



**COMMUNITY DEVELOPMENT AND /PUBLIC WORKS
COMMITTEE MEETING
COUNCIL CHAMBERS
July 9, 2007**

The Community Development/Public Works Committee of the Merriam City Council met on Monday, July 9, 2007 at 7:00 p.m. Councilmembers present included: Chair Gayle Stephens, Councilmember John Crabtree, Councilmember Christine Evans Hands and Councilmember Chad Rowe. Staff present included: Quinn Bennion, City Administrator; Scott Crain, City Engineer; Randy Carroll, Public Works Director; Susan Hayden, Director of Parks and Recreation; Dennis Enslinger, Community Development Director; and Judy Devere, Recording Secretary.

Public Items

Chair Stephens thanked everyone involved for their hard work on the Fields for Freedom event.

Chair Stephens noted that councilmembers received a report from Susan Hayden, Director of Parks & Recreation, on the EasyRide Program and was pleased that June participation in the program was up to 100 riders and asked Ms. Hayden to share information from the report. Ms. Hayden said the report was from January through the end of June so it only reflected the senior citizen riders and the new program began July 2, 2007 that includes all age groups.

Chair Stephens inquired about the status of the Tree Board. Quinn Bennion, City Administrator, replied that Tree Board falls under the direction of the Mayor and letters were received from several of the Tree Board members who no longer wanted to serve and a few stated verbally that they no longer wanted to serve which leaves three or four members. Those three or four have not been reappointed and it has been a practice that if those individuals on volunteer boards and committees are not reappointed or replaced they continue to serve until they are reappointed. Mr. Bennion said he understood that Tree Board Chair Rosenbrook was going to schedule a visit with Mayor Wilkes. He said they are still a board and have not been dissolved but would have an issue, if in fact; all but three members have resigned, with meeting quorum requirements.

Gene and Dawn Mantooth, 6536 Craig, stated that they own just over an acre in Merriam and always knew that they had three separate lots and applied for a building permit to put in an above ground pool, cut down several thousand dollars worth of trees and hauled in nine tons of sand. Their building permit application for an above ground pool was denied. She said they did not understand why because it is an above ground pool. Ms. Mantooth said she was told that the City of Merriam considers an above ground pool to be a permanent structure. She understood it was because of crossing property lines and even though they owned all three lots, the City would not allow them to cross the property lines with the pool. Ms. Mantooth stated they were at the meeting because they wanted to construct the pool. She provided photos of their yard for the councilmembers to view.

Dennis Enslinger, Community Development Director, responded by stating staff has met with Mr. & Mrs. Mantooth on a number of occasions and their property falls into a one-percent of the Merriam addresses and exists of three parcels and of those three parcels, there are ten lots. He said one of the difficulties is the parcel directly behind the primary residence is considered a lot of record so in theory it is five platted lots which meet the subdivision regulations; therefore an accessory structure is not allowed by itself on those platted lots without a primary structure. Mr. Enslinger said that is similar to another property the councilmembers reviewed on another plat related to a garage structure where the individual had to come back and replat their parcels into one large lot in order to build a garage structure. He noted that the Code does not differentiate between an above ground pool and a below ground pool; each require a building permit. He said given the size, those are sometimes an issue and one of the other issues is typically there would be a deck built around the pool which is another item that requires a building permit and is more of a permanent structure. Mr. Enslinger commented this is one of the more complicated issues within the City and staff has provided the options of replatting the property or going before the Board of Zoning Appeals which may be of some difficulty because that may place the City in some predicament if it allows a pool to be located on an adjacent parcel without a primary structure. Mr. Enslinger added he realized that replatting would cost a considerable amount of money. The property would have to be surveyed, replatted and then go before the Planning Commission. Ms. Mantooth replied they had looked into replatting and it would cost approximately \$6,000 to survey and replat and an employee at Johnson County said if they replatted or reparcelled the property it would raise their property taxes considerably.

Chair Stephens asked if going before the BZA could resolve this issue. Mr. Enslinger said that they could always submit to the BZA, but it would be a difficult application for staff to support because of the precedent it might set regarding accessory uses but BZA is its own body and makes its own decisions.

