

MERRIAM CITY COUNCIL MINUTES

April 13, 2020

7:00 P.M.

Virtual meeting via Zoom.

I. CALL TO ORDER

Mayor Ken Sissom called the meeting to order at 7:00 pm.

II. ROLL CALL

The following Councilmembers were present via zoom meeting:

Scott Diebold
Chris Evans Hands
Bruce Kaldahl
Brian Knaff
Bob Pape
Jason Silvers
Whitney Yadrich
David Neal was absent

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; Anna Slocum, Parks and Recreation Director; Donna Oliver, Finance Director; Bryan Dyer, Community Development Director and Juli Pinnick, City Clerk.

III. PUBLIC ITEMS

In response to COVID-19, public comment that normally occurs during the City Council meeting has been temporarily suspended. Members of the public are still encouraged to share comments about matters that may or may not appear on the agenda. **Please note: Public Comments will only be taken via email to the City Clerk at jpinnick@merriam.org prior to 6:00pm on the date of the meeting.**

The City Clerk read the following Public Comments submitted via email:

Sam Matier, 8515 W. 57th Street. We all know that city sales tax revenues are going to plunge for an extended period. Unfortunately, over half of Merriam's revenue comes from sales and use taxes. When the Covid-19 lockdown is lifted there will be a short burst of economic activity from pent up demand and then the growth could slow to a snail's pace. An estimated 1/4 of small business will not reopen. Those that do reopen may have to close after federal funds are exhausted.

All cities have three choices. 1) Carry debt longer or 2) Cut expenses or 3) Raise

the mill levy tax to increase city revenue from property taxes.

Residents will not tolerate a mill levy increase, especially since home property taxes are already rising due to increased property appraisals and many residents will continue to be out of work because their jobs aren't coming back. Cutting expenses is the most logical alternative and will require right sizing government for a city our small size with 11,000 residents 5200 households in a four square mile area.

Start cutting nonessential expenses today. As an example can we cancel the \$316,000 purchase of 78 LED street lamps and postpone purchasing new vehicles for the foreseeable future and stop building new sidewalks? Right sizing needs to begin now. City governments that cut expenses immediately will be in much better shape than those that wait. Merriam residents will look back on this day to see how future expenses were managed by their elected representatives on April 13, 2020

John Sandin, 6812 Wedd St. I have a concern that I would like to see addressed in the council meeting tonight.

There is a sign in the yard at 6816 Wedd advertising a church. I was told that this sign has been deemed acceptable, but I would like to know what the criterion is for an acceptable advertisement vs. an unacceptable advertisement.

There are many more effective and appropriate advertising media available, so the reasoning becomes even more puzzling.

I fear that this will become an open door to a signage trend throughout our neighborhood, which is zoned as residential.

Which types of churches are given an exemption? Are mosques included?

People on this block attempting to sell their homes now have a potential deal-killer visible in the neighborhood, and if signage is allowed and expands, there will be more.

Thank you for your attention to this.

Billy Croan, 6633 Wedd St. I would like to thank our city council, the mayor, and staff for finding a way to continue to meet, safely, in the face of our current situation, to serve our community.

Tonight you will consider renewing a 5% franchise fee that the Merriam government imposes on Evergy (formerly KCP&L). Evergy passes this fee on directly to Merriam residents. So it is in effect not a tax on Evergy, but a tax on

Merriam families. The very same families whom you've called upon to give up their previous way of life and ability to generate income weeks ago by staying home to flatten the curve.

I'm aware of the program for refunding the fees to those "on a limited income" who ask for it. But I would ask that you take this opportunity today to give financial relief to ALL Merriam residents by suspending the franchise fee for at least as many months as people have been out of work due to covid -- without asking them all to come begging to you for relief one by one.

Indeed I think it's probably the fairest thing to do; to suspend most taxation for as long as people are asked to abstain from leaving their home to be productive.

Without this reciprocity (which can begin by your motion tonight) I fear you will unnecessarily add to the pressure Merriam families already feel to choose between their wellbeing and their financial obligations.

