

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
January 28, 2019
7:00 P.M.**

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

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

II. ROLL CALL

Al Frisby
Chris Evans Hands
Nancy Hupp
Bryan Knaff
David Neal
Bob Pape
Robert Weems
Scott Diebold was absent.

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

Irina Shields, 8705 W 70th Ter., thanked the city for funding the Exterior Home Grant Program. Her fiancé is the home owner and had applied for the program but was too late in submitting their application as all the funding had been allocated. Realizing that it is not always feasible to increase the budget for this program, she asked that the council allocate a portion of that budget for improvements that cannot be covered by insurance. They are needing some foundation repairs to their home and those repairs are very expensive and unfortunately not covered by homeowners insurance.

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 January 14, 2019.
2. Consider approval of the purchase of three (3) police vehicles.
3. Consider approval of the purchase of eleven (11) computers for patrol vehicles.
4. Consider approval of the purchase of an in-car, body worn camera and video management system.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-4. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

V. MAYOR'S REPORT

1. Legislative Update- Stuart Little

The City's lobbyist, Stuart Little provided the council with an update regarding the 2019 Legislative Session.

VI. COUNCIL ITEMS

A. Finance and Administration

1. Consider approval of an agreement with Overland Park for Merriam Dolphins Swim and Dive Team Agreement.

Assistant Parks and Recreation Director Dave Smothers provided the background for this item.

Merriam will not have an outdoor pool facility in 2019. To accommodate Merriam Dolphins Swim and Dive Team, staff has approached the City of Overland Park to create an interlocal agreement that will allow the team to utilize Young's Pool located at 77th St and Antioch.

The agreement allows for the team to access five 25-yard lane for swim practice, with access to two diving boards immediately following swim

practice. Access to starting blocks in the 50-meter pool will be scheduled with coaching staff as needed. The agreement begins June 3 and will end at the completion of the All-City Competitions in mid-July, with practice occurring Monday – Friday during this time frame. In addition to pool access, athletes will have access and use of restrooms, deck space for dry-land exercises, and a small closet for storage. Athletes will have access to the facility 15 minutes prior to the start of practice and will need to vacate the pool area upon completion of practice to allow the facility time to prepare for daily operation. Overland Park has requested \$2,000 rental fee for use of facility.

When preparing for the 2019 operating budget, staff did not budget for the operation of the Swim and Dive program because there is no home pool this season. Staff is requesting \$11,000 from the General Fund Operating Contingency to successfully operate the program. Finance director supports this use of contingency. Expenses include: coaching fees, swim meet licenses, rental, awards and end of season party supplies. In addition, revenues were not budgeted. Staff is estimating estimated revenues of \$2,700 associated with registration fees from athletes.

COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE AN AGREEMENT WITH OVERLAND PARK FOR THE 2019 FACILITY USE AGREEMENT FOR YOUNG’S POOL FOR MERRIAM DOLPHINS SWIM AND DIVE TEAM AND APPROVAL TO FUND THE ASSOCIATED COSTS FROM THE GENERAL FUND OPERATING CONTINGENCY. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of Bid Package #3 with McCarthy.

Assistant City Administrator Meredith Hauck presented an overview of the bid package.

Per Article 2.3.1.1 of the City’s contract with McCarthy, this project is structured as a rolling guaranteed maximum price (GMP). This means that multiple bid packages will be brought to the City Council for approval at critical stages in the pre-construction process, leading to the final adoption of a guaranteed maximum price.

The approval of Bid Package #3 authorizes funds to allow McCarthy to enter into subcontracts for all remaining scopes of work not addressed in Bid Packages #1 or #2. Details on Bid Package #3 were included in

the agenda Packet materials. It also authorizes funds for the General Requirements and General Conditions associated with this bid package; as well as “Indirects and Fees”, which are based on a percentage of the total bid package and include items such as insurance, bond payments, associated contingency, etc. It also sets the guaranteed maximum price for McCarthy’s Contract at \$32,500,205.00, which is on budget for the project.

