

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
AUGUST 14, 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

Staff present: Chris Engel, City Administrator; Mike Daniels, Police Chief; Cindy Ehart, Finance Director; Anna Slocum, Parks and Recreation Director; Meredith Hauck, Assistant City Administrator; Bryan Dehner, Fire Chief; 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.***

**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 July 24, 2017.
2. Consider approval of a bid award to Kansas Heavy Construction for Sidewalk Infill Project.

3. Consider approval of a bid award to Diversified Infrastructure Services, Inc. for Ground Penetrating Radar Services.

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-3. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## V. MAYOR'S REPORT

1. Public Art Initiative Update-Phil Lammers, Committee Chair.

Committee Chair Phil Lammers commented that Art Project #2 has been delayed slightly as the orbs that were manufactured in Canada were stalled getting through customs. They are now in Colorado Springs with the artist and are scheduled to be shipped and installed the last week in August.

James Martin, art consultant, 5500 Goodman commented that Project #3 artist submissions were due Friday and the committee will be reviewing those proposals this week. There were approximately 50 submissions. The location for Project #3 will be along the Streamway Trail near Waterfall Park.

**PUBLIC HEARING-** Public Hearing for the purpose of hearing and answering questions and/or objections from the public related to the 2018 Budget.

Members of the public are allowed to use this time to make comments about the proposed 2018 Budget. ***Individuals making public comments will be limited to 5 minutes.***

Finance Director Cindy Ehart presented a review of the proposed 2018 Budget.

Mayor Sissom opened the Public Hearing at 7:28 pm. There were no public comments. Mayor Sissom closed the Public Hearing at 7:29 pm.

## VI. COUNCIL ITEMS

1. Consider approval of a resolution to adopt the 2018 Budget.

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE A RESOLUTION ADOPTING THE 2018 BUDGET. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

### A. Finance and Administration

1. Consider approval of an Ordinance adopting the 2017 Standard Traffic Ordinance (STO). (recommend waiving the first reading)

Police Chief Mike Daniels provided the background for this item.

There were just two amendments to Standard Traffic Ordinance in 2017.

**Section 133** – Lamps and Other Equipment on Bicycles

Changed: night time to “between sunset and sunrise” and added that “the operator of such bicycle shall be wearing a device that emits a red or amber light that shall be visible from a distance of 500 feet to the rear”. Previously only a reflector was required.

**Section 182.1** – Seat Belts

Changed: fine is now \$30; this will replace the emergency ordinance that was passed in June.

These laws went into effect as of July 1, 2017, so staff recommends that the first reading be waived

**COUNCILMEMBER PAPE MOVED THAT THE GOVERNING BODY WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2017 STANDARD TRAFFIC ORDINANCE (STO). COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2017 STANDARD TRAFFIC ORDINANCE (STO). COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Consider approval of an Ordinance adopting the 2017 Uniform Public Offense Code (UPOC). (recommend waiving the first reading)

Police Chief Mike Daniels provided the background for this item.

The following is a list of changes made to the 2017 version of the Uniform Public Offense Code published by the Kansas League of Municipalities.

**Section 1.1** – Definitions

Added: Animal Shelter.

**Section 3.1.1** – Domestic Battery

Added: “to a person with whom the offender is involved or has been involved in a dating relationship” to further explain a domestic relationship

**Section 3.8.1** – Violation of a Protective Order

Added: “sexual assault” as a reason someone can get a protective order

**Section 4.5 – Buying Sexual Relations**

Added: “One-half of each” fine collected pursuant to this subsection shall be remitted to the human trafficking victim assistance fund “and the remainder shall be remitted as otherwise provided by the law.” Changes from “all fines” going to victim assistance to half

**Section 4.5.1 – Unlawful use of a Communication Facility (New section)**

Added:

(a) It shall be unlawful for any person to knowingly or intentionally use any communication facility in committing, causing, or facilitating the commission of any misdemeanor under Section 4.5, or in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any misdemeanor under Section 4.5.

(b) Violation of this section is a class A violation.

(c) As used in this section, communication facility means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.

(d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subject to human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto. (House Substitute for SB 40, new section 1, 2017)

Each separate use of a communication facility may be charged as a separate offense under this section.

**Section 10.2 – Drawing a Weapon Upon Another (Deleted)****Section 10.27 – Illegal Operation of an Amusement Ride (New section)**

On and after January 1, 2018 it shall be unlawful for an owner or operator of an amusement ride, as defined in K.S.A. 44-1601 and amendments thereto, to knowingly operate, or cause to be operated, any amusement ride without a valid permit issued by the State of Kansas.

Violation of this section is a Class B violation. (K.S.A. Supp. 44-1610)

**Section 11.11 – Cruelty to Animals**

Added: “an animal shelter” as the place that an animal will be placed once a conviction is established, there is no option to return the animal to the owner.

These laws went into effect as of July 1, 2017, so staff recommends that the first reading be waived

**COUNCILMEMBER HUPP MOVED THAT THE GOVERNING BODY WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE ADOPTING THE 2017 UNIFORM PUBLIC OFFENSE CODE (UPOC). COUNCILMEMBER WEEMS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE AN ORDINANCE ADOPTING THE 2017 UNIFORM PUBLIC OFFENSE CODE (UPOC). COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

3. Consider approval of an ordinance amending Chapter 44 of the Merriam Code of Ordinances related to controlled substances. (recommend waiving the first reading)

Police Chief Mike Daniels provided the background for this item.

