

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
April 24, 2017
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
Al Frisby
Chris Evans Hands
Nancy Hupp
Bryan Knaff
Cheryl Moore
Bob Pape
Robert Weems was absent

Staff present: Chris Engel, City Administrator; Mike Daniels, Police Chief; Anna Slocum, Parks and Recreation Director; Bryan Dehner, Fire Chief; Meredith Hauck, Assistant City Administrator; Bryan Dyer, Community Development Director; Cindy Ehart, Finance Director; Kevin Bruemmer, Public Works Director; Nicole Proulx Aiken, City Attorney; 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.***

Harold Vandyke, 6434 Craig Rd. addressed the council regarding his property which contains a utility easement located on 65th St. Mr. Vandyke indicated that the easement used to contain a swale with zoysia grass. The area was torn out by the road crew but they assured Mr. Vandyke that the area would be returned to like conditions when completed. He was also told that a layer of new topsoil would be placed down before sod was planted. Mr. Vandyke indicated that he witnessed gravel filled dirt being placed prior to sod being installed. The contractor was supposed to water for the first 20 days after placing sod. That did

not happen. After the 20 days, the sod was dead and all attempts by Mr. Vandyke to revitalize the sod failed.

The poor soil conditions allowed many weeds to grow and Mr. Vandyke has been attempting to control the weeds but no grass will grow in the area because of the poor rocky soil. There have been several utility contractors installing various telecommunication boxes in and underground in the area over the past couple of years. The area is plagued with utility marking flags making it impossible for Mr. Vandyke to mow in that area. Mr. Vandyke, being frustrated with the constant weeds, sprayed vegetation killer to eliminate all the weeds. Since doing that he has received a code violation letter indicating there is a public nuisance on his property. He feels he is being persecuted for something that he is not responsible for. He distributed photos depicting numerous utility flags from the corner and well into his property. Other photos showed bare ground with large pieces of gravel around the utility boxes and poles along with spray paint marking utility locations on the street and all over the new curb. He has contacted city staff and not gotten any results.

Mayor Sissom commented that he appreciated Mr. Vandyke coming tonight and bringing this issue to the Council. The next step would be to have the City Administrator discuss this issue with the appropriate city staff and then in two weeks place this item on the Agenda for follow up.

Mr. Vandyke indicated that he would be out of town at the next City Council meeting. As well he will be out of town when the violation deadline to cure the violation comes due.

Mayor Sissom indicated it would be on the May 22 agenda. In the meantime, someone from the City would be contacting him regarding the code violation letter.

Sam Matier, 8515 W. 57th St., read a statement from Merriam resident, Eric Jackson, 10006 W. 61st St. (ward 2). Mr. Jackson's comments indicated that since being told that there would be a public vote on the proposed swimming pool/community center he has heard very little on the promised vote. He has received information about how the two facilities are in need of major repairs and the best way to build and spend \$30 million dollars. He had three questions regarding the public vote:

1. When will the vote occur?
2. How will the vote be worded?
3. Will the vote be in conjunction with another voting platform such as a general election?

Mayor Sissom indicated that tomorrow evening there is a joint meeting at the Community Center and many of these questions may be answered then.

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 or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Consider approval of the minutes of the City Council meeting held April 10, 2017.

Councilmember Hands requested item 2 be removed from the Consent Agenda.

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

2. Consider approval of the purchase of a license plate reader system for the police department.

Councilmember Hands asked for clarification as to which funds the license plate reader purchase would be paid from.

Police Chief Mike Daniels responded that the two funding sources include \$6,000 from the IT budget and the remainder to come from the Police Department Major Equipment budget. There was money left in that fund from the purchase of the radar trailer.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 2. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

V. MAYOR'S REPORT

1. Fire Department Annual Report.

Fire Chief Bryan Dehner presented the 2016 Fire Department Annual Report.

VI. PUBLIC HEARING - Public Hearing regarding possible City improvement projects to submit for 2018 Community Development Block Grant (CDBG) funding.

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

Previously, the City of Merriam has been allocated federal funds through the Johnson County Community Development Block Grant (CDBG) program. The City has used CDBG funding for street reconstruction projects including Goodman Street north of Johnson Drive (2003); Mastin Street from 53rd to 55th Street (2005); and Farley Street from 53rd to 55th Street (2007). The City has also received CDBG funds for the installation of streetlights in the West Vernon Place (2009 CDBG Recovery) subdivision, in the general area of 51st and Knox Street (2009) and the Forest Park (2014) subdivision. The city has also applied for, but did not receive, CDBG funds in 2010, 2011, and 2012. In 2015, the city received \$70,000 in CDBG funding for the installation of streetlights in an area generally bounded by W. 53rd St., Knox Ave., W. 51st St., and Switzer Rd. In 2016, the city received \$100,000 in CDBG funding for the installation of streetlights in the Antioch Hills neighborhood. For this year, the city requested \$100,000 and was awarded \$50,000 in CDBG funds for the installation of 30 streetlights in the Meyers Estate neighborhood.