Please carry this concern with you as other matters of taxation arise during stay-at-home orders.

Thank you for your consideration.

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 separate

1. Consider approval of the minutes of the City Council meeting held March 9, 2020.
2. Consider approval of a Pool Use Agreement with the City of Mission.
3. Consider Approval of a resolution Honoring the 50th Anniversary of Earth Day.

Councilmember Hands asked that item 2 be removed from the Consent Agenda.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 1 AND 3. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Councilmember Hands asked about the clause in the agreement regarding Covid-19 and if that would need to be revisited in the Roeland Park agreement.

Parks and Recreation Director Anna Slocum commented that, at this time, there will likely not be an agreement with Roeland Park for pool usage.

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

V. MAYOR'S REPORT

VI. COUNCIL ITEMS

A. Finance and Administration

1. Consider approval of the Notice of Electors form for the Evergy Metro Franchise ordinance.

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

The city has a franchise agreement with Kansas City Power and light (KCPL) which is now Evergy. The current agreement expired in January 2020. While the current agreement has expired, the agreement has a provision that allows the agreement to remain in effect while both parties negotiate a new franchise ordinance agreement. The City Attorney has been working with Evergy and both parties have agreed to a new franchise ordinance.

As part of the franchise agreement process, the City is required to provide Notice to the Electors of the City that the City Council will consider such ordinance by publishing the notice in the City's Official newspaper. The City Council must approve the form of such notice to include the date of consideration of the ordinance and the term of the Franchise agreement ordinance. The term of the agreement will be 10 years and the franchise fee rate will be 5%. These are the same terms as the current agreement approved in 2009.

This is the first step in the franchise agreement process.

Below is a timeline for the proposed franchise agreement ordinance:
April 13 - City Council approves Notice of Electors form

April 21 - Notice of Electors form published in the City's official newspaper (The Legal Record)

April 27 - City Council first reading of the Evergy franchise agreement ordinance

May 11 -City Council second reading and consideration for approval of the Evergy franchise agreement ordinance.

Councilmember Silvers asked about including a clause regarding fair collaboration with residents installing solar panels.

Ryan Denk, City Attorney explained that Kansas state laws currently provides net metering statutes that requires the electric utility to buy back the net metering generated by solar panels.

Councilmember Yadrich asked about the franchise fees allowing the negotiation of connection fees for solar customers.

City Attorney Denk commented that he can look into that option, but feels that there may not be any opportunity for negotiation of those fees for solar customers. The terms of the agreement provided by Evergy regarding rates and connection fees are held by the Kansas Corporation Commission (KCC) which is the entity that represents the public in this case. The electric utility is considered a monopoly so the KCC holds hearings regarding rates to ensure the public is fairly represented. Individually, cities and other entities do not have the ability to negotiate those fees any further.

City Administrator Chris Engel commented that the item before council tonight is simply approving the notice to be published in the Legal Record. Other issues brought up tonight would have to be explored further and re-negotiated with Evergy.

Mayor Sissom asked Mr. Engel if he could explain the franchise fee a little further and how it would not be possible to hold back the 5% fee as suggested earlier in a public comment.

Mr. Engel explained that franchise fees are typically right of way usage fees, which allows their lines in our right of way. The majority of the funds collected from franchise fees are paid by commercial customers as their bills are typically much higher than a residential bill. The city does have a franchise fee rebate program and if the council would like to explore a way to give the franchise fees back or provide some relief to residents for these franchise fees, he suggested exploring expanding the franchise fee rebate program rather than trying to suspend those fees for a period of time then re-imposing the fees. The fees are used for operational needs of the city like paying the public works crew to install streetlights and maintaining the city right of way.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE NOTICE TO ELECTORS FORM FOR THE EVERGY METRO INC FRANCHISE ORDINANCE.

COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of a contract for Janitorial services for the new Community Center.

