there is no way to know just by looking at someone if they fall into one of those categories.

Please educate yourselves on the negative consequences of mask use. Such as what the CDC just put out documenting that 85% of those who have tested positive for COVID-19 said they wore a mask all the time. People literally have a higher risk of testing positive if they wear a mask than if they don't. Which is understandable if you read the studies and papers written on mask use in the last decade prior to when there was political and monetary motivation to say it was an appropriate response to a virus.

"Those who got sick with SARS-CoV-2:

Wear a mask always: 70.6%

Never wear a mask: 3.9%

There is not a single randomized controlled test that found masks effective. On the contrary, every single one says masks are ineffective at preventing virus transmission. Every. One. And every health organization in the world understood this until a few months ago. The data did not change. There has been a wave of staph infections around the mouth. Pleurisy of the lungs. Both due to constant mask use of the public. I do not live in Merriam but I shop there weekly. If this goes into effect I will shop elsewhere.

Melissa Campbell, no address provided, commented, I would appreciate you not mandating a health procedure and protocol when you're not a medical professional. We Americans like freedom to breathe. Since the CDC readily admits the COVID-19 positive patients are made up of 70% always mask wearers and 3% non-mask wearers, it makes no sense to push for a dangerous filthy mask. My family and I are not interested in a mandate that threatens jail time for breathing God-given oxygen. The numbers do not support masking. I do not consent. I am sovereign over my own body. You are not sovereign over my body.

Chad and Kathy Rowe, no address provided, commented, it has come to our attention that the City Council will be considering an ordinance tonight that would make wearing mask in public mandatory and not wearing one a criminal offense. We believe this is beyond our reach as a City. We personally are very

conscientious about wearing masks in public, however, we think it should be a choice. Our police have better things to do than trying to enforce an ordinance that is by and large unenforceable.

We also value our personal and public freedom. Liberty is a fragile thing, not long maintained by many nations. We can lose it piecemeal with well-meaning but unwise ordinances that go far beyond the intended consequences. If citizens want businesses etc. to enforce mask wearing, and they don't, then they are free to go elsewhere. That is the American way. We will surely lose as we implement force in our city and country. We'd suggest the Council vote against this tonight.

Catherine Siler, 9800 W. 53rd St., commented, I am imploring you not to vote in favor of criminalizing those who cannot wear a mask. I have a disease that affects my lungs. Wearing a mask leaves me terribly out of breath. I have a special needs son that has significant sensory issues. Getting him to wear a mask is a real struggle. My daughter suffers from panic attacks and anxiety when she has to wear one. These are real problems our family struggles with. If this passes, I will be forced to spend my money in other cities besides Merriam.

Billy Croan, 6633 Wedd Street, commented, I read the agenda for tonight and want to applaud the project to make our public spaces safer by making touchless upgrades to city facilities. Better door openers on all exterior doors will benefit residents for years, not just during COVID-19, but every flu and cold season, and every day for the physically challenged or even just making it safer and easier for people whose hands are full. Additionally, making all of the sinks and soap dispensers touchless makes our restrooms more convenient, sanitary, attractive, and modern, and I'm actually excited to think about that upgrade being completed.

Touchless sinks, soap, and door openers on external doors are expensive at around 75 thousand dollars in total, but a great investment which I'm glad to see in our city. Thank you. Curiously though, I didn't see any Step-n-Pulls on the shopping list, and thought I'd write in to request them. Step-n-Pulls are a single piece of metal that screws onto the bottom corner of bathroom doors and functions like a handle that you can use with your shoe if you want to avoid touching the normal handle with your hand. They're very simple. They have no moving parts. They require no maintenance.

