



**COMMUNITY DEVELOPMENT AND /PUBLIC WORKS
COMMITTEE MEETING
COUNCIL CHAMBERS
September 15, 2008**

The Community Development/Public Works Committee of the Merriam City Council met on Monday, September 15, 2008 at 7:00 p.m. Councilmembers present included: Chair Gayle Stephens, Councilmember Christine Evans Hands, Councilmember Chad Rowe and Councilmember John Crabtree. Staff present included: Phil Lammers, City Administrator; Bryan Dyer, Community Development Director; Susan Hayden, Director of Parks and Recreation; Tim Murphy, Assistant Director of Parks and Recreation; Randy Carroll, Public Works Director; Beth Linn, Neighborhood Services Manager and Judy Devere, Recording Secretary.

Public Items

Chair Stephens asked Randy Carroll, Public Works Director, to provide an update on the Quiet Zone for the Railroad. Mr. Carroll stated that the Quiet Zone was implemented today and horns or whistles will not be sounded at the 75th and West Frontage Road crossing. Chair Stephens noted that the City Council appreciated all the work done by Mr. Carroll to get this accomplished.

1. CIP Monthly Update

Beth Linn, Neighborhood Services Manager, presented the CIP monthly update stating that the contractor is placing sod on the 61st Street/Residential Streets Group I. She said the updated project costs were included in the spreadsheet but the final costs for sod and reforestation were not included in those figures. Ms. Linn stated that reforestation packets would be mailed to residents within the next couple of weeks.

Ms. Linn stated that the City would host a public meeting on September 30, 2008 for Residential Streets Group II for property owners/residents to view the preliminary plans and provide feedback. She said this meeting would be for 56th Street (west of Farley); 56th Street (east of Knox); 57th Street (west of Knox) and 57th Street/Place (east of Knox). Ms. Linn said that staff anticipates holding a separate public meeting this fall for the residents on Carter and Grant north of Johnson Drive to view the preliminary plans for those streets since they would not be constructed until 2014. She said that staff anticipates this meeting would likely be a “walking meeting” in the field this fall.

2. Discussion regarding petition filed for exclusion of Hardy north of 66th Terrace from Residential Streets Group III

Beth Linn, Neighborhood Services Manager, provided the background for this item stating that during the capital improvement planning process, City Council approved the construction of Hardy Street (north of 66th Terrace) as part of Residential Streets Group III project. She said the typical process for residential street reconstruction is to design the project in the first year and construction in the next year. Residential Streets Group III is slated for design of the entire project in 2009 with construction of the south portion, including Hardy, in 2010 and the north portion in 2011.

Ms. Linn stated that staff thought it was important to start discussion with council tonight because next month staff would anticipate bringing the Professional Services Agreement with Affinis before council for consideration of design. She added that if council and the residents choose not to improve Hardy at this point, Hardy would be removed from the Professional Services Agreement.

In 2007, Ms. Linn said there was a petition submitted by residents on Hardy north of 66th Terrace. The petition requests that Hardy be removed from the construction project and remain a rural section street. Ms. Linn stated that there were some differing of opinion by the residents on sidewalks, streetlights and curbs and gutters. Ms. Linn noted that due to personnel transitions with Capital Improvements, staff had not been able to locate a copy of the petition.

Ms. Linn stated that it was staff's recommendation that Hardy Street remain part of Residential Streets Group III and be constructed as an urban section street for the following reasons: (1) improve the stormwater capacity; (2) ease of street maintenance; (3) increase pedestrian safety; (4) beautify the neighborhood; (5) reduce future construction costs; and (6) better turnaround access for emergency vehicles and other traffic. Ms. Linn provided photos of Hardy Street on the overhead for a more clear understanding and explanation of how the street looks currently.

Ms. Linn pointed out that with the installation of curb and gutter together with underground storm sewer greatly improves the capacity and ability to carry stormwater in the area. Without curb and gutter, she said that property owners have ditches that often are insufficient or not properly maintained and do not adequately carry the stormwater. Excess stormwater can lead to water problems on private property caused by improper drainage of stormwater within the right-of-way. Ms. Linn stated that the urban section street uses curb and gutter and storm sewer to keep stormwater falling within the right-of-way in the system.

