

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
October 11, 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 was absent
David Neal via telephone
Bob Pape
Jason Silvers
Whitney Yadrich

Staff present:, Seth Jurcyk, City Attorney; Chris Engel, City Administrator; Jennifer Jones-Lacy, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Anna Slocum, Parks & Recreation Director; Darren McLaughlin, Police Chief 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.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

There were no public comments.

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 September 27, 2021.
2. Consider approval of an Inter-local Agreement (ILA) between the City of Merriam and Overland Park for pavement preservation project on Lowell Street.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-2. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

V. MAYOR'S REPORT

1. Employee Service Awards – 3rd Qtr 2021

Mayor Sissom presented Employee Service Awards to the following recipients:

15 Years of Service - Lisa Naughton, Parks and Recreation
25 Years of Service – Mark Fauser, Public Works

2. Proclamation - Indigenous Peoples' Day.

Mayor Sissom read the Proclamation for Indigenous Peoples' Day.

3. Proclamation - Home Rule Day.

Mayor Sissom read the Proclamation for Home Rule Day.

VI. COUNCIL ITEMS

1. Polling Software presentation.

During the 2021 Budget adoption process, the Council set an objective to investigate the use of survey tools to seek feedback from residents on large community issues in alignment with Goal 1.2 – Gain insight into public sentiment on community issues and services. Staff reviewed several products that provide polling and/or survey options to residents on various issues of concern.

The governing body is asked to review these options and decide if they wish to move forward with one of the products, which product they prefer, and if they need more information. That will give staff direction on how to move forward on this objective.

Jenna Gant, Communication and Public Engagement Manager presented information regarding Polling Software options.

Based on the needs of the city, it appears that a survey software option would provide the best solution rather than polling software. Staff reviewed 5 survey software options which included Flash Vote, Polco, Bang the Table and Survey Monkey.

Ms. Gant reviewed each option and provided pros and cons for each software product. Google Forms is the only product that is free, the others cost upwards of \$9,000 annually.

After discussion among the council, it was recommended to move forward with the paid version of Survey Monkey which is the least expensive at \$2,700 annually and then analyze the results after a few surveys are completed to see if it will meet the needs.

2. Consider approval of an ordinance amending sections 1-3 and 2-29 of the Merriam Code of Ordinances (recommend waiving first reading)

City Clerk Juli Pinnick provided the background for this item.

During review of the Governing Body Rules of Procedure (GBROP) it was discovered that there were many opportunities for improvements to the document. One item discovered during the process was the definition of "Governing Body" was different than the definition in the Code of Ordinances. Other items discovered included a minimal definition of when the Mayor is authorized to vote, and remote attendance allowed by telephone only.

City staff reached out to the City Attorney to help provide some clarification on these issues. This Ordinance, drafted by the City Attorney, will bring these items into compliance with State Statute, update the Code of Ordinances to correctly define "Governing Body", voting power of the Mayor, and provide allowances for remote meetings by telephone, video conference and other means. (per K.A.R. 16-20).

K.S.A. 12-104 defines the composition of "Governing Body " for purposes of voting on Charter Ordinances and allows cities to establish when the Mayor votes on other matters through passage of an ordinance. Previously voting power of the Mayor was only memorialized in the GBROP and was not included in the Code of Ordinances.

This ordinance will clearly define voting power of the Mayor as follows:

1. On Charter ordinances
2. On regular ordinances when there is less than the number of required favorable votes
3. On resolutions or motions, in the event the vote of the council results in a tie.

Staff is suggesting waiving the customary first reading of the ordinance in order to marry up the approval of this ordinance with the GBROP and City Council Policies also on this meeting Agenda.

COUNCILMEMBER YADRICH MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE AMENDING SECTIONS 1-3 AND 2-29 OF THE MERRIAM CODE OF ORDINANCES. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING SECTIONS 1-3 AND 2-29 OF THE MERRIAM CODE OF ORDINANCES. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. Consider approval of the Governing Body Rules and City Council Policies.

Juli Pinnick, City Clerk provided the background for this item.

The proposed GBROP provides a comprehensive overview of the expectations and operations of the Governing Body and its members. The intent of this document is to use as a handbook and training tool for Governing Body members.

The process began in March 2020 by staff to update Governing Body procedures and operational processes not included in the document and to modernize the look of the document. All references to State Statute and excerpts from Municipal Code were also verified/updated during this process.

City Council Policies:

There were 30 City Council Policies and many of the policies were outdated and no longer needed. In addition, there were several policies that were similar in nature, are now combined into a single policy. The 30 policies have been reformatted and combined into 10 policies.

Once staff completed the first revamp of the GBROP and City Council Policies, a council subcommittee of Councilmembers Pape, Hands and Neal met to review and edit the GBROP and City Council Policies. There were several meetings between the subcommittee members, and city staff which resulted in the final copy for consideration. The final copy has been reviewed by the City Attorney and is ready for Council approval.

While it is difficult to go over all of the additions/changes to the document, below is a high level overview of some significant additions to the GBROP:

- Alternate methods for conducting meetings and receiving Public Comments.
- Motions requiring a second and motions that die for lack of a second. This practice began a few years ago but was not in the GBROP.
- Work Sessions
- Clarification of Voting Power of the Mayor and Abstentions
- Seating order of the Council

This final copy does not include the following Council Policies:

Policy 107-Street Lighting Policy (1989-2010) – policy no longer needed city has streetlight replacement/install plan.

