



**COMMUNITY DEVELOPMENT AND /PUBLIC WORKS  
COMMITTEE MEETING  
COUNCIL CHAMBERS  
August 13, 2007**

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The Community Development/Public Works Committee of the Merriam City Council met on Monday, August 13, 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; Beth Linn, Neighborhood Services Manager; Randy Carroll, Public Works Director; Dennis Enslinger, Community Development Director; and Judy Devere, Recording Secretary.

**Public Items**

Chair Stephens said she received a phone call due to some articles in the newspaper regarding payday loan companies and pawn shops especially at the 75<sup>th</sup> and Switzer location and asked if there is anything that can be done to discourage this type of business in Merriam.

Quinn Bennion, City Administrator, said there have been other surrounding communities looking at ways to restrict or discouraging these types of businesses from locating in their cities. Chair Stephens said if other cities pass something that prohibits or restricts those types of businesses and we don't have anything in our code, then they would move into Merriam.

Dennis Enslinger, Community Development Director, commented that Mission is currently reviewing ordinances and one of the things that is different is for Merriam is there are a lot of Planned Unit Developments and those tend to be very site specific so that would somewhat restrict uses. He added that most of the PUDs are located along Shawnee Mission Parkway and 75<sup>th</sup> Street where those businesses might want to locate and there would be some discussion on whether they would be allowed as a financial institution. Mr. Enslinger said that payday loans are typically located along heavily trafficked corridors. He said Merriam's code does not acknowledge this type of business based upon the age of the code. He said if Council wants to direct staff to look at providing some ordinance, which typically have been in the range of a special use permit or could not locate within a certain distance of each other. He added it is unlikely the City could establish a permanent ban on those types of businesses. Mr.

Enslinger said the easiest approach might be to exclude these types of business from the C-1 and C-2 zoning districts as there are very few C-3 zonings districts in the City. Chair Stephens suggested looking at what other cities throughout the metro area are doing to curb this use. Mr. Bennion said this could be added to the Council list of items.

Chair Stephens asked about the Country Hill Motors building and the roof. Mr. Enslinger said the developer has come up with another alternative to deal with the storage issues so the roof would not need to be raised and this issue should be resolved.

Councilmember Rowe noted that there were two Baska boys of Boy Scout Troop 358 in the audience and should be recognized. Kathleen Baska commended Mr. Bennion for his work with the Boy Scouts.

Councilmember Rowe commented that there was an article in the newspaper regarding the West Antioch School site and asked about the status, the mowing and condition of the property. Mr. Enslinger replied that Mayor Wilkes, Mr. Bennion and he had met with Mr. Applebaum and Mr. Applebaum actually has an active building permit and asked for and was granted an extension to the end of December. He added that Mr. Applebaum said he would be moving forward with the project and the City would see activity on the site. Mr. Enslinger commented that staff is monitoring the site for overgrown grass and weeds.

Councilmember Rowe also inquired about the status of the Timber Ridge development. Mr. Enslinger said that a lot of the activity occurs on the weekend rather than during the week. Councilmember Rowe said that would be a nice development when it was done and he is anxious to see it move forward.

## 1. **CIP Monthly Update**

Scott Crain, City Engineer, said the update was included in the packet highlighting that the Johnson Drive crossing repairs would be further delayed and at this time BNSF has not committed to a specific schedule.

Mr. Crain said another item he would follow up on is the Eby Street closure.

Mr. Crain said that the Residential Streets Group I second neighborhood meeting for the project will be held on August 21, 2007 at 7:00 p.m.

Mr. Crain said the 47<sup>th</sup> Street project is moving along now. He said there were some delays because of the Water District installation of their main on 47<sup>th</sup> Street so some of the data needed could not be collected for the traffic study. He said this was now resolved and have a traffic memorandum of recommendation and discussed this with Unified Government. The typical section will be a widened two-lane roadway with sidewalks on both sides of the street. All intersections will remain as stop sign controlled intersections. Mr. Crain said street lighting will be the Unified Government standard for collector streets. He said this standard will provide ample

lighting from the north side of the street for vehicular traffic as well as pedestrian traffic on both sides of the street.