I think Merriam should add them to all of our city-owned restroom doors. They were invented by a NE JoCo resident, and while there are a few companies selling similar products today, Step-n-Pull is the largest and operates a semi-local manufacturing plant in Springfield, MO. They cost very little, at around \$20 per door for the fancy ones. This simple upgrade will reduce all germ transmission in a KEY location, restrooms. Step-n-Pulls will support 2020 council objective 1.3 (Environmental sustainability initiatives) by reducing paper waste, and save money

as well by reducing the cost of restroom paper used to open doors. Step-n-Pulls are fiscally and environmentally responsible. Please add Step-n-Pulls for restrooms to the touchless upgrade project.

Also, and perhaps more importantly, I need to cover one of the items proposed to be adopted from this year's Universal Public Offense Code updates. As excited as I am to give people the ability to avoid touching dirty restroom door handles, and as much as I utilize and appreciate face coverings myself, I must object completely to criminalizing American citizens who do not wear a mask on the order of an unelected health official.

Section 10.29 of the UPOC for your consideration tonight would do just that. 10.29 criminalizes citizens who don't wear masks when a health official tells them to, and sanctions the use of force against these citizens to imprison them for up to 30 days, and to fine them as much as \$500. I'm sure our police will use their discretion and compassion in these matters. But I feel that merely having giving this law your approval is something to take seriously, and it's un-American. If someday, less compassionate officers joined our police force or directed its operations, this law could cause real harm. It could even be used selectively against the poor, or those with difficulty breathing.

America is the oldest country today that was originally founded with a constitution requiring democratic consent of the governed via public elections. Laws like this dull the brilliant luster of the uniquely American traditions of Liberty and Freedom which generations of soldiers have given their lives to preserve. Let us not sign that away now, less than a year after COVID-19 began just because we feel overwhelmed by this crisis in this moment. We are a strong people. The lens of history will not look wisely upon laws like this.

You need look no further than our response to the tragedy of 2001 to see how small over-reactions like this can add up over time to wildly change the character of the nation. It would sadden me to see Merriam going along with this. Using force via UPOC 10.29 to punish people who don't comply with orders from an unelected health official is wrong. An equal people must not use force against each other, so with equality, necessarily comes a mutual trust and respect. I urge you to trust and respect your neighbors to make the best decisions for themselves regarding how they change their lives to fight COVID-19. We will get through this together. I promise.

I apologize if a city council meeting is an unusual venue to voice concern for American Liberty but I feel comfortable writing you, and perhaps more importantly: Your specific choice to adopt section 10.29 of the UPOC, or not, tonight, right here, is a very real local issue which is why I took the time to talk to my neighbors who have so far agreed 100%, and the time to write you today.

Mask requirements should be a private matter between property owners and their guests, not a matter of government force. Please reject section 10.29 of the 2020 Uniform Public Offense Code. Wishing you good health and Liberty.

## II. 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 28, 2020.
2. Consider approval of the purchase of public safety radios.
3. Consider approval of touchless upgrades to city facilities.
4. Consider approval of an agreement with American Specialty Health for Community Center membership.

Item 2 was removed from the consent agenda per a councilmembers request.

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1, 3 AND 4. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

There was a question regarding the life expectancy of the radios.

Police Chief Darren McLaughlin stated that the life expectancy of the radios is approximately 10-15 years. The current radios are 10 years old and technology has changed in the past 10 years. The new radios will have better inter-operability with other law enforcement agencies in Johnson County and the Kansas City metropolitan area. Other agencies such as fire and public works will have improved capabilities with the new radios.

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 2. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

### III. MAYOR'S REPORT

#### 1. Employee Service Awards 4<sup>th</sup> Quarter 2020.

The following employees were recognized for their years of service:

5 Years - Tony Adamson, Community Development

Jared Ruby, Police Department

20 Years - David Easley, Community Development

#### 2. Police Contacts and Legal Authority Presentation.

Police Chief Darren McLaughlin presented information regarding police contacts with the public and explained the 4<sup>th</sup> Amendment Right which states: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

He commented that the police officers make many contacts with people and those contacts are the first level of contact done on a consent basis. Police officers can converse with people, without asking identification, and those individuals are free to engage in conversation and answer questions or they can simply walk away and refuse to talk.