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

Custodial needs in the new community center are significantly different than any other city owned facility. Initially, cleaning was slated to fall within the duties of the Facility Maintenance division. It has been determined that it is best to have a professional cleaning company complete the task of maintaining the cleanliness of the new community center.

In 2018, staff took janitorial services out to bid with City Wide being the low bidder. City Wide is in their second one-year extension to perform janitorial service for City Hall, Fire Department, Police Department, Public Works and Historical Plaza. Staff is seeking to add Merriam Community Center to the list of facilities they provide services. The facility would be cleaned seven days per week with the exception of Easter, Thanksgiving and Christmas when the facility is closed. There is a detailed scope of work outlined in the contract.

The 2020 budget did not include funding for a cleaning contract. Staff recommends the funding for this service be from contingency funds. The Merriam Community Center construction budget of \$36.6 million is currently under budget. Any unused funds will return to contingency at the conclusion of the project. Staff anticipates monitoring the costs and benefits of contracting this service on a regular basis.

Councilmember Silvers asked how this was not part of the original community center budget? He voiced concern that it appears information is being provided slowly and in pieces. Because this involves a large amount of money, he may have made different decision on other community center votes regarding funding and fees.

Director Slocum responded that originally the cleaning of the facility was to be wrapped up in the facilities maintenance division of the budget. As the building construction came further along, it became evident that the cleaning and maintenance of the building would not be able to be completely covered by the city's maintenance staff.

City Administrator Chris Engel commented that he would shoulder the responsibility for this. As staff was working through the maintenance piece of the building and tried to understand what would make the most sense, it became evident that the requirements to clean the building 7 days per week, during the day time and at night, would require more than one employee. Adding in the scheduling of sick and vacation time for the maintenance employees provided additional challenges to meet the requirements of cleaning the building. It has been about a month since this was realized and it is now coming forward for consideration. He further commented that this could have been discussed a couple of months ago but it was something he struggled with to bring forward.

Councilmember Silvers commented that he understands that the contractor will be providing supplies as well as the machinery to perform the cleaning duties so he understands there is a value to that.

Director Slocum commented that the cleaning contractor will be providing supplies and the large floor cleaning machines. Since the majority of the facility has polished concrete floors which are not typically hand mopped, the floor machines are needed to adequately clean and maintain the floors. The large floor machines are quite expensive to own and were not something that was budgeted with the building.

Chris Engel commented that this is something that will be looked at going forward. There is a cost benefit that would be looked at in the future to see if it could be handled at a lower cost. Currently it would require three employees dedicated to cleaning and maintenance for the new facility.

Councilmember Yadrich asked why the funding for this contract is coming from the General Fund contingency and not the Community Center contingency.

Director Slocum commented that this is an operational expense and not a construction expense.

Councilmember Hands raised a question sent from a resident regarding the non-discrimination clause on sexual orientation, and gender identification that does not appear in the contract.

Councilmember Diebold commented that it does appear in the contract under section 7(g) of the agreement, it states the contractor

must comply with the City Code Chapter 35 article 111 which is the non-discrimination ordinance.

Councilmember Pape commented that since this is a 1-year contract and will be evaluated on-going, is there an out clause in the contract?

Director Slocum stated that in section 4 of the contract has a termination clause, it allows a 30-day notice to end the contract.

Councilmember Kaldahl asked about the maintenance budget for 2020 and how much was originally budgeted?

Director Slocum commented that there was about \$6000 for supplies in the 2020 budget and staff was going to provide the cleaning. However, there was not \$132,000 in the budget for cleaning. The 2020 budget was drafted in early 2019 which was prior to the facility maintenance superintendent being hired. Once staff was on board and began to look at the cleaning requirements and other duties that this staff person would be responsible for, the City Administrator and Parks director looked at contracting the cleaning services.

Councilmember Silvers asked about any additional staffing needs that will be coming forward for the new community center.

Director Slocum responded that this is the final piece of operational plans regarding staffing.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE A CONTRACT FOR JANITORIAL SERVICES FOR THE MEW COMMUNITY CENTER. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. 2020 Budget Update.