Ms. Linn added that curb and gutter also allows for proper maintenance of the road by milling and overlaying the top asphalt surface. Without curb and gutter, the only maintenance solution is to continue to overlay the road. With each overlay, Ms. Linn said that the road rises higher and higher each time often causing stormwater problems for adjoining properties.

Ms. Linn stated that adding sidewalk to one side of the street provides the safest place for pedestrian to travel regardless of the amount of traffic on that street. Staff

recognizes that the cul-de-sacs will get significantly less vehicular traffic than a normal thru street. However, she said that the sidewalk is still the safest place for pedestrians of all ages to walk. In addition, installing sidewalk on all streets encourages continuity within the neighborhood. Ms. Linn commented that sidewalk on all streets, including cul-de-sacs, provides links between neighbors that facilitate residents walking their entire neighborhood.

Ms. Linn remarked that new residential street lights beautify the neighborhood while providing light for vehicular and pedestrian traffic. In addition, she said that this lighting is more easily maintained since it is owned and maintained by city public works department.

Ms. Linn stated that when property ownership changes, future property owners may wish to have the street improved to an urban section street. The cost of construction to reconstruct the street at a future date will be much greater than constructing the street in conjunction with the Residential Street Group III project. The cost of raw materials continues to rise. The contractor building the street already has to mobilize crews and equipment necessary. In addition, Ms. Linn said that if constructed at a future date the residents on Hardy would have to experience the inconvenience and mess of street construction twice. Because 66th Terrace will be improved with the project, residents on Hardy will have to experience the inconvenience and mess of construction during Residential Street Group III even if Hardy is not improved. Then if Hardy is constructed at a future date, she said that those residents would have that same experience again.

During the design, Ms. Linn noted that the engineer works to design an adequate bulb, or other turnaround, within the existing right-of-way that allows for easier turnaround for emergency vehicles and other vehicular traffic. Hardy Street is approximately 540 feet long. She said that currently large emergency vehicles have to back down the street to exit. The construction of a bulb or other turnaround will also give normal vehicular traffic a way to turn around without entering private drives.

Roger Settle, 6630 Hardy, asked if ADA is the reason sidewalk was required. Chair Stephens replied that all sidewalks put in Merriam are ADA accessible. Ms. Linn noted that ADA did not require the sidewalk but if new sidewalk was put in, ADA requires less than 2% cross slope and have truncated domes at any entrance into the street. Mr. Settle said he had walked down Craig where sidewalks were put in and it was not aesthetically appealing and had grass growing over the curbs and sidewalks. Mr. Settle noted he was not opposed to curbs but did not want sidewalks. Chair Stephens commented that it was not safe to walk on Craig without sidewalks. Mr. Settle asked about the cost with Chair Stephens replying there was a previous cul-de-sac question on sidewalks vs. non-sidewalks and at the time on the plan and engineer's estimate she thought the savings was approximately \$8,000 taking the sidewalk off but to go back and retrofit it later would be more expensive. She added that sidewalks are added at the time of construction because it is too expensive to go back and put them in later and the council must look to the future. Chair Stephens said that it also provides a uniform standard in the city with sidewalks and lights and most residents are satisfied with sidewalks after they are installed. Mr. Settle said he

disagreed with that and does not feel right when x dollars are spent and looking at the neighborhood that is not that bad and in his opinion, it is money ill spent with the economy like it is now.

Ms. Linn asked Mr. Settle if the sidewalk was up against the curb, would that take away the opposition he had or was he opposed to sidewalk altogether. Mr. Settle replied said he was concerned about the amount of right-of-way that the sidewalk and the streetlights would take away from the yard. He said the yards are not that big. Chair Stephens commented that the streetlights make the maintenance easier for Public Works and can be metered. Previously, KCP&L was paid for the maintenance of city streetlights. Councilmember Rowe added that he has been happy since sidewalk and streetlights have been added in his neighborhood but realized he did not have beautiful trees that were sacrificed or threatened. He said that everything is not perfect but has certainly improved the curb appeal of his home and neighborhood. Mr. Settle said they do not have streetlights now with Chair Stephens noting that the city is installing streetlights to make the streets safer.