The second level of police contact is done under reasonable suspicion. The Supreme Court defines reasonable suspicion in the 1968 case Terry vs. Ohio, which is often referred to as a Terry Stop. This type of contact allows an officer to stop a person if, based on the officers' training and experience, there is reason to believe the person is engaging in criminal activity. The facts are looked at in the perspective of, would a reasonable officer believe criminal activity is possible based on the same set of facts.

This is a temporary detention. The officer is allowed to ask questions and further investigate. The time is not indefinite. If the officer cannot establish probable cause to arrest, the officer must release the person. The officer must have facts greater than a hunch that a crime has been committed.

Chief McLaughlin reviewed Probable Cause:

Probable cause is defined as the officer has knowledge of facts that would lead a reasonable person to believe a person has committed, is committing, or is

about to commit a crime. The facts to detain are in the perspective of a reasonable officer. The facts to arrest are in the perspective of a reasonable person. Probable cause can be thought of there is a 51% chance or greater the person committed the crime.

The officers receive training on this annually and receive daily training bulletins as well on many subjects such as use of force, review of case law, search and seizure, and reasonable suspicion.

There was some discussion regarding no knock warrants. Chief McLaughlin commented that the Merriam Police Department does not do no knock warrants.

### 3. Traffic Complaints and Speed Enforcement Presentation.

Police Chief Darren McLaughlin explained the process of handling traffic complaints. When a citizen complaint is received, it is documented and sent to the patrol commander. The first step is to monitor the area by putting out traffic counting devices to measure traffic flow and speed. The devices are radar sign boards which are the large sign boards that check and display the speed. The department also has a few small radar sin devices that fit on the speed limit signs. In addition, they use mechanical devices, whack are hoses that are laid across the roadway. This data is collected for 1-2 weeks, then the data is analyzed for number of cars speeding, number of cars and peak times that the majority of speeding occurs, and times of day when traffic is the heaviest.

After that, there are two methods implemented to reduce speeding. Those methods include leaving the radar signs up and enforcement action. The radar signs are effective as long as they are in place. Typically, when the signs are removed, the speeds go back up. Enforcement action will place an officer in the area to catch speeders.

The department faces many challenges that affect their ability to enforce complaints. There are currently 8 traffic complaint areas being monitored. The peak time for violations are during morning and evening rush hour. Accident peak times also occur during morning and evening rush hour, however the

accident peak areas are in different areas of the city from the monitored speed complaint areas.

Chief McLaughlin displayed a map depicting the traffic complaint areas and the top accident areas. Once an accident occurs, officers are pulled off of speed enforcement to respond to the accident.

There was a question about installing an additional stop sign on Knox.

Chief McLaughlin stated that the city has a traffic engineer, and stop signs and other traffic control devices are installed at the recommendation of the traffic engineer based on studies completed by the engineer. Putting a stop sign where one is not needed may cause problems in the future.

City Administrator Chris Engel added that the traffic engineer has looked at the 57<sup>th</sup> and Knox area and did not recommend putting in a stop sign. The area has been studied and that study was shared with council. In accordance with APWA standards which has criteria for installing stop signs; speed control is not one of those criteria. There are a variety of methods of slowing down speed but a stop sign is not one of those.

Mayor Sissom commented that sometimes during a street project, there can be design changes that will help in slowing down traffic.

#### **IV. COUNCIL ITEMS**

1. Consider approval of an ordinance adopting the 2020 Uniform Public Offense Code (UPOC). (Recommend waiving the first reading)

Mayor Sissom commented that there were many public comments submitted regarding this item, specifically section 10.29, which is related to a public health order. This is not a mask mandate, and many people appear to be misinformed about what 10.29 is really about. The ordinance change will allow our police department to enforce a public health order issued by the county. When COVID-19 hit and the county ordered many businesses to close, there were businesses who refused to comply with that order. While cities received many phone calls about these businesses not complying with the public health order, only the county had the authority to enforce that order. Adopting 10.29 of the Public Offence Code gives cities the authority to enforce those public health orders. Because cities across the state had their hands tied with no authority to enforce these orders, and the counties were overwhelmed with trying to enforce, it was added to the Uniform Public Offence Code so cities who adopt this code can now enforce those public health orders.

