

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
August 9, 2021
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
Chris Evans Hands
Bruce Kaldahl
Brian Knaff
David Neal
Bob Pape
Jason Silvers
Whitney Yadrich

III. Staff present: Chris Engel, City Administrator; Ryan Denk, City Attorney; Jennifer Jones-Lacy, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Donna Oliver, Finance Director; Anna Slocum, Parks & Recreation Director; Bryan Dehner, Fire Chief; Darren McLaughlin, Police Chief and Juli Pinnick, City Clerk.

IV. 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.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

Nancy Hammond, 5845 Perry Ln., commented that longtime resident Mary Cashman was inducted to the Teachers Hall of Fame. She provided a news article about her induction.

V. 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 July 26, 2021.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 1. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

VI. MAYOR’S REPORT

1. Presentation - MARC Community for All Ages.

Cathy Boyer-Shesol, Project Manager presented information regarding the KC Communities for All Ages.

2. Consider approval of a Resolution supporting and promoting the Mid-America Regional Council’s Community for All Ages Program.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE A RESOLUTION SUPPORTING AND PROMOTING THE MID-AMERICA REGIONAL COUNCIL’S COMMUNITY FOR ALL AGES PROGRAM. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. Presentation - United Community Services Housing Study.

Kristy Baughman, Director of Education and Planning, United Community Services presented the Johnson County Housing Study as it relates to Merriam.

VII. COUNCIL ITEMS

1. Consider approval of an ordinance adopting the 2021 Uniform Public Offense Code (UPOC). (recommend waving first reading)

Police Chief Darren McLaughlin provided the background for this item.

Each year the Kansas League of Municipalities publishes an updated version of the Uniform Public Offense Code (UPOC) for Kansas Cities. The 2021 edition is available and should be “incorporated by reference”. Passing and

publishing this ordinance will bring our ordinances into compliance with any changes made by the latest Kansas Legislative session. These regulations went into effect as of July 1st. Staff is recommending waiving the first reading of the ordinance. Chief McLaughlin provided a brief overview of the changes to the 2021 edition.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2021 UPOC. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2021 UPOC. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of the 2021 Standard Traffic Ordinance (STO). (recommend waiving the first reading)

Police Chief Darren McLaughlin provided the background for this item.

Each year the Kansas League of Municipalities publishes an updated version of the Standard Traffic Ordinance (STO) for Kansas Cities. The 2021 edition is available and should be “incorporated by reference”. Passing and publishing this ordinance will bring our traffic ordinance into compliance with any changes made by the latest Kansas Legislative session. These regulations went into effect as of July 1st. Staff is recommending waiving the first reading of the ordinance. Chief McLaughlin provided a brief overview of the changes to the 2021 edition of the STO.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2021 STO. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2021 STO. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. CIP Update.

Public Works Director Jim MacDonald provided the following CIP Updates:

The 2021 Mill and overlay program is substantially complete; sod is scheduled to be completed in September.

Sidewalk maintenance and repairs along 61st Street, 60th Terrace, Knox and 60th Street are complete. Seeding along those areas will be completed in September.

2021 Street Improvements on Carmax Drive and East Frontage Road are complete with new curbs and sidewalks. The mill and overlay component was completed last Monday with pavement markings being finished this week. Tree planting and sodding will occur in September. A new signal mast will be installed in October at 67th St.

The West Vernon Place Preliminary engineering study has been completed by BHC and they are currently working on ways to potentially improve that area.

The City Tree sale will be wrapping up this week. Residents can purchase 14 different varieties of trees and are given a discount on the first two trees purchased. Pickup of the trees will be at Public Works on September 11th.

Mayor Sissom stated that Councilmember Yadrich requested the council have a discussion regarding masking rules for the city.

Councilmember Yadrich commented that COVID cases among unvaccinated people are rapidly increasing, and several area counties have implemented mask mandates for students K-12th grade. Businesses have been imposing mask requirements, and some area cities are discussing mask mandates. The discussion tonight is merely to understand where the City is at with our masking policy and to explore if there is a need for additional regulations and where those regulations would stand as far as enforcement and authority to impose additional policies.