Policy 108 Curb Obstructions on City Rights of way (1989)- policy no longer needed per Public Works Director.

Policy 109 Employee Benefits Offered by Third Parties (1989-2010) - this is handled by the HR Manager no need for policy.

Policy 110 Recognition of Retirees (1989 & 2002) - this policy is no longer needed

Policy 112 Outstanding Checks (1992) – this is regulated by K.S.A. 10-816 and is no longer needed.

Policy 122 Consent Agenda Items (1999 & 2017) – added to the GBROP

Policy 104 Governing Body Expenses covered by the City (1989 & 2010) – added to GBROP.

Policy 123 Park Naming Policy (1999 & 2010) – this policy will be added to Park Board policies. It is recommended these policies be repealed.

Councilmember Pape thanked staff and councilmembers on the subcommittee for all their hard work on this project. The goal was to get the

documents updated prior to new councilmembers coming on board. The document will help guide them in their role as a councilmember. He further commented that there are some areas of the policies that still need updating, specifically economic development policies such as the TIF policy and a new CID policy that will be added down the road.

Councilmember Neal commented while going through the process the subcommittee recognized that the TIF policy needs updating as well as, there will be a CID policy forthcoming. It was determined that these policies would be discussed with the council as a whole possibly at a future work session.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE THE GOVERNING BODY RULES OF PROCEDURE AND CITY COUNCIL POLICIES; REPEALING CITY COUNCIL POLICIES 104, 107-110, 112, 122 AND 123. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

4. Consider approval of an ordinance regulating food trucks.(first reading)

Community Development Director Bryan Dyer provided the background for this information.

The City of Merriam Code does not have standards for the operation of mobile food vendors (food trucks) within the city limits. Staff regularly receives inquiries from food truck operators wishing to do business in Merriam. Staff reviewed neighboring communities' food truck regulations prior to crafting the attached draft ordinance. The draft ordinance utilizes different aspects from those communities' regulations to create criteria for the operation of food trucks in Merriam. The draft ordinance amends Chapter 14 – Businesses and Business Regulations by adding licensing standards for mobile food vendors. The ordinance has been reviewed by department heads and the city administrator.

The goal of the ordinance is to provide standards for the operation of a food truck in the city in a manner that is minimally disruptive to city streets and neighborhoods. The ordinance includes allowances for food truck operations at city approved events. One of the primary tenets of the draft ordinance is that all food trucks operating within the city must have a Merriam Occupational License (MOL). This will provide the city with operator contact information and assurance that the food truck has the proper state license and has been inspected by the fire department or an approved inspection agency.

The following are some of the significant points in the draft ordinance.

- All food trucks will need a MOL to operate within the city
- To obtain an MOL, the food truck operator must provide proof of a valid Kansas Food Establishment License and fire department inspection
- Food trucks cannot operate in a city street unless they are part of a City approved event
- Food trucks cannot block any street, pedestrian, bicyclist, etc.
- Food trucks can only operate on private property that is zoned Commercial or Industrial unless they are part of a City approved event.
- Food trucks must operate on a hard surface, unless they are part of a City approved event
- Food trucks cannot operate within 150 feet of a brick and mortar restaurant unless they have permission from the restaurant or part of a City approved event
- Food trucks can only serve alcohol if they have a state and city caterer license
- The city administrator can waive any or all of these regulations for a unique or special event

Mr. Dyer displayed a matrix depicting surrounding cities and their food truck ordinances.

Councilmember Silvers requested the term “handicapped accessible” be changed, as the term handicapped will not be acceptable in the future. There was some discussion regarding this concern.

There was some discussion among the council regarding church sponsored and private events with food trucks.

Mr. Dyer commented that all food trucks will be required to get an MOL as they are conducting commercial operations

5. CIP Update.

Public Works Director Jim MacDonald provided the following CIP updates:

The 2021 Street Improvements program is wrapping up with all the hydro seeding completed this week.

The West Vernon Place preliminary engineering study is complete. Staff has reviewed the draft and the engineer is finalizing the recommendations.

The Miscellaneous Storm Pipe Lining Improvements Project is moving along, with the contractor having returned all the contract documents and the

preconstruction meeting to be held next week. The project should take approximately 60 days to complete.

Councilmember Silvers thanked Mr. MacDonald and his team for the installation of the LED streetlight at 49th and Knox. The lighting is so much better in that area and he invited everyone to go take a look to see the difference.

VII. STAFF ITEMS

City Administrator Chris Engel commented that last weekend the city hosted a recycling event. The event was held at the Nations Holding building on 67th St. This was a joint event with the City of Shawnee, and was very well attended. He thanked Jenna Gant and the other volunteers who helped make the event a great success. Items recycled included bikes, electronics, paper shredding, and paint.

VIII. EXECUTIVE SESSION

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION FOR CONSULTATION WITH THE CITY ATTORNEY TO DISCUSS A POTENTIAL DEVELOPMENT PROJECT, AS JUSTIFIED BY K.S.A. 75-4319(B)(2), WHICH ALLOWS THE CITY COUNCIL TO RECESS INTO EXECUTIVE SESSION FOR CONSULTATION WITH LEGAL COUNCIL WHICH WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, CITY ADMINISTRATOR AND COMMUNITY DEVELOPMENT DIRECTOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 9:00 PM. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 9:00 pm.

IX. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 9:01 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

APPROVED: October 25, 2021

Respectfully submitted,

Juliana Pinnick

City Clerk