City Administrator Chris Engel commented that as most of the council knows, the majority of the city's revenue comes from sales tax. When the sales tax revenue comes in it is always two months in arrears, which makes it somewhat difficult to predict the revenue numbers. However, staff is aware of the expenses and upcoming expenses and are able to control those expenses.

Mr. Engel displayed a document showing the current fund balance and investments. The city has approximately \$10.7 million in the bank and \$30 million in investments. \$10.5 million of those invested dollars are coming to the end of the investment term later this year.

Typically, if the city does not need those invested funds when they mature, they are re-invested. However, if the funds are needed the city can keep those funds and not re-invest them.

Staff has identified some expense items in the General Fund that are going to be paused at this time which totals \$92,875. Additionally, equipment from the Equipment Reserve Fund that will be paused, include one patrol vehicle and one investigation vehicle for the police department. There are some technology upgrades that will be deferred, as well as, a new trailer for public works, new appliances in the Fire Department and a swing set for Chatlain Park. These items total approximately \$135,000 that will not be spent at this time.

The CIP Fund will pause \$272,000 for City Hall Façade improvements, \$620,000 from the 5701 project, \$264,000 in trail extension improvements and \$750,000 from the new community center project that is under budget. Total spending paused from the CIP budget totals \$1,906,000.

The total for these items is approximately \$2.1 million. Delaying these expenses will afford some time to see where we will be on sales tax revenue in the next couple of months. Staff has looked at their budgets and provided a potential 15% reduction in their overall budget, if needed. All travel and training expenses have been frozen at this time as well. There still may be items that will be cut from the 2020 budget, but at this time there is a pause in spending these dollars.

Councilmember Diebold commented that staff has done a great job in looking at the numbers and without knowing what will happen over the next few months, are being prepared to eliminate or reduce some expenses without cutting services to the residents.

Councilmember Pape echoed councilmember Diebold's comments that staff has taken a look at their budgets and found ways to reduce expenses if needed down the road.

Councilmember Hands thanked Mr. Engel for taking the initiative to address this issue now and for sharing this information to let the council and public know where we are.

Mayor Sissom commented that these expenses will likely be deferred to another year and are not necessarily expenses that can just be eliminated. None of these decisions are made without some sacrifice.

4. Monthly Finance Report. (available in packet)
5. Community Center Update. (available in packet)

B. Community Development/Public Works/CIP

1. Consider approval of a Development Agreement with Kincaid Group (DS Bus Lines).

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

The Development Agreement outlines the responsibilities of the City and Kincaid Group (DS Bus Lines) for the development of W. 55th Street and Merriam Drive into a four-legged, fully signalized intersection whose eastern leg will serve as a private entrance into the DS Bus Line facility.

In 2017, Kincaid Group purchased the bus service company located at 5519 Merriam Drive back from First Student. Kincaid Group (DS Bus Lines) started the bus company a number of years ago and subsequently sold the business. Since purchasing the business back, Kincaid Group (DS Bus Lines) has made a number of improvements to the facility, including purchasing 5501 Merriam Drive (Wiliker Tow Lot) and demolishing the building located on the property. Kincaid Group is also in the process of enlarging the main office building and improving the internal flow of buses.

In 2018, Kincaid Group approached the city about improving the parking lot at 5501 Merriam Drive and utilizing the eastern leg of the W. 55th Street and Merriam Drive intersection as a private entrance into the parking lot. The private entrance will be located on property owned by Johnson County Parks and Recreation (JCPRD) and requires moving the existing Turkey Creek Trail to the north. Kincaid Group entered into negotiations with JCPRD to purchase an access easement for the purpose of constructing the private drive. At their February 2020 meeting, the JCPRD Board approved selling an access easement to Kincaid Group.

City staff has reviewed and approved Kincaid Group's conceptual design for the intersection and private drive which was included in the Agenda Packet. While the private drive will have a number of signs indicating that it is not a public street, the design gives vehicles the ability to turnaround if they mistakenly enter the private drive. The design shows the Turkey Creek Streamway Trail being located immediately north of the private drive. City staff has indicated and

Kincaid Group understands, that a barrier (split rail fence, rocks, blocks, etc.) must be placed between the trail and private drive.