## **2. Discussion regarding City Council direction for detention waivers**

Dennis Enslinger, Community Development Director, said that based upon some approvals and denials, staff requested this item be placed on the agenda for discussion. He said the current ordinance in Chapter 7 of the Municipal Code does allow for detention waivers. He said previously that Scott Crain, City Engineer, and he had made a presentation to the Council regarding the granting of detention waivers and the City Council adopted a policy related to Equivalent Dwelling Units. He said based upon that discussion, Mr. Crain and he had proposed a policy when reviewing stormwater studies, they would first at look whether detention was the best solution given downstream impacts. Recently it has been determined that a study indicated detention should not be provided on a site but the Council, based on the concerns of the public and other issues, denied the detention waiver. Mr. Enslinger said that staff is coming before the Committee and City Council on August 20<sup>th</sup> to ask for additional direction. He said that as he meets with developers, one of the first things they talk about is detention and whether they need to meet the detention requirements or is the detention waiver an acceptable solution. He said at that time he tries to provide the developer with some indication of whether a detention waiver might be an avenue that they should or can pursue based on their location. Mr. Enslinger asked what direction he should provide to the developers based upon recent actions of the Council. He questioned if the Council wanted to be more specific on detention waivers such as looking at sites directly adjacent to Turkey Creek or if there is a feeling that the City needs to revise the stormwater ordinance to remove detention waivers. Mr. Enslinger noted that he sent meeting notices to the Merriam Drainage District and they had representatives present.

Chair Stephens said her concern was if the runoff is going to flow into the creek that is going to affect the downtown area with flooding and problems for businesses. She said her opinion was that everything possible should be done to hold back as much water as possible. She said it was very hard for the Council to make that kind of decision when there are different studies that say different things.

Mr. Enslinger said Merriam Pointe has been granted a detention waiver based upon standards and was approved by Council and it directly feeds into Turkey Creek. Chair Stephens said she felt that was a little different situation because this is further away and she was concerned about water coming from Merriam Pointe and Timber Ridge with all water reaching Turkey Creek at the same time. She said as the city continues to change and put in more developments, it is going to affect Turkey Creek. Mr. Enslinger commented that South Park was a good example, when that comes in, the site would have to meet the stormwater ordinance, and it might be able to meet detention waiver requirements. He said the approach that staff was taking after the EDU discussion was first, the developer had to prove that detention was good and at that point the developer could provide detention if they could not prove they were not going to increase the peak flow on Turkey Creek by providing a detention. He said that is the quandary he is in and ultimately the best thing would be to study the whole watershed but he does not have that ability at this time and given the number of

developments he is currently in discussions with, he is somewhat apprehensive in giving them any direction.

Chair Stephens said she thought the city should look at a boundary along the Turkey Creek bed that affects downtown. Scott Crain said the only detailed way is to draw a line on a map to say below this you don't provide detention and above you do is to perform a detailed study. He said something simplistic could be done like some other entities have done and suggest that if you are within the bottom one-third, you would not provide detention, but if you were in the upper two-thirds, you do provide detention and the City would still be charged with drawing that line on a map.