Police Chief Darren McLaughlin reviewed some of the changes to the 2020 Uniform Public Offence Code:

Section 1.1 - Added a definition for explosives

Section 5.7 -Changed the prohibited age tobacco products could be furnished, sold or given from under 18 to under 21 years of age. (The State Law is now the same as our City Code Ordinance 44-2.1)

It is suggested deleting the following sections from the UPOC due to conflict with our City Code:

Section 6.21 - Taking of Wildlife without permission on Posted Land: *Being deleted with the passage of the Criminal Hunting 44-5 in City Code.*

Section 6.22 - Criminal Hunting. *No longer needed due to passage of Criminal Hunting 44-57 in City Code.*

It was discovered that there was a loophole in our City Code and UPOC involving hunting. The Chief received an inquiry from a citizen asking if they could squirrel hunt in the city limits during the state authorized hunting season and with a hunting license. Our current laws did not prohibit such activity. Merriam is too densely populated to allow hunting with firearms within its boundaries. Therefore adding the suggested language below to the ordinance is necessary for public safety reasons.

Addition to Merriam Municipal Code Section 44—57 Criminal Hunting:

(a) It shall be unlawful for any person to shoot, hunt, trap or pursue any bird or animal within the City of Merriam.

(b) Exceptions. Nothing in this section shall:

1. Be deemed to prohibit any action taken by a law enforcement officer, community service or animal control officer pursuant to the interests of public health and safety; or
2. Be interpreted as prohibiting any act done in self-defense or done to defend another person.
3. This section shall not apply to lawful fishing or frogging.
4. This section shall not prohibit the trapping of animals deemed to be a public nuisance as defined in Chapter 8, Section 8-80 of the Code of Ordinances.

(c) Criminal hunting is a Class C Public Offense.

Councilmember Hands asked about the Criminal Hunting which prohibits trapping and then also refers to nuisance animals and if passing the criminal

hunting still allows private companies to trap nuisance animals such as squirrels.

Chief McLaughlin commented that section 8-80 of the Municipal Code still allows live trapping of nuisance animals.

The Kansas League of Municipalities deleted the sections from the UPOC on regulations related to the possession or distribution of firearms. However, the League felt passing these ordinances in the UPOC violates K.S.A. 12-16.124 which prohibits Cities from passing laws enforcing or regulating the governing the requirement of fees, license or permits, for the commerce in or the sale, purchase, transfer, ownership, storage, carrying, transporting or taxation of firearms or ammunition or any component or combination thereof. This does not mean we lose the ability to enforce the statutes being removed from the UPOC. These violations will be enforced through District Court.

Councilmember Neal asked for clarification on the firearms sections that were deleted from the code and the ability to charge these offenses in District Court.

Chief McLaughlin commented that all laws defined by state statute are enforceable through the District Courts. Cities and municipalities also have the authority to enforce city ordinances and misdemeanors which is where the UPOC comes in. Certain crimes like battery are typically charged at the District Court level, however since battery is in the adopted UPOC ordinance at the city level, that crime can be charged and prosecuted at the municipal level as well. Because items have been removed from the UPOC, but since they are still state laws they can be prosecuted at the District Court.

Section 10.29 - Violating a County Health Order. Chief McLaughlin explained that this is not a mask mandate enforcement and the police department would not have the resources to enforce, if it were. The departments philosophy is to educate and get voluntary compliance, not to arrest, ticket or fine.