The councilmembers discussed what is defined in the code as a temporary or permanent structure including decks and fences and other options to try and resolve the property owner's issues. Ms. Mantooth expressed her concern about missing the July BZA meeting but an application was not filed in time for the 20 day notification. Mr. Enslinger noted that an application would have to be filled out; a survey provided and is more complicated because of a permanent drainage easement on the property so the pool would have to be outside the drainage easement. He said for a permit to

be issued, a survey must be completed and submitted because the City does not know where the drainage easement is located. He said that if an application is filed, a variance would have to be written, the variance has to be site specific and definition specific for publication. Mr. Enslinger stated that he searched the files and had provided all documentation from those files. He said he understood this is a very difficult situation but staff had been looking at the Code and the Code perimeters and the only two alternatives is replatting the property or going to BZA for approval or thirdly is for Council to make revisions to the ordinance defining what is a pool. The third option would not be a recommendation by staff. Councilmember Crabtree said the ordinances are making it difficult for Merriam residents to live in Merriam and perhaps the Council should look at revising the ordinance noting it is a lot of work but may be worth it. Councilmember Rowe said the Council needs to figure out a way to make this happen. Mr. Enslinger pointed out that the property directly behind the Mantooth property has a residence with no street frontage. There is a driveway easement that was granted by another property owner. Chair Stephens stated there should be some solution to this problem and something should be written so each case could be reviewed individually.

Mr. Bennion stated that he had visited with the Mantooths at their home and on the phone and they have been very diligent and cordial in the visits. Mr. Bennion said that if there is something written in the Code, staff members have to go by the Code. He further added that the real solution is to replat or go before the BZA. Councilmember Rowe said, in his opinion, that the BZA would be the best solution noting that if the Code was rewritten, it could cause future problems.

Mr. Enslinger said that staff would probably not be recommending approval for the BZA recommendations and usually provides minimum conditions and one of the minimum conditions staff would suggest is recombining all the parcels into one parcel as a minimum condition for approval by the BZA. He said at least that way; the City has a record that they have all been combined and the City may have an argument in the future that if anyone tries to reparcel them they have been combined and is no longer a buildable lot.

1. CIP Monthly Update

Scott Crain, City Engineer, provided the update stating that a time extension had been requested and granted which moves the completion date to September 22, 2007 on the Lowell Road/55th Terrace Improvements. Sod will be installed beginning September 1st. Mr. Crain said a letter had been sent to the adjacent property owners to notify and explain the delay. He said one concern was received in writing and he and Chair Stephens had tried to contact the property owner to talk to them or set up a meeting but had not been successful. The contractor would be responsible for maintaining the disturbed areas through the summer. Mr. Crain said staff continues to hear very positive comments from the neighborhood about the project and current projections suggest this project will come in under budget.

Mr. Crain stated that Burlington Northern Santa Fe Railway Company (BNSF) has informed the City that they intend to raise the rails at the crossing on Johnson Drive and compact the aggregate below the concrete panel surfacing to mitigate the

roughness that has developed at the crossing. He added that the work would be performed at the expense of BNSF. Johnson Drive will be closed during the repairs with BNSF suggesting the work would likely occur this summer, though they have not committed to a specific schedule at this time.

Regarding quiet zones, Mr. Crain said that staff will be hosting a meeting with BNSF, Federal Railway Administration and the Kansas Department of Transportation (KDOT) to discuss the potential and process for securing a quiet zone around the railroad/vehicular crossings in Merriam. He said Leisure Hotels, owner/operator of the Hampton Inn, has indicated its willingness to participate financially in the installation of a quiet zone near their facility at 7400 West Frontage Road.

Mr. Crain said that staff has negotiated a contract with Affinis Corporation to analyze the intersection of Mastin and Johnson Drive to determine if a traffic signal is warranted at this location. He said staff is concerned that the additional pedestrian and vehicular traffic utilizing this location to serve the expanded boundaries for the Merriam Elementary School may result in the need for increased traffic control to allow the intersection to function effectively. The study will be performed in September of this year, after school is in session. Mr. Crain said the cost of the study would be approximately \$8,500. There was discussion of ways and funds that could be used to pay for a traffic signal at this location.

Mr. Crain said that bridges in Merriam are required to be inspected every two years. He said in October 2007, George Butler Associates (GBA) will be performing the biennial inspections in accordance with the requirements of the KDOT. GBA has performed the past two inspections and is in a position to be the most efficient consultant for the current inspections. He said the cost would be \$4,400 and does not include underwater bridge inspections that may be necessary this year.

Mr. Crain stated that the updated CIP project spreadsheet was included in the packet for the councilmembers review.