Chair Stephens said the question in her mind was that Turkey Creek went to Southwest Boulevard and it goes up into Lenexa so to her Merriam is not in the bottom one-third, all of Merriam would be in the top two-thirds. Mr. Crain said it is difficult to draw that line and that is why he tried to get Council off of the one-third, two-third discussion previously and suggested you have a very detailed study before Council that suggests that the peak flow in Turkey Creek will be increased by providing detention. He said after that meeting he wanted to share with Committee members that staff heard concerns from Unified Government who are very concerned with any type of decisions or policies that is going to increase the flows on Turkey Creek and staff had to indicate to them that the direction they received that night based on the professional studies that had been presented would definitely increase the flows on Turkey Creek. Mr. Crain said Unified Government have a situation where Turkey Creek enters the box way downstream that isn't going to change. He said Unified Government is doing Corps projects but the entrance to that box is not going to change so that is a very specific control that they have and any increases to the peak flow on Turkey Creek will impact them so it is not just our downtown that staff is looking at when discussing increasing the peak flow. It is everybody downstream. Mr. Crain said that is what he was trying to get to during the previous discussion. He said we can do better than that because in this situation the city has a detailed study. Mr. Crain said he is very comfortable with the way the code reads now and that we must be willing to support that. When the professional stormwater study comes in and suggests a detention waiver is appropriate and that is what is best for the property then downtown Merriam and downstream the city would have to be willing to trust that and if there is someone who wants to study it in as much detail and suggest something different, which hasn't occurred, then there is something to seriously consider at that point.

Chair Stephens said that the previous Community Development Director, Mr. Glaves, always seemed to look at trying to detain the water and that is the mindset that Council has. Mr. Crain said this is a very difficult concept to understand and recognize and respect that not providing detention can actually be a better situation for the downstream properties. He said it is all a matter of time and when the peak rolls down Turkey Creek and if you are adding to that at that point or whether you have already released the bulk of the water such that it is already downstream and won't be an added effect at that peak flow.

Councilmember Hands asked how long engineers starting saying not to hold water back. Mr. Crain replied the waiver provision has been in since at least 2001 and it

has been utilized it four or five times including Merriam Pointe and Timber Ridge. Councilmember Hands noted that the studies are not trusted because of lack of experience. Mr. Enslinger noted the only way to do that would be to study what happened since the granting of the detention waivers and see what impact we have had from a global standpoint because the stormwater ordinance does not require the developer to look at what was done previously. They look at it from their development alone. He said maybe the city could enter into some agreement with the Merriam Drainage District, who has expressed concern, to do some study like that but in the meantime, the city needs to provide the developers with some indication whether a waiver would be granted if they can prove that the peak flow would.

Chair Stephens said that personally she did not feel the city needs to change what is in effect now. Councilmember Rowe agreed with Chair Stephens that the ordinance was passed and in place and Council should go with staff's recommendation unless they saw conflicting information that would be compelling otherwise the Council should put the trust in staff.

Mr. Crain said that part of the ease for developers to be able to request a waiver has been brought about by the Northeast Johnson County Watershed Study. He said that study has been used as the basis of all the study results that we are seeing. Basically, it is a model of what happens on Turkey Creek and the associated tributaries. He said it is a very big, detailed and complex model that allows staff to drop in a redevelopment to see what will happen when this is done. Mr. Crain said before that study existed; it would have been very difficult for developers to know what the peak flow was on Turkey Creek with any great detail with respect to any type of time frame for the progression of the peak flowing down Turkey Creek. He said that has made it much easier to examine the potential for a waiver. Mr. Crain stated that staff's policy prior to the last two or three months, didn't require that the developers look at one method or the other independent of each other. He said it did not suggest that the developer had to determine that detention is a positive thing. It just said the developer would provide detention or seek a waiver and without a lot of ease in seeking a waiver, it was often time easier for the developer to meet the ordinance by providing detention. He said just because the developer could meet the ordinances at that time by providing detention didn't necessary mean it was a positive thing for the people downstream.

Mr. Crain said that Merriam Pointe, Timber Ridge, Pointe at Prairie Haven, Animal Haven and Merriam Marketplace had all received waivers. Mr. Enslinger noted those had all been within the last four or five years and corresponds with the time the Johnson County study was done and more accurate information was available.

Mr. Enslinger stated that he summarized that the Committee's feeling is that the detention waiver could still be granted and the Committee indicated they would place some reliance on staff and also the consultant but ultimately that decision would be made by the Council.