Mr. Settle said he had driven around neighborhoods that have the street improvements and asked the residents if they were happy with the improvements and said that probably 60% are not happy with the improvements and money well spent. Chair Stephens added that the residents voted for the sales tax to have the street improvements done and that money is earmarked for streets and can not be used for anything else.

Councilmember Hands asked if the petition was found and how many residents on the street are on-board and how many are not and what they want and do not want. Ms. Linn said that unfortunately with the drastic staff changes within Capital Improvements they had not been able to locate the petition but was hoping the residents had brought one with them tonight. Mr. Settle said he had one from last year stating that the residents wanted nothing done. They went around prior to this meeting and were asking the residents and they had indicated that water control, drainage was a yes but they did not feel that neither sidewalks nor the streetlights were necessary. Mr. Carroll said that if there were 100% of the residents that did not want streetlights, they could go ahead and run the conduit in and when the current residents leave and the next residents want streetlights, the conduit would be there and that was his recommendation. Chair Stephens remarked they are only talking about 2 streetlights. Councilmember Hands asked Mr. Settle if there had been any turnover from last years petition. Mr. Settle said there was one and it is still the rental that was there last year but has a different resident.

Dennis Krause, 6629 Hardy, stated his concern is the loss of his yard and asked if there was any way to get some type of exclusion to at least not to have such a wide street. Chair Stephens replied it would only be a 24 ft. street. Ms. Linn commented that the reason 24 feet was chosen from back of curb to back of curb was because it is about the narrowest you can go where parking is allowed on one side and typically the city has heard from residents that they would like to have on street parking on one side of the street for residents that have large gatherings. Ms. Linn stated that 24 feet was as narrow as you wanted to go and still be able to get an emergency vehicle or get other vehicular past when there is parking on one side.

Mr. Krause said that Everest just put in their utility boxes and asked if the telephone poles have to be moved. Ms. Linn answered that would depend on whether or not they are already at the edge of the right-of-way; sometimes telephone poles are already located at the edge of the right-of-way and until it is surveyed staff could not answer that question. Mr. Krause commented that he has a small yard and would like to maintain as much of his yard as possible.

Mr. Krause asked if the sidewalk could be placed at the back of the curb. Ms. Linn replied that this is an option and has been done on other streets but to keep in mind that when you put the sidewalk on the back of curb, typically sidewalk is four feet wide and when you put the sidewalk on back of curb you have to increase it by engineering standards to five feet wide. She said this is because pedestrian traffic will not walk next to the street because it is uncomfortable for them because of moving traffic next to them.

Ms. Linn stated that one option for residents to think about is to let staff include Hardy in the Professional Services Agreement with Affinis at this point so staff can get more information from the engineer and go down the road of getting the survey and figuring out the curb and guttering to get additional information. She said then at the preliminary meeting with residents have some more with the set of plans in front of them that says, here is what we would like to do, that the residents could give staff some feedback and talk about it with possibly a walking neighborhood meeting. Ms. Linn said that is the reason for this discussion tonight was for the residents to be more informed with the city's process for street projects.

Stan Severance, 6618 Hardy, asked why the utilities could not be buried rather than moving the poles and KCP&L coming in and butchering their trees. Ms. Linn replied that this is something she hears at every neighborhood meeting in the city but unfortunately KCP&L is a private utility and are allowed to provide service to the residents in any fashion they would like to in the right-of-way. She said the city does not have the card to play that would force KCP&L to bury their lines. She noted that KCP&L always said it is far cheaper for them to maintain the overhead lines that to bury them but the city always continue to ask them about burying the utility lines.