2. Consider approval of 2008-2010 Turkey Creek Festival Agreement with Johnson County Park & Recreation District for the use of Antioch Park

Susan Hayden, Director of Parks & Recreation, said that included in the staff report was the Facility Usage Agreement between the City and Johnson County Park and Recreation District for the annual Turkey Creek Festival at Antioch Park. She said the event will be held on the third Saturday in May (May 17, 2008, May 16, 2009, May 15, 2010.) Ms. Hayden said the event is produced as a cooperative effort between the city and JCPRD staff and has been held in Antioch Park since 1997.

As stated in Exhibit B, Ms. Hayden said that the City would pay JCPRD \$1435 for the use of Antioch Park. The fee compensates JCPRD for the rental of 6 paddleboats and compensation for lost shelter house and rose garden revenues. She said the funding for the Turkey Creek Festival is provided from the Transient Guest Fund.

Ms. Hayden said that a couple of significant items from this past years event is attendance was over 13,000 and to her knowledge that was the highest attendance

ever at this event and also the Festival was staged under budget this year. She noted that Dave Smother, Recreation Supervisor, is primarily in charge of the event and was in the audience along with Tim Murphy, Assistant Director of Parks and Recreation, in charge of the 5K run for that event, if anyone had questions related to the Turkey Creek Festival.

Ms. Hayden said there are some minor changes to the agreement from the past contract as noted in the staff report and pointed out some of the changes. Staff is recommending approval of the 2008-2010 Turkey Creek Festival Agreement with Johnson County Park & Recreation District for the use of Antioch Park.

COUNCILMEMBER HANDS MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF 2008-2010 TURKEY CREEK FESTIVAL AGREEMENT WITH JOHNSON COUNTY PARK & RECREATION DISTRICT FOR THE USE OF ANTIOCH PARK AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

3. Consider approval of Amendment to Interlocal Agreement between the City of Merriam and Johnson County Park & Recreation District for the development of Waterfall Park

Susan Hayden, Director of Parks & Recreation, presented the background for this item stating that the document included in the packet is an amendment to the original agreement between the City and Johnson County Park and Recreation District dated March 27, 2006. She said the original agreement provides for the City to lease from JCPRD a portion of land for use as Waterfall Park and for JCPRD to reimburse the City \$176,000 for development and construction of Phase IV of the Turkey Creek Streamway Trail (Werner Park-Waterfall Park). She noted that \$64,000 remains from the originally approved \$176,000.

Ms. Hayden said that the original trail plan as approved by JCPRD included the installation of a pedestrian bridge across Brown Creek within Waterfall Park. City staff has requested to revise the trail plan and eliminate the pedestrian bridge in order to use the remaining funds to construct a 16-car parking lot near the trailhead in Waterfall Park. She said currently, paved parking does not exist in Waterfall Park and staff considers it a higher priority for trail users than the envisioned pedestrian bridge. Ms. Hayden said the purchase and installation of a pedestrian bridge would become the City's responsibility at such time as funding becomes available for Waterfall Park development as approved in the park master plan.

COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF THE AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE CITY OF MERRIAM AND JOHNSON COUNTY PARK AND RECREATION DISTRICT FOR THE DEVELOPMENT OF WATERFALL PARK AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

Chair Stephens commended Randy Carroll, Public Works Director, and the Public Works staff for the beautiful flowers and baskets around town noting that she had received many compliments on them.

4. Consider approval of a contract with FP&C, Fire Protection and Code Consultants, Inc. in the amount of \$93,000.00 to conduct interior tenant finish inspections for the Critical Care Unit at the Shawnee Mission Medical Center

Dennis Enslinger, Community Development Director, stated that with the issuance of the building permit for the interior tenant finish for the Critical Care Unit Expansion at the Shawnee Mission Medical Center, the City will need to conduct building inspections related to the interior tenant finish. He said given the complexity of the hospital project and other inspection work load considerations; the Community Development Department is requesting to outsource the inspections for this phase of the project.

Mr. Enslinger said that FP&C, Fire Protection and Code Consultants, Inc. has done all of the related plan review for the tower expansion shell and interior tenant finish for this phase of the Critical Care Unit Expansion Project. Under a separate contract, FP&C is currently conducting inspections related to the shell portion of the expansion project.

Mr. Enslinger stated that it is anticipated that it will take 400 inspections for a total of 600 hours of inspection time. The contract is written as a not to exceed amount of \$93,000 which will be billed at an hourly rate of \$155/per hour. The property owner, Shawnee Mission Medical Center and/or the general contractor United Excel Corporation will be responsible for additional inspections which exceed the 600 hours established in the contract.

Mr. Enslinger said that the Community Development Department will offset the inspection services through the collection of the building permit fee for the interior tenant finish which was \$138,536.25.