The City previously approved the following with McCarthy:

McCarthy Base Contract: March 12, 2018

Change Order #1 for Aquatic Consultant: May 14, 2018

Charge Order #2 for Updated Schedule and Related Fees: June 25, 2018

Change Order #3 for Parking Structure Design and Pre-Construction Fees: June 25, 2018

Change Order #4 for Bid Package #1: September 24, 2018

Change Order #5 for Bid Package #2: December 10, 2018

Mayor Sissom asked about rumors that the city is spending \$41 million on this project and that with cost overruns it is inevitable that we will spend more than the \$41 million.

Ms. Hauck responded that the project is not at \$41 million as this bid package sets the guaranteed maximum price (GMP) at \$32,500,205.00. The only way an overrun would occur would be if the City made any changes or additions to the project. There are built in safeguards and contingencies within the GMP to ensure the project stays within budget.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE BID PACKAGE #3 WITH MCCARTHY IN THE AMOUNT OF \$9,651,873.20 AND SET A GUARANTEED MAXIMUM PRICE OF \$32,500,205.00. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

3. Consider approval of an ordinance amending the franchise agreement with MCI Metro. (recommend waiving first reading)

City Attorney Nicole Proulx Aiken provided the background for this item.

This ordinance amends a franchise agreement with MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services), (hereinafter "MCImetro").

On February 26, 2018, the city council approved Ordinance No. 1778, which granted MCImetro a franchise to construct, operate, and maintain a telecommunications system in the City. MCImetro recently requested the City amend its franchise to clarify how it treats resellers of its services. Specifically, MCImetro requested the City delete subsection (7) in the "gross receipts" definition found in section 1, paragraph i.

The city attorney worked with MCImetro to address their concerns and ensure compliance with state law. The changes to the franchise are similar to changes made by surrounding Johnson County cities. Subsection (7) in the "gross receipts" definition has been deleted, but changes were made to section 4, paragraph i, to ensure MCImetro provides the appropriate fees to the City if it resells its access lines to another telecommunications Local exchange service provider.

MCImetro had concerns that the language in the prior ordinance would require them to pay franchise fees on their dark fiber lines to a corporate affiliate.

Councilmember Hupp asked what dark fiber meant.

David Wilson, Verizon Communications dba MCIMetro commented that dark fiber is basically fiber that has been constructed as part of their network but is not currently being used.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE AMENDING THE FRANCHISE AGREEMENT WITH MCIMETRO. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

COUNCILMEMBER HUPP MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING THE FRANCHISE AGREEMENT WITH MCIMETRO. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

B. Community Development/Public Works/CIP

1. Community Development Update.

Community Development Director Bryan Dyer presented information regarding building permits issued in 2018. A total of 466 permits were issued in 2018. This was the second largest number of permits issued since tracking permits in 2003. The total valuation of those permits was over \$82 million. When a building permit is submitted a valuation of hard and soft costs must be provided for the permit, this includes materials and labor for the construction. Mr. Dyer displayed some graphs depicting this information.

There was some discussion regarding outsourced building inspections on some major construction projects.

Mr. Dyer provided the following Community Development updates:

The Audi dealership is anticipating a spring/summer opening.

The drainage area south of Infinity continues with the fill dirt, and they are working on the sanitary sewer relocation. The weather has impacted their timeline a bit.

The Exterior Grant Program was well received for 2019. 38 applications have been received, and of the 38, 5 applications were either denied or withdrawn. Funds have been allocated to 28 projects and the rest are on a waiting list. The 28th project that was allocated came in on January 8th; the program opened on January 2nd so the program was highly sought after and all the funds were quickly allocated.

VII. STAFF ITEMS-There were no Staff Items.

VII. NEW BUSINESS-There was no New Business.

VIII. EXECUTIVE SESSION

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO DISCUSS THE CITY ADMINISTRATOR'S PERFORMANCE REVIEW AND CONTRACT, AS JUSTIFIED BY K.S.A. 75-4319(B)(1), WHICH ALLOWS THE CITY COUNCIL TO RECESS INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS OF NON-ELECTED PERSONNEL. PRESENT WILL BE THE GOVERNING BODY. THE OPEN MEETING WILL RESUME IN THE COUNCIL CHAMBERS AT 8:10 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 8:10 pm

X. ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL,
COUNCILMEMBER HANDS MOVED TO ADJOURN AT 8:11 PM
COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS
UNANIMOUSLY APPROVED.**

Approved: February 11, 2019

Respectfully submitted,

Juliana Pinnick

Juliana Pinnick

City Clerk