Ms. Linn said that when the plans are finalized, they are sent to the utilities and the utilities are required to move out of the way of construction if they are in conflict with the construction. She said that often time, if the utility has had problems with that particular service line or main, they may choose to make improvements at that time. Ms. Linn commented that staff has seen the gas company almost completely replace all of their gas lines in all of the construction projects because the original steel needed to be replaced with yellow plastic. She said if any of the residents have their gas meters at the street the gas company would be required, by Kansas state law, to put it at their house. She said that typically the residents would see utilities working in the area before any construction began.

Mr. Krause asked about the length of construction time for the project. Ms. Linn said that the city does a bidding process called dollars and days in which the contractor not only bids in dollars but also in the number of days to complete the construction and

the city has experienced a decline in the number of days to complete projects. She said one thru street project with cul-de-sacs was 90 days from start to finish.

Mary Sue Severance, 6618 Hardy, referred to the overhead photograph and said when they built their house approximately 30 years ago; they were required by the city to get a permit to do a turnaround. Pointing to the photo she said the end of the street is where the turnaround is located and in their 30 years there, they have never seen an emergency vehicle turn around in it. Ms. Severance said that the house at the end of the cul-de-sac has gas but no access to the street so the gas pipe is on private property to their house across their front yard. Ms. Linn answered that she assumed if the gas line is on private property they would have had to acquire an easement to be there. She added that if they were to move, they would move within the right-of-way and if they did not they would have to acquire an additional private property easement and would have to work that out with the property owner. Ms. Severance said she would strongly recommend that staff do an on site walking tour because at the end of the street where she lives there is a lot of landscaping the property owners have put in. Ms. Linn provided an explanation of the process and when staff would walk the entire project looking for any discrepancies, what is existing today and what would be suggested to the neighborhood. Ms. Severance added that she and her husband are not in favor of the sidewalks or street lights.

Dave Parsons, 6602 Craig, asked if the residents would have a chance to turn down the project if they do not want it after preliminary plans were done. Ms. Linn replied that City Council always has the opportunity to remove it. Mr. Parsons said that was not his question; if the residents at this meeting do not want the streets, if the city goes ahead with the preliminary plans even though they signed the petition that they do not want the street, would they still have the chance to back out of it. Ms. Linn said she takes direction from the City Council; the residents can always talk to the City Council about being removed from the construction project. The City Council can make the decision to remove that street from the construction project. Mr. Parson asked if the residents on the street have to make up their minds right now if they do not want the improvements to keep it from going forward or if they let the city go ahead with the preliminary designs; would that basically lock it into the street. Chair Stephens said at that point, the city would not know costs. She said once staff does the walk thru, the preliminary design is done, everybody gets to look at it and the residents can come to a City Council meeting and talk to the council about if they are happy or not happy. Chair Stephens added that everyone that has come to the council on the street projects expressed their satisfaction. Mr. Parsons asked if the original petition would still be in effect even though they give the preliminary go ahead. Chair Stephens pointed out it is a public street and not a private street. Councilmember Hands noted that the petition never said the city was not going to pursue a street. Chair Stephens stated that the residents always had the option to come talk to the City Council. Ms. Linn stated that she would have to discuss with the City Attorney, but it was her understanding that the petition was submitted for the City Council to consider but right now the City Council approved the 2009-2013 Capital Improvement program Residential Street Group III project which includes the construction of Hardy north of 66th Terrace. The petition is there but until Council directs that street be removed then staff moves forward with this.

Mr. Settle thanked the council members for their time to listen to the residents concerns with the street project. Chair Stephens said that the City Council wanted the residents to understand the project process and have their questions answered. Ms. Linn said that in her experience, not every property owner is happy on a construction project, but she does like to think that staff has tried to hear property owners and address their concerns. Ms. Linn said that staff tries to deal with the concerns on an individual basis and be as flexible as possible taking as much input from the neighborhood as they can and incorporate that into the design where possible.

Chair Stephens changed the order of the agenda moving item 4 up before item 3.