City Administrator Chris Engel stated that the City's current policy requires city employees to wear a mask when indoors and unable to socially distance, when interacting with the public, and when more than one person is in a City vehicle. For visitors in City buildings, masks are strongly encouraged in accordance with CDC guidelines.

Councilmember Diebold commented that he will not vote to support a mask mandate. The City has a mask policy for employees but feels implementing a policy for the public in our facilities would be over stepping our authority. He feels people need to take personal responsibility for protecting themselves and others.

Councilmember Neal asked if staff has received any information about what the County may do in light of the Delta variant being so prevalent. He feels that

any public health order should come from the County as they have additional resources that the city does not.

Mr. Engel commented that he is not aware of any potential action or discussions from the County in regard to a mask mandate.

City Attorney Ryan Denk commented that the County recently implemented a mask order for school children up to the sixth grade level, but that is the only action they have taken at this point. Regarding enforcement of public health orders, that jurisdiction falls under the County to adopt and enforce public health orders. Recently an area city approved a mask mandate, however, there may be potential litigation arising from that action, as cities do not have clear authority to impose or enforce that type of mandate.

City Administrator Chris Engel commented that Governor Kelly vetoed a bill from the last legislative session that would hold governments accountable for lost revenue due to public health orders imposed. The bill would use ARPA funds to confidentially reimburse businesses that claim a revenue loss from a public health order issued by a government entity. While this legislation was vetoed, it does not mean it couldn't come back at the next session. If this were to have passed, counties and cities could have lost out on ARPA funds if businesses filed a claim for lost revenue. This legislation was to be retroactive from when the first public health order was issued.

Police Chief Darren McLaughlin commented that enforcing such an order would be difficult. He does not have adequate staff to enforce a mask mandate and the department has many higher priority calls that have to be handled. During the last public health order on masking, the department addressed those types of calls from an education perspective and the county did the enforcing of that mandate. These types of situations can really alienate a community against the police department. Alienating residents against the police department is never good for a community.

Councilmember Silvers commented that he has concerns about what it would do to our police department if they had to enforce a mask mandate. He also feels that people have to take personal responsibility for keeping themselves and others safe.

Councilmember Pape commented that as an individual city, it would be difficult for folks to know what the rules are on masking, depending on what city they are in. He would like to see more of a focus on promoting education about getting vaccinated, and providing free masks for anyone coming in to our city

facilities as this would further encourage them to mask. The majority (95%) of folks in the hospital with COVID are unvaccinated.

Councilmember Kaldahl commented that masking does not appear to be the solution. The solution is getting people vaccinated. The rise in COVID cases now is because people chose not to get vaccinated. He feels spending time and energy on education and encouraging people to get vaccinated is more valuable than a masking mandate.

Councilmember Neal commented that it does not appear that the City is the proper authority to address public health matters. That lies with the County. He feels that getting people vaccinated needs to be the solution. Initially there was a mask mandate because there was no alternative to protect yourself against the virus. Now there is a vaccine to protect yourself.

Councilmember Yadrich agreed that it does not appear that the City has the authority to implement or enforce a mask mandate without the county implementing something, as this rises to a higher level of government. She asked if the council felt there was value in the City providing more educational information to residents.

City Administrator Chris Engel commented that during the past year, the City's COVID page was the most visited page on our website. Staff can update the COVID information with current CDC recommendations and more information on vaccination opportunities.

Mayor Sissom commented that now businesses are able to implement masking rules for their businesses. If people refuse to mask at a business requiring masks, the business can ask them to leave. If they refuse to leave, then that would be trespassing and a business can call the police for trespassing. The police will come and make them leave. There will likely be more businesses that will implement their own masking rules. Giving that power to the businesses allows them to run their business as they desire, and this is probably a better solution than government imposing rules on the businesses.

VIII. STAFF ITEMS

IX. EXECUTIVE SESSION

X. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:41 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

APPROVED: August 23, 2021

Respectfully submitted,

Juliana Pinnick

City Clerk