

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
January 25, 2021
7:00 P.M.**

This was a virtual meeting via Zoom.

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

Mayor Sissom called the meeting to order at 7:00 pm. Council and staff said the Pledge of Allegiance.

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; Darren McLaughlin, Police Chief; Anna Slocum, Parks and Recreation Director; 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.

Todd Boyer, 6300 Mackey St., commented, Please consider these comments as a wholehearted endorsement of Chief McLaughlin's recommendation for a new pedestrian ordinance at our major intersections.

In addition to his distracted driving analysis - there should be some consideration of the danger to the pedestrians themselves. Allowing pedestrians inside or near these intersections only increases the risk of one of them being injured or killed.

The National Highway Traffic Safety Administration has reported a steady increase in pedestrian fatalities since 2008. Kansas saw a 33% increase in pedestrian fatalities from 2017 to 2018 alone. With more and more high profile trucks & SUV's on the roadway, we're likely to see pedestrians as a larger percentage of traffic deaths for years to come.

Many of these deaths are predictable and preventable. Staff has made pedestrian safety a priority from an infrastructure & engineering perspective - now it's time to make it a priority from an enforcement perspective.

Thanks for considering this and all the work you're doing to keep Merriam safe!

Billy Croan 6633 Wedd St., commented, I am writing tonight from 6633 Wedd Street to be a voice for the conservation of fundamental American liberty.

I read the draft of the proposed new ordinance 68-50, to punish interactions between pedestrians and drivers at certain Merriam intersections, and I believe it goes too far for what is otherwise the well-intentioned objective of public safety. Section (b)(1) in particular, specifically targets the purest and most fundamental speech activities such as attracting the attention of a driver. Section (b)(2) could remain, as it sufficiently addresses the safety issues created by drivers who choose to block traffic unexpectedly. Section(b)(2) places blame appropriately, at the brake pedal.

As a driver myself, I accept sole responsibility for my actions on the road, and for my attention span every time I start the engine. I think that's a reasonable expectation to have of all drivers. When I'm driving, I'm not particularly a fan of beggars and sign wavers and who is? But they have a right to exist, and a right to speak. I recoil at the idea of outlawing them for my convenience, and that's what (b)(1) of this ordinance would do. Laws like this set a dangerous precedent that the state shall manage the citizens, when the opposite should be true.

Before we consider an ordinance like this, I want to know how many tickets have been paid by drivers who intentionally blocked traffic in the last 6 months. Demonstrate that holding drivers accountable for their conduct has not been successful before blaming victims.

If we outlaw living human beings trying to attract driver attention, why wouldn't we also outlaw advertisements in all forms, bumper stickers, trucks with flags in the back, conversation between passengers, and let's not forget political yard signs. All these things undeniably create some distraction and thus reduce safety on the road.

I'd argue that a living human being should have more liberty than an illuminated billboard. I urge you to decline this new ordinance as currently written, or at least remove the penalties for section (b)(1) I just don't think (b)(1) is necessary legislation, and I think it tramples on speech. We shouldn't do that.

Consider instead, making a law against drivers holding up traffic for all but emergency reasons, and a law against crashing into other cars or pedestrians while driving, and seeing that those laws are enforced consistently and fairly until drivers stop creating hazards by choosing to block traffic or tailgate.

Thank you for hearing me out. Good luck with this one, and thank you all for your service.

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 January 11, 2021.

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

V. MAYOR'S REPORT

1. Legislative Update

Mallory Lutz, Little Government Relations, the city's Lobbyist, provided the legislative update.

2. 2020 Year in Review Video.

Staff played the Year in Review video.

VI. COUNCIL ITEMS

1. Consider approval of an ordinance amending Chapter 68 of the Merriam Municipal regarding prohibition of pedestrians upon medians and roadways at certain intersections. (first reading)

Police Chief Darren McLaughlin provided the background for this item.

On March 2017, the Merriam Police Department began using Data-Driven Approaches to Crime and Traffic Study (DDACTS) enforcement to identify areas with high incidences of crime, crashes, and traffic violations. Part of the implementation of DDACTS included the utilization of a Crime Analyst who has specialized training in the gathering, analysis, and interpretation of vast amounts of public safety data. This data is used to better allocate resources in a proactive manner to improve public safety.

From a traffic perspective, DDACTS uses statistics and field-generated data to determine the most effective places and times to patrol areas in Merriam to minimize traffic crashes. In addition to location information, analysis of the data also helps identify potential causes of crashes, informs city staff where focused enforcement should occur, and identifies other actions that might be appropriate such as geometric changes to intersections or traffic signal timings.

Upon recent analysis of 10-years of crash data, the Crime Analyst has identified that just 9 of 388 intersections are responsible for over 50% of all crashes and 5 of 8 deaths. Those nine intersections and their respective number of crashes are listed below. Of note, a similar analysis conducted with the last 2 years' data did not change any of these nine locations.

- I-35 and Shawnee Mission Parkway (784 crashes)
- I-35 and Johnson Drive (454 crashes)
- 75th Street and I-35 (435 crashes)
- 67th Street and I-35 (338 crashes)
- Antioch and I-35 (309 crashes)
- Antioch and Shawnee Mission Parkway (291 crashes)
- Antioch and Johnson Drive (136 crashes)
- 75th Street and East Frontage Road (124 crashes)

- Shawnee Mission Parkway and Mastin (123 crashes)

The analysis indicates there are two key contributing factors common to most of these intersections: increased traffic volume due to I-35 proximity and distracted driving. Also present at several of these intersections are pedestrians in the median that take advantage of the increased traffic counts and longer signal timings to advocate for a specific cause i.e. local church parishioners, boy scouts, local sporting teams, other solicitors, etc. The presence of these groups or individuals standing within the roadway add to a driver's distraction. While we do not have the ability to change the proximity of these intersections to the highway, we do have the ability to address distracted driving.