4. Update Regarding the Operation Green Light (OGL) Traffic Control System

Beth Linn, Neighborhood Services Manager, stated that Operation Green Light (OGL) is a regional effort to improve traffic flow and reduce vehicle emissions. Mid America Regional Council (MARC) is working with federal, state and local agencies to develop and implement a regional traffic control system. She said the traffic control system will coordinate traffic signal timings plans and communication between traffic signal equipment across jurisdictional boundaries. Coordinated signal systems could reduce travel delays on highly congested routes by as much as seventeen percent.

On December 18, 2006, Ms. Linn stated that the Merriam City Council approved an agreement with MARC that the Priority Phase traffic corridors will be upgraded and implemented as part of the OGL Traffic Control System. The corridors to be coordinated through Merriam were identified as Shawnee Mission Parkway (Mastin to Craig); Johnson Drive (Merriam Drive to Antioch); 75th Street (Switzer to Antioch); and Antioch Road (I-35 to Merriam Town Center). Ms. Linn had included a map of the included signals in the packet.

Ms. Linn said that MARC is in the process of completing the design, construction and implementation activities necessary to allow coordination and monitoring of these corridors from the Regional Traffic Management Center (RTMC). The agreement also included the hardware and software acquisition/installation necessary for the functions of the RTMC.

Recently, Ms. Linn noted that staff attended an OGL committee meeting to determine MARC's timeline for completion of the Merriam corridors. Shawnee Mission Parkway corridor through Merriam, all the way to the Plaza, was identified by MARC as one of the top priority corridors. Therefore, she said it was included in Work Order 1 for design, construction and implementation. The design for the Shawnee Mission Parkway corridor should be complete by late September / early October. Construction / implementation should be complete this fall.

Ms. Linn said that the other corridors in Merriam have not yet been assigned to a future work order for MARC. Staff will continue to attend OGL steering committee meetings and monitor the progress. She said the entire OGL system includes over 600 signals in the metropolitan area. In addition, staff has expressed their interest in prioritizing the Merriam corridors as soon as possible.

Councilmember Rowe asked about the maintenance funding from participating cities. Ms. Linn replied that MARC has not yet identified the amount of maintenance funding that will be necessary from the participating cities for the program.

Brendan Sneegas, 9502 West 48th Street, stated that he is very pleased with the sidewalks, streets and street lights on their street. Mr. Sneegas asked why the OGL was concentrating on people driving through Merriam and why we could not be concentrating on people driving throughout Merriam and concentrate on the retail district and try to maintain and promote ease of access for the residents who live within 1-1/2 miles of the Merriam Town Center. Mr. Sneegas said his family does the majority of their shopping at Hen House, PetsMart and at Sears. He said from leaving his house and driving on Merriam Lane to Shawnee Mission Parkway, there are nine red lights that they have to stop at in 1-1/2 miles and that means there is a red light every 266 yards and is too many red lights. Mr. Sneegas stated he hoped that Antioch could become a priority as a result of having so many lights in such a short distance and secondly, to really concentrate on the residents who want to promote and to spend their dollars in Merriam and make a 12-13 minute trip. He said that in 12-13 minutes he could be shopping on 95th Street by getting on I-35 and spending 10 minutes on I-35 but why should he get on I-35 when he can get the same thing right down the street from where he lives. Mr. Sneegas said it was frustrating and a waste of gas and time sitting at all those red lights. Ms. Linn commented that staff would continue to ask for the Antioch corridor to be a priority.

Chair Stephens asked Randy Carroll, Public Works Director, to address the traffic signals on Antioch regarding adjustments made to them in the past. Mr. Carroll said there had been issues on Antioch in the past and Shafer Kline Warren had looked at this. Mr. Carroll said staff is very much aware of the situation and public works has tweaked the lights on Antioch. He said he has worked with the traffic engineers at Overland Park looking at those situations and thought the issues were mostly resolved. Mr. Carroll said he would send a crew out to Antioch to look at the timing on the signals and what is important is when a citizen calls is the time they experienced the problem.

