

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
October 26, 2020
7:00 P.M.**

This was a virtual meeting via Zoom.

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

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.

III. PUBLIC ITEMS

In response to COVID-19 and remote City Council meetings, the public comment process that normally occurs during the City Council meeting has temporarily changed. Members of the public are still encouraged to share comments about matters that may or may not appear on the agenda by the following process below:

Submit public comment to the City Clerk at jpinnick@merriam.org by 6 p.m. on the date of the meeting; comments are limited to 500 words; must include "Public Comment" in the subject line; commenters must include their name and their address. Late submissions, submissions without "Public Comment" in the subject line; and comments without name and address will not be read into the public record. In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

No public comments were submitted for this meeting.

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 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 October 12, 2020.
2. Consider approval of the 2021 Official City Holidays.
3. Authorize final payment to Mayer Specialty Services, LLC for the repairs to damaged corrugated metal pipe (CMP) on 55th St East of Switzer.
4. Confirm the appointment of a representative and alternate to the Johnson County Stormwater Management Council (SMAC).

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

V. MAYOR'S REPORT

1. Confirm the appointment of Anthony Scott (W1) to the Parks and Recreation Advisory Board for the term expiring December 31, 2021.

COUNCILMEMBER DIEBOLD MOVED THAT THE COUNCIL CONFIRM THE APPOINTMENT OF ANTHONY SCOTT TO THE PARKS AND RECREATION ADVISORY BOARD FOR THE TERM EXPIRING DECEMBER 31, 2021. COUNCILMEMBER SILVERS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

VI. COUNCIL ITEMS

1. Consider approval of an ordinance adopting the 2018 Building and Fire Codes (first reading)

Community Development Director Bryan Dyer provided the background for this item. After extensive evaluation, the Community Development and Overland Park Fire Departments recommend the approval of ordinances amending and adopting the 2018 building and fire codes. With the exception of the National Electric Code (NEC), the code books listed below are published

by the International Code Council (ICC) and are commonly referred to as the “building code” and “fire code”. The NEC is published by the National Fire Protection Association, but is still considered part of the “building codes”.

The proposed building and fire code ordinances adopt the below listed code books. The proposed ordinances contain language to be inserted or deleted from the respective code books. The proposed additions and deletions must be placed in the context of the specific code book that is referenced.

- 2018 International Fire Code (IFC)
- 2018 International Building Code (IBC)
- 2018 International Residential Code for One & Two Family Dwellings (IRC)
- 2018 International Plumbing Code (IPC)
- 2018 International Mechanical Code (IMC)
- 2018 International Fuel Gas Code (IFGC)
- 2017 National Electrical Code (NEC)
- 2018 International Energy Conservation Code (IECC)
- 2018 International Property Maintenance Code (IPMC)
- 2018 International Existing Building Code (IEBC)
- 2018 International Swimming Pool and Spa Code (ISPSC)

The building and fire codes encompasses 11 books with more the 4000 pages of information. In order to provide Council with the opportunity to review the ordinances and, if they desire, meet with staff to discuss the ordinances, the second readings are scheduled for November 23, 2020. Because of the building and fire codes complexity and amount of information, Councilmembers wanting an in-depth review and education on the codes will need to schedule time to meet with Community Development and Overland Park Fire Department staff. This will allow for a more efficient use of City Council meeting time.

A number of typical household maintenance and repair items do not require a building permit. Items such as a shed no larger than 150 square feet, replacing an electrical outlet, and repairing existing plumbing.

On August 11, 2014, the City of Merriam adopted the 2012 building and fire codes. Since that adoption, the ICC published the 2018 building and fire codes. The 2018 building and fire codes have been adopted, with amendments, by many of the Johnson County jurisdictions, including Overland Park. The Johnson County Building Officials organization has reviewed and suggested many of the 2018 building and fire code amendments that are in the draft ordinances.

Since Overland Park provides the city’s fire protection services, including fire code inspections, city staff utilized Overland Park’s adopted 2018 building and fire codes as the starting point for Merriam’s codes. Additionally, Overland Park vetted their code revisions with a large amount of public input from builders, developers, and residents.

The 2018 building and fire codes incrementally improve all aspects of fire prevention, energy efficiency, convenience, longevity, safety, and livability in building construction. Below are some of the highlights of the differences between Merriam's proposed 2018 building and fire codes from the 2012 versions:

1. Building permits for new homes can only be issued to a person that has the appropriate Johnson County Contractor License (JCCL)
2. In order for a homeowner to pull a building permit to work on their own home, they must be the owner and current occupant
3. Group home definition is eight or fewer residents, not including staff
4. Includes standards for residential driveways
5. Set the energy rating index (ERI) for a new home from 85 to 70
6. Adopting the International Swimming Pool and Spa Code
7. Aligning Merriam and Overland Park Fire Codes. Examples being consistent markings for fire lanes and stairways, building and site design, etc.

Items #1 and #2 closes a "loophole" that allows persons without a JCCL to build a new home or remodel an existing home by stating that they will live in it. It is staff's experience that this "loophole" creates the opportunity for a home to be constructed or remodeled by individuals that do not have the skills, knowledge, or experience needed to do those tasks and then immediately "flip" the residence to an unsuspecting homeowner. If a building permit is required, landlords are still required to have a JCCL or engage a contractor with a JCCL to perform the work on their rental property. A homeowner can still pull a building permit to work on a home the own and are living in.