COUNCILMEMBER HANDS MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF AWARDING OF THE PROFESSIONAL SERVICES CONTRACT TO FP&C, FIRE PROTECTION AND CODE CONSULTANTS, INC. IN THE AMOUNT OF \$93,000 FOR INSPECTIONS SERVICES RELATED TO THE TENANT FINISH CONSTRUCTION OF THE CRITICAL CARE UNIT EXPANSION AT THE SHAWNEE MISSION MEDICAL CENTER (BUILDING PERMIT #2007-131) AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

5. Discussion with Merriam Drainage District (continued from June 11, 2007 meeting)

Chair Stephens said there were several items of concern related to the Merriam Drainage District; and one concern from Councilmember Rowe was damage to the Streamway Path trail. Mr. Bennion and Councilmember Rowe commented that the

damage had been repaired and stopped by the Merriam Drainage District. Mr. Bennion noted that there was scarring that remained on the trail.

Chair Stephens welcomed Jim Wymer, member of the Merriam Drainage Board, and directed comments to him regarding the Drainage District. She said that previously councilmembers had met with the Drainage District and invited them to a meeting to resolve any problems they might have. They agreed to have the Drainage District look at any plans that were forthcoming that might affect any of the drainage for their area and she thought they had resolved a lot of the problems; the communication had opened up and felt very positive about this. But since then, there have been some communication problems regarding meetings and meetings with the Corps of Engineers. She asked if Mr. Wymer might enlighten the councilmembers about what is going on at the Drainage District. Chair Stephens said, in her opinion, that she felt like communication had taken a giant leap backwards instead of going forward adding that the City has made an attempt to be involved.

Mr. Bennion stated that the Drainage District is a separate governmental entity and they gather their dollars from their district and property tax mill levy that covers approximately one-half of the Merriam boundaries and some of Shawnee. He said over the years, there have been different methods of communication with the Drainage District and a couple of concerns he had was work conducted on city property; there are likely easements on some of those properties and should be a courtesy for the Drainage District to inform the City of their plans. He added there have been scheduling issues regarding the park areas. Mr. Bennion said there are concerns about work conducted without permits or notification of the Corps of Engineers or notification of the City; one is the Corp project that is upcoming that is anticipated to be a \$16,000,000 project and if the Corp is unaware of the Drainage District projects, they cannot calculate or create that into their data and plans. He added the City is concerned about any work the Drainage District is doing and not coordinated could alter or affect the floodplain and floodway maps that are produced by SMAC or FEMA commenting that altering of channel flows could affect the maps. Mr. Bennion said it really comes back to open communication that he hoped the Drainage District would want as well as the City of Merriam.

Mr. Wymer said he had been on the Drainage District Board for four months and had requested policies, contracts and agreements in writing and had not received all of his requests. He said he asked for the plans for work this year and apparently the plan for work this year was decided before he was elected to the board and the nearest he can tell is the plan for this year is to keep scraping the silt out of the bottom of Turkey Creek until the money is all gone. At the same time Johnson County Wastewater at 78th Street is dumping silt into Turkey Creek that they are pumping from elsewhere. He added he really did not understand what the policy is for spending the money and was surprised that the residents that pay the tax are not appalled that problems in the entire district are not looked at, just the main channel of Turkey Creek. Mr. Wymer said as far as information regarding the Drainage District, he could not provide any since he could not get it either.

Chair Stephens commented she was concerned about the Corp project and future projects and the City has written requesting notification of meetings.

Councilmember Rowe said he was concerned that if the Corp is funding a study and the work that is being done now could be torn up and that would be a waste of taxpayer money.

Mr. Wymer said that he was unsure of the 5-year plan and understood the 5-year plan was going to be redesigned. Mr. Wymer said he asked why the District is not working with the engineer to design a plan and was told he would get to see it when the Corp got to see it so he had no idea what the new plan would be.

Scott Crain, City Engineer, stated that the City had expressed many of the same concerns to the Drainage District as well as to the Corps of Engineers. He said the City has requested that the Drainage District provide either three or five years worth of projects; where those occurred, what the improvements were and the cost of the projects and the Merriam Drainage District has not provided any answers to any of the requests or questions.

Mr. Bennion said that ideally the open communication would continue much like previous years. Because that communication was not continued, the City has requested notification of their meetings starting in June of 2006 and again this last week so hopefully the City will start being informed of when the public meetings occur.

COUNCILMEMBER CRABTREE MOVED FOR ADJOURNMENT.

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Judy Devereay, Recording Secretary