City Attorney Ryan Denk commented in regard to Section 10.29 does not include enforcement of masking. The mask order was adopted by the Kansas Governor through an Executive Order 20-52. After that Executive Order, the Attorney General rendered an opinion that counties could opt out of some of the provisions of that order. Johnson County did not opt out of the mask mandate and 10.29 is related to a public health order, not the Governor's Executive Order. He further commented that it is unclear where folks got this information that 10.29 was related to masks. If the County Health Officer issued a written order then that would be enforceable under 10.29 but currently the mask mandate as the Governors order does not fall under 10.29.

Councilmember Hands asked what other area cities have adopted the 2020 UPOC and if they had any pushback from residents over the 10.29 section.

City Administrator Chris Engel commented that Mission, Hayes, Leavenworth all approved the UPOC with section 10.29 included. Edwardsville approved the 2020 UPOC but did not include section 10.29.

Councilmember Neal asked if the public health orders are enforceable at the county level.

City Attorney Ryan Denk commented that the enforcement of a county health order is now a civil penalty to be enforced by the District Attorney after passage of House Bill 2016, which removed the criminal penalty and made a civil penalty with an associated fine. This section of the UPOC is in regard to county orders, if that was removed, the state statute still exists which allows the District Attorney of Johnson County to determine if he is going to enforce the county's order so those orders are still enforceable. If our police department would take action on this provision of the UPOC it would still go through the District Attorney for civil penalty. So essentially, approving or removing this provision of the UPOC has the same effect. If council were to decide to remove it, it could be added at a later time if it was determined down the road it was needed.

Discussion among the council included that while many councilmembers have struggled with deciding whether to include 10.29 UPOC, they also recognize that it appears that a group of people are trying to politicize section 10.29 into something that it is not and that they trust that the Merriam Police Department will use proper discretion when responding to any complaint of a violation of any public health order which can include a multitude of factors not necessarily related to the current pandemic.

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2020 UNIFORM PUBLIC OFFENSE CODE. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE AN ORDINANCE APPROVING AN ORDINANCE ADOPTING THE 2020 UNIFORM PUBLIC OFFENSE CODE. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS APPROVED. COUNCILMEMBER KNAFF VOTED NAY.**

2. Community Center Update.

Assistant City Administrator Meredith Hauck proved the monthly Community Center update. The project remains on budget; once final invoices have been paid, a final budget number will be provided. The indoor pool opened last week and it looks great. The first week of the indoor pool being opened resulted in 59 reservations for lap swimming and 13 reservations for water walking. The

fitness programs for the indoor pool will begin soon. Memberships continue to increase with 407 memberships sold to date and 1800 visits in September.

Final pieces for the project include completing the landscaping, public art installation, interior paint and graphics, and working through the final punch list. The art pieces are finished, we are just waiting for delivery and installation of the pieces.

### 3. CIP Update.

Public Works Director Jim MacDonald provided the following CIP Updates:

Street & Storm Drainage 2020 - Johnson Dr. (BNSF to East City Limits) Mastin St. Improvements (Johnson Drive to Shawnee Mission Parkway) Project - Mastin Street is substantially complete, and sod was completed the week of October 5<sup>th</sup>. The contractor is working on punch list items for that section of the project. The Johnson Drive portion is substantially complete, with the contractor finishing up the sod work and island planting, and they are currently working on punch list items for that portion. Currently, we are waiting on Evergy to energize the street light controller, once that is done, the existing old-style streetlights will be removed.

East Frontage Road - 67<sup>th</sup> to 75<sup>th</sup> Project, Affinis Engineering has started field surveying East Frontage Road

## V. STAFF ITEMS

## VI. EXECUTIVE SESSION

## VII. ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL,  
COUNCILMEMBER HANDS MOVED TO ADJOURN AT 9:28 PM.  
COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS  
UNANIMOUSLY APPROVED.**

APPROVED: October 26, 2020

Respectfully submitted,

*Juliana Pinnick*

City Clerk