Item #3 brings the building code's group home definition and regulations in-line with state statutes and Merriam Code. Item #4 increases the energy efficiency requirements for a new home. In comparison, many municipalities adopting the 2018 code set their ERI between 68 and 80. (A lower number means a more energy efficient residence.)

The new building and fire codes will go into effect January 1, 2021. This will allow time for staff to notify contractors of the change and give builders, contractors, and design professional to adjust to the new building and fire codes.

Mr. Dyer explained the vetting process for the proposed codes.

In addition to the vetting done by Overland Park, the local building officials formed the Johnson County Code Committee to review and make recommendations on adoption and amendments to the 2018 building and fire codes.

The Johnson County Code Committee consisted of area Building Officials

from Leawood, Olathe, Shawnee, Lenexa, Gardner, Mission Hills, Merriam, DeSoto, and Johnson County Unincorporated working together to evaluate all the 2018 code changes with the purpose of reaching consistent standards throughout the jurisdictions. The committee members met over a dozen times and were in constant communication during the 15 months spent evaluating code modifications.

The Code Committee created a “model code” with suggested additions and deletions. The purpose of the model code was to give each community a starting point in adopting the 2018 building and fire codes.

Mr. Dyer reviewed the reasons for updating the codes:

Life-Safety - There were many changes over the last two (2) code cycles that address life-safety issues.

Citizen and Consumer Expectations - Home and business owners generally expect that their new house, building or renovation to be built to the most current life-safety and quality standards. Citizens and visitors generally expect the new buildings they frequent to have the latest safety, accessibility, and convenience features.

Consistency with other local jurisdictions - Overland Park and other jurisdictions within Johnson County have, or will be, adopting 2018 provisions for their communities. Building and fire codes that are similar will greatly assist the Merriam/Overland Park Fire Department successful partnership.

There was some discussion regarding the proposed change (#2) that would require the property owner working on a home that they do not currently reside in to hire a licensed contractor.

Mr. Dyer explained that provision is a proposed change based on the departments experience with house flippers who buy distressed properties, do not hire a licensed contractor and may not have the appropriate training and education to upgrade the home within the codes and do not put out a quality product. Additionally, individuals may buy a distressed property with the intention of living in the home once it is completed, but lack the skills and education to take on that type of project. When that occurs, it takes a lot of staff time to educate those property owners on how to properly complete their project to code. Inspections sometime result in those property owners having to tear out work that was not completed to code and require re-inspections. Re-inspection fees could be assessed when this occurs.

Mr. Dyer commented that situations like this occur a couple of times per year and the biggest concern is taking up staff time to educate those individuals on how to properly construct their project and getting a quality product and the end of the project. If this change is not made, staff will continue to work through these issues as they arise. In addition, staff could provide information to those

individuals about the importance of hiring a licensed contractor for their project when they recognize that a homeowner may be in over their head on a project.

Further discussion regarding the proposed change resulted in recognition that some councilmembers desire to allow property owners not currently residing in a property to still be allowed to pull a building permit themselves. They further expressed a desire to have city staff work with those individuals with some educational materials. They were supportive of imposing re-inspection fees when the inspections fail and the Building Official has to re-inspect.

Mr. Dyer summarized that staff will remove the proposed regulation that would prohibit a property owner not occupying the property from pulling a building permit and will provide some reference material for those individuals doing work themselves, as well as, drafting some additional provisions that would impose additional fees for re-inspections in those instances. The proposed ordinance for consideration will be amended to include those changes at the second reading.

8. Monthly Finance Report. (September)

Finance Director Donna Oliver commented that the sales tax collections are looking better than anticipated. The sales tax numbers for August that were just received only reflect a slight decrease. Expenditures are well under budget, as departments have been monitoring those expenses closely.

9. Community Development Update.

Community Development Director Bryan Dyer provided the following updates:

The Comprehensive Plan Update project has been delayed a bit due to the challenges with the pandemic. There is a tentative date of January 6, 2021 for another joint meeting with City Council and the Planning Commission. At that meeting, the consultants and staff will be presenting a draft of the updated plan for review.

The Reed auto parking lot expansion project has been issued a building permit.

The City Planner position vacated by John Hollis has been filled and will start next Monday. Her name is Andrea Fair and she will be introduced to council soon.

The city had applied for two grants through the Mid-America Regional Council (MARC) for Planning Sustainable Places (PSP). One project was a joint project with Overland Park and Unified Government of Wyandotte County for Merriam Drive from Merriam all the way to Southwest Traffic Way. This project was

approved for the grant funding. Overland Park will be the lead on that project and Merriam will be providing matching funds in the amount of \$1,800. This project will look at road construction, uses and condition of the road

The second grant application submitted for Downtown Merriam was also approved for \$59,500 in funding. The total project cost is approximately \$120,000 so there will be city matching funds required on that project also. This project will work well within the CIP project in that area and will provide guidelines for future development in Downtown.

VII. STAFF ITEMS

VIII. EXECUTIVE SESSION

IX. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 8:15 PM. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

APPROVED; November 9, 2020

Respectfully submitted,

Juliana Pinnick

City Clerk