Mr. Bennion commented that there would be value in a study for the Turkey Creek basin, perhaps partnering with the Merriam Drainage District, to look at more environmentally healthier solutions.

Bill Leap, 5847 Merriam Drive, referred to a summary of findings of the potential impact of Turkey Creek from their engineer, Mark Meyers in St. Louis. He said John Sankey and Mark Meyers both informed the Merriam Drainage District that the assumption in models can be used in a lot of different ways to get a range from hi and low to get the result you wanted and is a guessing game. He referred to the section of the code that gives the Community Development Director the authority to grant detention waivers and that responsibility shouldn't be put on the shoulders of one person, that the Council should make the decision.

Chair Stephens requested that the Drainage Board share the report with the Committee and Council and Mr. Leap said they would but it was a thick study. She also asked that Mr. Leap take back to the Drainage Board a request to consider working with the City and others involved to do a study so that everyone would be more informed.

Lou Silks, 8600 W. 63<sup>rd</sup> St., #301, commented that the provision in the city code that references Section 7, detention waivers, came as a complete shock to one or more of the City Council persons, who adopted the ordinance, and the consequences from all the decisions being made from project to project. Mr. Silks read an excerpt from the report he received from their engineer, Mark Meyers, regarding the proposed Merriam Village Development with respect to stream erosion, flooding and the impact of detention in a one year peak discharge. Chair Stephens asked if the report addressed the one-hundred year flood because Mr. Silks was referring to a one-year flood which is a lot different than a one-hundred flood which is what the Council was concerned about. Mr. Crain agreed with the Chair's comment. Mr. Silks said it appeared there should be some better procedure in place than to have some situation develop based upon one man's decision no matter how competent he may be. Mr. Enslinger said the developer submits a stormwater study with each development and then staff reviews that and is not one man's decision, he talks with consulting engineers, city staff and receives comments from the Merriam Drainage District. Mr. Enslinger said he would be happy to look at the study referenced by Mr. Silks if the Drainage Board would provide a copy to him. Mr. Enslinger said that Mr. Silks was referring to discharge and what the waiver is ultimately talking about is the peak flow into Turkey Creek. He said that everybody knows that the discharge will be greater from that site based on the coverage; it is the impact on the peak flow and relative timing. Mr. Enslinger noted that a study would be the best way to figure this out. Mr. Silks said that the Drainage Board members wanted to do everything in their power to make sure that there are no mistakes made. Mr. Silks added that their engineer would be happy to meet and talk with staff and other professionals. He suggested a study by an independent professional.

Mr. Bennion commented that Merriam is only approximately one-fifth of the Turkey Creek basin and asked if similar requests were being made by the Drainage District for review of projects in Overland Park, Lenexa, Shawnee, and Kansas City, KS that make up four-fifths of the drainage basin that is not covered in Merriam. Mr. Silks said the other cities had never evidenced any interest in that. Mr. Crain asked if the Drainage Board had ever expressed any interest to them. Mr. Bennion said that he understood the care and concern that Drainage District has expressed about

operations in Merriam but would hope they had the same concern and care for the other four-fifths of the drainage basin that drains into Turkey Creek and downtown Merriam.

### **3. Discussion regarding Shop Merriam and Shopping Cards**

Chair Stephens said that as the new shopping centers are going up, a program promoting a savings for residents to shop in Merriam should be planned that would benefit the merchants and downtown businesses. Councilmember Hands asked if Prairie Village was still working. Mr. Bennion replied the program was initiated and was not sure of the status but could find out about their program and others in the area. Mr. Bennion commented that any promotion or program to invite and encourage Merriam residents to shop in Merriam would be a positive and staff could look at that and add to the list.

### **COUNCILMEMBER CRABTREE MOVED FOR ADJOURNMENT.**

The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Judy Devere, Recording Secretary