Councilmember Rowe asked if the signals could be timed so if you are driving an average speed of 30-35 mph, rather than having the I-35 trip the light that they be set on a timer, so if a person were driving a normal reasonable speed, that they could go through without a problem. Mr. Carroll said the point was well taken but that is where the problem lies is the timing gets off and out of sequence i.e. the Fire Department goes through there with OptiCom and throws the signal out of cycle. He said there are a lot of factors so sometimes the signal does not get back into the cycle and he must figure out how to get it back in. Mr. Carroll said it takes a full four cycles to get the signal back into the right sequence.

3. Update regarding the Vavra Park Buffer Feature Phase III Project

Beth Linn, Neighborhood Services Manager, said there was a bid opening on September 4, 2008 for the Vavra Park Buffer Feature Phase III. She said that typically staff would be bringing forth recommendation by the architect and a

construction contract for consideration by the committee and could be forwarded to the City Council but on this particular project because of the unique construction the architect does not have a recommendation for awarding the contract to a bidder at this point. Ms. Linn said the architect is continuing to do research on the bidders that have submitted and staff would anticipate this item would go to City Council for consideration of a construction contract. She said that until the architect was comfortable and ready to issue a recommendation, staff felt it was important to wait and would have additional information for the City Council meeting.

5. Consider approval of Professional Services Agreement with George Butler Associates for the rehabilitation of the Shawnee Mission Parkway Bridge over Turkey Creek Tributary

Beth Linn, Neighborhood Services Manager, provided the background for this item stating that during the biennial bridge inspection process, the 1936 portion of the Shawnee Mission Parkway Bridge over the Turkey Creek tributary at Mastin was identified as needing to be scheduled for replacement. City staff submitted an application and was awarded 2010 Bridge Replacement and Rehabilitation funds from Mid America Regional Council (MARC) and Kansas Department of Transportation (KDOT) in the amount of \$1,200,000.

Ms. Linn said that in August 2007, the City of Merriam solicited proposals from qualified professional engineers interested in performing design services for the city and received five proposals. The selection committee short-listed consultants based on their proposals. She said this resulted in a process where four consultants were ranked independently on a variety of criteria related to the project.

On October 22, 2007, Ms. Linn said that the City Council concurred with the selection committee's recommendation of George Butler Associates (GBA) as the consultant of choice for the Shawnee Mission Parkway Bridge over Turkey Creek Tributary project. GBA has significant expertise with bridge rehabilitation and design as well as traffic concerns that may be present on this project. She noted that they also have experience working with KDOT's Bureau of Local Projects. This project will involve KDOT participation since the City was successful securing funds through a MARC grant process back in 2005.

Ms. Linn said that on March 24, 2008, City Council approved a Professional Services Agreement (PSA) for a conceptual study to determine the feasibility of rehabilitation of the culvert. GBA has completed this study and issued a report of findings. Based on field observations, subgrade testing and hydraulic analysis, Ms. Linn stated that GBA has recommended a new approach that will rehabilitate, rather than replace, the existing bridge.

Ms. Linn pointed out that rehabilitation has two significant advantages over complete replacement. First, the new approach designed by GBA will rehabilitate the deteriorated top slab while allowing Shawnee Mission Parkway, which carries significant vehicular traffic, to be virtually unaffected by the construction. She said that most of the repairs can be performed from inside the reinforced concrete boxes; however, there may be the need for temporary lane closures. These closures will be

restricted to non-peak traffic hours and only one lane at a time. Complete replacement would have required complete closure of the road. Second, rehabilitation of the bridge lowers the construction costs estimate for the project. The construction cost was previously estimated at approximately \$1,500,000. Current construction estimate from GBA is \$727,500.

Ms. Linn stated that GBA has prepared a Professional Services Agreement for the services associated with design of plans to rehabilitate the bridge and bid the project.