The Kansas Legislature has amended the various laws dealing with controlled substances over the years. We have made various changes to our ordinances that bring the City of Merriam in line with state law. The changes are not major and do not affect the way our officers enforce ordinances for drug related crimes.

Changes:

Matched the definitions in our ordinance to Kansas law.

Reduced our penalties for both the possession of marijuana and its paraphernalia to match Kansas law.

Removed the section on forfeiture of drug paraphernalia and simulated controlled substances, we follow state law on all forfeitures so an ordinance is not needed.

It is recommended that Council waive the customary first reading and approve the updated controlled substance ordinance.

**COUNCILMEMBER HANDS MOVED THAT THE GOVERNING BODY WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE AMENDING CHAPTER 44 OF THE MERRIAM CODE OF ORDINANCES**

**RELATED TO CONTROLLED SUBSTANCES. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING CHAPTER 44 OF THE MERRIAM CODE OF ORDINANCES RELATED TO CONTROLLED SUBSTANCES. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

4. Consider ratification of a budget adjustment between expenditure accounts for the Aquatic Center department (\$3,200) and use of contingency funds (\$5,200) for Irene B. French Community Center repairs.

Parks and Recreation Director Anna Slocum provided the background for this item.

Council Policy No. 102 requires City Council ratification of budget adjustments between line items within departments when they occur between broad expenditure categories. The Aquatic Center budget adjustment proposes the use of available funds from the Seasonal Salaries account to fund \$3,350 in Chemicals. The shortage is due to the public health incident that occurred in June when the entire Aquatic Center had to be closed to hyper-chlorinate the water per CDC protocols. Approximately 600,000 gallons had to be treated since all water runs through the same filtration system and chemical controller. The amount of chemicals used for this one incident equals the amount required to operate the pool for half the season. In a modern system, each body of water would have its own filtration system and chemical controller allowing only requiring the affected body of water to be closed instead of the entire facility.

Community Center repairs use of contingency funds are needed due to a bad 3-way valve controlling the air handler in an office occupied by the Police Department that staff discovered in May. The repair involved replacing the valve but due to the condition of the piping a large section of pipe had to be replaced as it was leaking glycol. The glycol runs throughout the HVAC system to help regulate the water that is used to heat and cool the building. To make the repair, glycol had to be drained from the system and then refilled. The invoice for labor and supplies needed to refill the glycol alone totaled \$5,191. Unfortunately, due to other numerous repairs required in 2017 (actuators, stack repairs, pipe replacement, pumps and sump pumps) the Building/Grounds budget was expended by the beginning of June. There are no other funds available to complete a budget adjustment to cover the repair. Per the Finance Director, this repair

as well as any other large facility repairs exceeding budget and requiring immediate attention will need to be paid through contingency funds.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RATIFY THE BUDGET ADJUSTMENT OF \$3,350 FROM AQUATIC CENTER SEASONAL SALARIES TO CHEMICAL LINE ITEMS AND THE USE OF CONTINGENCY FUNDS FOR LARGE FACILITY REPAIR RELATED TO THE OPERATION OF THE IRENE B. FRENCH COMMUNITY CENTER. COUNCILMEMBER WEEMS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

5. Monthly Finance Report. (included in packet)

**B. Community Development/Public Works/CIP**

1. CIP Update.

Public Works Director Kevin Bruemmer provided the following CIP Updates:

Shawnee Mission Parkway Bridge over BNSF Railroad project is nearly complete. The weekend closures really helped expedite the project.

Owen Heights Corrugated Metal Pipe Repair project is scheduled to begin mid-late October.

Sidewalk In-fill project will hold a pre-construction meeting with the contractor prior to the beginning of the project. Residents will receive a letter 2 weeks prior to the project anticipated start date. As well residents will receive a 48-hour notice by door hanger prior to construction start date.

Antioch Road project should be completed by mid-September. It is quite a mess right now, but progress is being made. Overland Park is administering that project.

54<sup>th</sup> Ter and Switzer Drainage Improvements will begin in September and should be completed by October. The contractor has 60 days to complete the project.

There was some discussion regarding the recent heavy rains and how Merriam handled the high water in some areas of the City. Police Chief Mike Daniels commented that once notified, Public Works crews did an excellent job of responding and barricading high water areas. There were not as many areas that took on water

like many years ago. Flood mitigation efforts to Turkey Creek have greatly reduced flash flooding in Merriam.

City Administrator Chris Engel commented that many areas of the city where stormwater improvements have been made over the past 10-15 years have greatly reduced flood hazards. There are many areas in the city where residential properties have been bought out and flood control measures were put in place. In those areas, the flood mitigation measures worked and there were no widespread catastrophic flooding issues.

**VII. STAFF ITEMS**

**VIII. NEW BUSINESS**

**IX. EXECUTIVE SESSION**

**X. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:24 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Approved: August 28, 2017

Respectfully submitted,  
**Juliana Pinnick**  
Juliana Pinnick  
City Clerk