At the request of the city, Kincaid Group performed a traffic analysis on the proposed intersection improvements and private drive entrance. The traffic analysis showed that the proposed improvements would not have a negative impact on area traffic. Additionally, it is anticipated that providing an entrance that is controlled by a traffic signal light will reduce the number of buses queuing on Merriam Drive and provide a safer entrance for the buses.

The Development Agreement details the responsibilities of the City and Kincaid Group for the cost of the intersection improvements and maintenance of the improvements. There is already east facing traffic signal light at the intersection.

Kincaid Group will be responsible for the installation and cost of the following items:

- Relocating the Turkey Creek Streamway Trail
- All equipment and engineering associated with making the intersection four-legged with traffic signal lights
- Improvements to make the east side of the intersection ADA compliant
- Private drive

Once completed, Kincaid Group will be responsible for the maintenance of the private drive and the JCPRD easement area. The city will be responsible for maintenance of the Turkey Creek Streamway Trail and the public improvements located in the right-of-way.

The proposed intersection improvements and private drive will provide a number of benefits including: a safer entrance into the facility for DS Bus Lines' buses, reduce the cuing of buses on Merriam Drive, and the east leg of the intersection will have an ADA compliant crossing.

Councilmember Yadrich asked about the length of time the trail would be closed during this project.

Director Dyer stated that while the actual length of time the trail would be closed is undetermined, staff has requested that Kincaid provide the city ample lead time prior to closing the trail section so that staff

can get the information out to the public that the trail section will be closed.

Councilmember Silvers asked about the proposed turn lanes and if they are adequate to allow the buses to turn without impeding traffic in the second lane along that area.

Mr. Dyer commented that the design was completed by Kincaid and he would expect they have made the turn lane large enough to accommodate the size of the buses with an adequate turning radius.

Councilmember Silvers asked about the water runoff from the paved parking lot which is currently a gravel surface and if that runoff would be diverted to the creek.

Mr. Dyer responded that the runoff will be diverted to the creek and the runoff coefficient of the gravel parking surface is very similar to the paved surface. Additionally, when the site plan is presented, Kincaid will be adding greenspace to the area and will be expected to provide best management practices for the runoff which will include improving the water quality runoff that will be going into the creek.

There was some discussion regarding the signal light timing, which will be radar detection controlled and will be triggered only when a bus is at the turn light to the private drive. The timing of the light signals may have to be adjusted in the mornings and afternoons during peak times when the buses go in and out of the lot.

Councilmember Hands asked about the involvement of the Merriam Drainage District with this plan.

Mr. Dyer commented that once the project goes to the Planning Commission with their proposed site plan, the Merriam Drainage District will receive notice of the proposed plan and will be able to provide input as needed.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE KINCAID GROUP (DS BUS LINES) DEVELOPMENT AGREEMENT AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT. COUNCILMEMBER SILVERS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. CIP Update. (available in packet)

VIII. STAFF ITEMS

City Administrator Chris Engel thanked the city council for their support during the past few weeks. Events have been canceled and operations adjusted, but city services are still continuing. The meeting went well tonight and he thanked city staff for their support and flexibility for working from home, alternating shifts and specifically thanked the police department, public works for keeping everyone safe and the communication team for giving our residents resources during this time.

Councilmember Yadrich thanked the police department for their efforts providing a police parade for kids having birthdays during the lockdown. She witnessed a couple this week and the kids have really enjoyed it.

Councilmember Hands commented that the Parks and Recreation Department has been very active on Facebook and she was very impressed with their activities.

IX. NEW BUSINESS**X. EXECUTIVE SESSION****XI. ADJOURNMENT**

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 8:26 PM. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Approved: April 27, 2020

Respectfully submitted,
Juliana Pinnick
Juliana Pinnick
City Clerk