Councilmember Rowe asked that since the City has already been awarded \$1,200,000 from KDOT and the cost will end up significantly lower than that, will the City get a percent of the \$1,200,000. Ms. Linn replied that she had contacted Mid America Regional Council and submitted a copy of the report of findings and a letter requesting that the city would like to do rehab instead of replacement and KDOT has a committee that will actually hear that in November and she planned to attend but her guess is that KDOT will match the construction costs whatever that might be. She said that once GBA gets through the design phase they will issue an updated cost estimate that can be used in conjunction with Mid America Regional Council to get the funding. Councilmember Rowe asked if GBA's cost would be included as part of that total. Ms. Linn replied that KDOT and MARC funding is just for construction and the city is responsible for GBA costs. Ms. Linn said the city would get funding from CARS for the city portion. Chair Stephens inquired as to how much longer the bridge would last by just doing the rehabilitation. Ms. Linn replied she could ask for the information. Councilmember Hands asked about closures on Mastin for the school traffic. Ms. Linn said she did not think the closures would be a problem on Mastin and if something there needed to occur they would make sure it was during off peak hours not during school traffic.

COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH GEORGE BUTLER ASSOCIATES IN THE AMOUNT OF \$167,747 FOR THE DESIGN OF THE REHABILITATION OF THE SHAWNEE MISSION PARKWAY BRIDGE OVER TURKEY CREEK TRIBUTARY AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

Chair Stephens asked Councilmember Bertoncin to speak regarding her experience with the Operation Green Light on Shawnee Mission Parkway in Shawnee.

Councilmember Bertoncin stated that she travels Nieman and Shawnee Mission Parkway often and found that since OGL has gone into effect, she can wait through several lights to get across Shawnee Mission Parkway and also if she hits the first red light on Shawnee Mission Parkway, she would hit them all red if she went the speed limit. She said she was not sure this is something that residents would want to see in Merriam. Councilmember Bertoncin said that at the Goddard intersection, 3 cars can get across during rush hour if Shawnee Mission Parkway traffic has not blocked it. She said she knew those could be regulated but it is definitely gotten a lot worse and there is a lot more traffic going out Shawnee Mission Parkway. Ms. Linn noted that the traffic lights from Mastin on Shawnee Mission Parkway west is in operation and

she can go all the way from City Hall on Shawnee Mission Parkway to Pflumm without stopping if you drive the speed limit and time it correctly adding she had not noticed what was happening with cross traffic. Councilmember Bertoncin stated she thought this was something that should be considered. Ms. Linn said that one thing that would benefit the city for some of the arterials is obviously Antioch being another corridor will help regulate that in some fashion but certainly that is one good thing about the city having jurisdiction into the system is to make some adjustments if needed. Chair Stephens commented said that traffic coming off I-35 going east is where the city gets the gridlock for the first couple of lights before getting to Antioch.

Bob Bertoncin, 9921 West 65th Place, speaking as a retailer driving around and one thing the OGL does not do for the City of Merriam nor for Mission, Shawnee, Fairway, Westwood and up and down the road as a retailer sitting on a prime street, as a retailer that collects your city taxes, he wants the cars to stop in front of his store and be held up as long as possible. He added he was serious about his comment and a person could not go through Fairway and Westwood without stopping at every light. He said that was done intentionally because when he sits at a light and sees a coffee shop, he would think he needs to get something and would get it on his way home. Mr. Bertoncin said he understood OGL from a gas mileage situation but with the gridlock at Nieman and Shawnee Mission Parkway, Quivira and Shawnee Mission Parkway; it has not eliminated the gridlock at all. He said all it has done is to irritate the retailers who bought the prime location that pays the city's sales tax. Ms. Linn responded by saying that OGL for a couple of reasons, obviously the gas mileage, traffic flow, emissions, congestion and that is one of the things talked about in the citizens survey as being a high priority for citizens in Merriam. She said the other thing is that on city staff there is not a traffic engineer and that is not something that will necessarily be a skill set in a city engineer; traffic engineering is a specialty and hoped some trust could be placed in Mid America Regional Council that the city can work with them regarding adjustments. She said that Fairway and Westwood will soon be on OGL that will go all the way to the Plaza.

Councilmember Crabtree commented that he had seen great improvements with Operation Green Light.