In Merriam, over 50% of all crashes are caused by some form of distracted driving. Distractions occurring inside a vehicle are addressed in the Standard Traffic Ordinance (STO), specifically inattentive driving, texting, and driving while wearing headphones. Outside the vehicle the City Code states the City has an obligation in "ensuring that the public is not endangered or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of signs and attention-attracting devices, including *the promotion of traffic safety by reducing the visual distraction of motorists.*" Per Code, visual distractions can include banners, streamers, inflatables or signs that are either stationary or moving such as signs displayed by pedestrians in or near our intersections. In circumstances where these distractions constitute a traffic hazard or detriment to traffic safety they should be prohibited.

In light of these facts and to increase traffic safety, I believe we should make every effort to reduce the amount of distractions for our motorists, especially in these high traffic volume, high accident areas. Accordingly, the proposed ordinance will prohibit pedestrians from remaining on the medians at the above listed intersections other than to legally cross the street. This ordinance does not impact the other 379 intersections because the data indicates there is less traffic and crashes in these areas.

Upon approval, violation of the ordinance would be a Class C misdemeanor. If convicted, a person guilty of violating this ordinance could be sentenced to a fine not to exceed \$499 and/or imprisonment not to exceed thirty (30) days. However, the process of enforcement would focus primarily on education.

Chief McLaughlin commented that there are a variety of groups that regularly can be seen at many of these intersections asking drivers for donations of food or money. These types of activities can cause traffic hazards and driver distractions when drivers stop in the intersection to hand over money or converse with pedestrians. In addition, it is a danger to those individuals who walk out into traffic and intersections to collect money.

There was some discussion regarding signs and people protesting or asking for money on the sidewalks.

Chief McLaughlin commented that this ordinance is not trying to prohibit people asking for money, holding a sign or protesting. It is designed to increase driver and pedestrian safety by prohibiting this type of activity in the roadway, which is unsafe. He further added that, it is already illegal for pedestrians to be standing in the roadway and if the police find people going in the roadway in one of these 9 intersections to collect money they are typically asked to move on, which is why many stand in the median as they are aware they are not allowed to be in the roadway. This practice will continue if this ordinance is approved. The purpose of the ordinance is to decrease driver distraction and increase safety for the pedestrians in the roadway and drivers passing through these 9 particular intersections.

There was some discussion regarding the medians and what portion of the median in an intersection would be considered the intersection median Chief McLaughlin clarified that, as an example, if an intersection median starts at Johnson Dr. and Ikea Way and continues all the way to Slater, then that entire median would be include and pedestrians would be prohibited from standing on it.

There was a question regarding the pedestrians migrating from these busy intersections to other intersections not listed and if, as those intersection become busy with people in the medians, would those medians be added to the list.

Chief McLaughlin commented that the purpose of this ordinance is not to restrict the activity of people in the medians as a whole, it is to restrict the activity at these particular intersections because these intersections are the busiest in Johnson County and over 50% of the total accidents in the city occur at these 9 intersections. However, if a future study would reveal that other intersections become high accident areas then, perhaps the ordinance would have to be amended.

Enforcement will be primarily on education, and the police department currently and will continue to provide information for resources to folks that are asking for money, panhandling. This ordinance is not intended to prohibit panhandling in the city, it is intended to increase driver and pedestrian safety in the 9 specific intersections.

This was a first reading and will be considered for approval at the next meeting.

2. Monthly Finance Report

Finance Director Donna Oliver commented that the Finance Report included in the packet is a preliminary report for December. Some of the final numbers will change as not all 2020 revenues have been received. As well, some 2020 expenses are still coming in and will be paid out of the 2020 budget.

3. Community Development Update.

Community Development Director Bryan Dyer commented that the Comprehensive Plan Update public Zoom meeting was very well attended. Staff received a lot of good feedback from that meeting. On February 3rd there will be a joint work session with the Planning Commission and City Council. The work session will start after the Planning Commissions regular meeting which is at 6:30 pm. This will be another Zoom meeting and will be the final meeting before the Comprehensive Plan Update goes to the Planning Commission for approval. Staff will send the Zoom link for the meeting as well as a link to the draft Comprehensive Plan document which is www.merriam2040.org.

The 2021 Grant programs have begun for the Residential Exterior Improvement and Sustainability Grant programs. Both programs had a great response from the residents. 26 applications have been received for the exterior improvement grant and all funds for that grant program have been allocated. However, applications will still be accepted and those applications will be put on a waiting list in case one of the allocated grants is unable to complete the project.

The MARC Planning Sustainable places grants that the city is working on is progressing. The joint grant project with Overland Park and Unified Government of Wyandotte County is reviewing consultants for the project. The Downtown Merriam Sustainability grant is moving along as well.

VII. STAFF ITEMS

VIII. EXECUTIVE SESSION

IX. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 8:28 PM. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Approved: February 8, 2021

Respectfully submitted,

Juliana Pinnick

City Clerk