Johnson County has requested proposals for 2018 CDBG funds. The maximum one-year request for a public improvement is \$100,000.

If the City Council wishes to submit an application for 2018 funding, the first step in the process is to conduct a Public Hearing. Johnson County recommends conducting two Public Hearings. The first hearing is to receive input from the public on possible projects. The second hearing is to receive public input on the City's 2018 CDBG application. This evening's hearing is the first recommended Public Hearing.

The CDBG program requires that CDBG funded activities be used to principally benefit low and moderate income persons, aid in the prevention or elimination of slums or blight, or meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet that need. When CDBG funds are proposed for public improvements, 51 percent of the residents within the census block group, where the improvement is to occur, must be at or below the area's moderate income level. Moderate

income level is considered to be an income level that is at 80 percent of the area's median income.

Because Johnson County has a low number of census block groups that qualify for CDBG funds, the federal government modified the criteria for CDBG eligible block groups in Johnson County. For Johnson County, all block groups in which 33.92 percent of the population has an income equal or less than 80 percent of the area's median income, as estimated by HUD's Office of Community Planning and Development, are eligible for CDBG funds. The City has seven block groups within the city limits that meet the 33.92 percent threshold.

Mr. Dyer displayed a map depicting the census block groups.

Staff recommends that the City submit a request for 2018 CDBG funding for the installation of 28 streetlights in an area bounded by W. 47th St., England St., Booker St, Grandview Ave, W 51st Ter., Merriam Dr., W. 53rd St., and Knox Ave. Mr. Dyer displayed a map depicting the existing street lights which have been replaced as well as the proposed replacement lights.

This will be a project with a funding scope similar to this year's project with a budget of \$163,000. Staff recommends requesting \$100,000 in CDBG funds with CIP funding the remaining portion of the project. If directed by Council, staff will prepare a CDBG application for the streetlight project and any additional projects. The application will be on the Council's May 22, 2017 agenda for the second Public Hearing.

Mayor Sissom opened the public Hearing at 7:36 pm. There were no public comments. Mayor Sissom closed the Public Hearing at 7:37 pm.

VII. COUNCIL ITEMS

A. Finance and Administration

1. Consider approval of a TIF funding agreement with Merriam Luxury Imports.

Finance Director Cindy Ehart provided the background for this item.

On March 28, 2011, the City executed a Redevelopment Agreement for the Merriam Pointe project with Merriam Investors, LLC and Hendrick Automotive Group. Merriam Investors, LLC is now the sole Developer

and owner of the remaining tax increment financing (TIF) incentives under the 2011 agreement.

On August 03, 2016 Merriam Investors, LLC granted the City an authorization to communicate and negotiate with Merriam Luxury Imports, LLC (MLI) in connection with an application for additional TIF incentives in the Merriam Pointe project area. MLI, managed by Mr. Richard Webb, owns the vacant drainage parcel adjacent to the Infiniti dealership on West Frontage Road. MLI seeks \$6 million for the purpose of constructing a new automobile dealership, but indicates the cost of site work is prohibitive without the assistance of TIF. He recently submitted a revised application for TIF incentives following the January 2017 withdrawal of the original application.

To consider the request, the City will need outside legal and professional consultants. Mr. Webb has advanced \$50,000 as required per the terms and has signed the funding agreement. The agreement outlines what the funds may be used for and how the City would request additional funds if necessary. The agreement *does not commit* the City to make any changes in the existing Redevelopment District Plan, Redevelopment Project Plan or Redevelopment Agreement. It simply protects the City from incurring out-of-pocket costs associated with consideration of the changes. A prior funding agreement with the applicant was terminated in January 2017 when the original TIF application was withdrawn.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE A TIF FUNDING AGREEMENT WITH MERRIAM LUXURY IMPORTS. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of additional fees to the Hoefler/Wysocki agreement.

Police Chief Mike Daniels provided the background for this item.

On August 8, 2016 City Council approved a contract amount with Hoefler Wysocki for \$157,500 to cover basic services related to the design of the Police Department expansion project. Not included in that approved amount was \$44,700 for the initial services portion of their work for an actual total cost of \$202,200. We are now seeking approval of the remaining \$44,700 to complete the contract. The total amount of

\$202,200 is included in the \$2.4M total project cost previously approved by City Council on February 27, 2017.

The final construction drawings have been completed by Hoefer Wysocki; the city code review is in process and Nabholz will be sending the project out for bid by sub-contractors. The police department is in the process of moving out of the building and will relocate the patrol division at the Community Center and investigations and administration in the Community Training Room at City Hall by May 15. Construction should start by June 1 and last 6-months.

COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE ADDITIONAL FEES OF \$44,700 TO THE EXISTING HOEFER/WYSOCKI AGREEMENT. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

B. Community Development/Public Works/CIP

1. Presentation on proposed Neighborhood Exterior Grant Program.

Community Development Director Bryan Dyer provided the background for this item. This is a proposed reimbursement program for exterior improvements for residential properties in Merriam. While all the details have not been totally flushed out, the program is designed as follows:

Merriam Neighborhood Exterior Grant Program

Goal: Spur revitalization of and private reinvestment in Merriam's housing stock

Program:

- Provide a 20% reimbursement for exterior improvements
- Total proposed program amount - \$30,000 from city general fund
- Potentially leverage \$120,000 in private investment

Eligibility:

- Any non-apartment residential unit
- Minimum \$4,000 private investment
- Reimbursement minimum \$800; maximum \$2,500
- Eligible improvements include painting, siding, door/window replacement, masonry and foundation repair, awnings, building additions, landscaping (must be on the same property/lot as the residence), and new construction of a residence
- All improvements must conform to Merriam Codes

- Property owner must be current on all property taxes in Merriam
- All other properties owned must be code complaint
- Property owner must provide proof of adequate property insurance

Process:

- Community Development manages the program
- Program starts January 1, 2018
- Property owner makes application
- \$35 application fee
- Work bids must be submitted with application
- Application approval must occur prior to start of work
- Property owner is responsible for obtaining all required permits. All permits must be in place prior to any work taking place
- Work must begin within 120 days of application approval
- All permits must be paid for at the time of application approval
- Work must be completed by November 1
- Property must be within Merriam city limits
- One grant per property, per 10 years
- Property owners with multiple properties can apply for all properties within a calendar year, but not concurrently. Only one property at a time can participate in the program

Before reimbursement:

- Property owner provides at least \$4,000 in receipts
- Staff perform a post project inspection to verify project completion
- No exterior code violations are present

There were a few questions from the council regarding the program. There are no income requirements for this program, and the County has a program for minor home repair projects.

If a property changes owners prior to the 10-year mark, the new property owner would become eligible for the grant. If approved through the budget process, staff would roll out the program January 1, 2018.

2. Community Development Update.

Community Development Director Bryan Dyer provided the following Community Development updates:

The Medical Office Building located behind Carmax has been sold to a new owner. They have not made contact with the city, however they received a mow letter for tall grass.

No submittals have been received for the old Kmart property; staff remains in contact with the owner to ensure the property is being mowed.

The Slater Retail Center is nearly complete with the Subway Restaurant scheduling their final inspection tomorrow.

Shawnee Mission Medical Center has several remodeling projects going on. They are also installing a sprinkler system on the medical office building on E. Frontage Road as they are moving staff and other operations around during the remodel of areas and buildings.

The Codes staff has sent out 13 driveway letters to properties that have driveways in disrepair. In addition, 47 letters were sent out to property owners about exterior paint. As of today, 23 have completed painting and are now in compliance.

Tall grass letters were sent out to 13 properties and rental inspections have been completed on 3 apartment complexes.

The rain barrel workshop is this Saturday, and residents can request reimbursement from the stormwater management program as a part of that workshop.

VIII. STAFF ITEMS

City Administrator Chris Engel commented that the City's Communication and Public Engagement Manager, Andy Graham has turned in his resignation.

Finance Director Cindy Ehart notified the council that the City received notice from the Kansas Development Finance Authority (KDFA) that bonds are going to be issued for Shawnee Mission Medical Center. The notice is required by State and IRS statutes, and the plan is to issue about \$50 million in bonds for Shawnee Mission Medical Center Inc. for properties they own in Merriam and Lenexa and a property they are going to develop in Overland Park.

This is a notice that would require the City to approve a resolution if we opposed this and wish to halt the action. Most communities see these actions as a positive to the community as businesses are investing in the future of their business in your community. Staff is not recommending taking any action in regard to the notice. The City has 15 days to respond so if council has concerns about the bond issuance we can further explore options or council can simply give staff a consensus of a desire to take no action.

The Council gave a verbal consensus to take no action.

IX. NEW BUSINESS

X. EXECUTIVE SESSION

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION FOR CONSULTATION WITH LEGAL COUNCIL TO SEEK LEGAL ADVICE IN ORDER TO PROTECT THE ATTORNEY-CLIENT PRIVILEGE. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, SPECIAL LEGAL COUNSEL, AND CITY ADMINISTRATOR. THE COUNCIL WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:35 PM. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:35 pm.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION FOR CONSULTATION WITH LEGAL COUNCIL TO SEEK LEGAL ADVICE IN ORDER TO PROTECT THE ATTORNEY-CLIENT PRIVILEGE. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, SPECIAL LEGAL COUNSEL, AND CITY ADMINISTRATOR. THE COUNCIL WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:50 PM. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:50 pm.

XI. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:51 PM. COUNCILMEMBER MOORE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Approved: May 8, 2017

Respectfully submitted,
Juliana Pinnick

Juliana Pinnick
City Clerk