6. Consider approval of recommended purchase and installation of picnic shelter and related equipment for Vavra Park

Tim Murphy, Assistant Director of Parks and Recreation, provided the background for this item stating that the request is to consider approval of the recommended purchase and installation of a picnic shelter and related equipment for Vavra Park. Mr. Murphy noted that the CIP budget includes \$85,000 for the picnic shelter and amenities. He said that when the Chatlain Park Pavilion was approved in 2004, the council agreed to adopt the structure shape and design as the city standard for future installations of picnic shelters in other parks throughout Merriam. Upon completion, Mr. Murphy noted that the pavilion will meet all current accessibility standards and allow patrons to have water access when utilizing the pavilion and grill.

Mr. Murphy said that four bids were received for the project. Bid specifications were structured so that the city could select the best bid for the picnic shelter, and have the potential to select a different vendor for the equipment.

Mr. Murphy stated that the installation of the pavilion was included in the bid specifications and Public Works will perform the installation of the water fountain, barbecue grill and assist in the concrete work for the pavilion floor. He noted that the project would be completed in time for pavilion use in the spring of 2009.

Mr. Murphy said that staff is recommending bids from the following vendors for an expenditure of \$41,457.32.

- Polygon Pavilion by Recreation Resources at \$31,457
- Picnic tables (qty. 7) from Recreation Resources at \$4,343
- Trash receptacles with dome lids (qty. 4) from Cunningham Associates at \$1,897.32
- Barbecue grill (one) from Athco at \$560
- Water fountain from Most Dependable Fountains at \$3,200

Mr. Murphy added that the project budget is \$85,000 and includes the pavilion, concrete pad, water line and electrical installation, a porta pottie enclosure and all equipment. He said that staff estimated for the work to be provided by Public Works at \$29,808 for a total project expenditure of \$71,265.32. There was discussion regarding the estimated expenses.

Chair Stephens said that she had some questions on the small project construction contract and had e-mailed the City Attorney for review before the council meeting. Ms. Linn added that the City Attorney had sent her a new contract that was not included in the packet with Chair Stephens commenting there may be more changes after it is further reviewed.

COUNCILMEMBER HANDS MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL TO APPROVE THE BID RECOMMENDATIONS FOR THE PURCHASE AND INSTALLATION OF A PICNIC SHELTER AND RELATED EQUIPMENT IN THE TOTAL AMOUNT OF \$41,457.32 AT VAVRA PARK. THE MOTION WAS UNANIMOUSLY APPROVED.

7. Discussion regarding duplex lot splits

Bryan Dyer, Community Development Director, said this is an item staff is bringing to the committee and also would take to the City Council for feedback and ideas of what the committee's feelings are on the subject. Mr. Dyer stated that he had presented this to the Planning Commission for their consideration and feedback. The subject was brought up for a specific situation and that being the splitting of duplexes for the purpose of selling them off as individual living and dwelling units. He said for the City of Merriam there are two potential conflicts to allowing that and that is why he was coming to the committee to see if there was a desire to allow for the splits

for duplexes for that purpose and if the committee does wish to see that and to what extent would the committee feel it appropriate to regulate that.

Mr. Dyer said if you split a duplex off, you double the potential for home ownership and that is generally why this is done. He said on the other hand, you also increase the potential of going from one landlord to two landlords with two different people purchasing a duplex and having to deal with two landlords for property issues.

Mr. Dyer said the situation in Merriam at the present time is that the subdivision regulations, not the zoning code, state that a lot split can be done but the resulting two parcels have to be of size that fits within the zoning code for that area which for duplexes. This is difficult if not impossible to do because of the large requirements for lot sizes in a duplex zoning area.

Mr. Dyer referred to the building codes requiring that for the sale of building and property the building has to be divided by an independent, two hour rated firewall which is very difficult to go back and retrofit an older existing duplex. He said the newer units that come in should most likely already have the two hour rated firewall.

Mr. Dyer said what the majority of the communities in the metro area do is simply that they don't deal with the issue at the city level. They allow the property owner to go to the County and file a Plat of Survey which requires no city review, but he thought the County would make the City aware that happened but does not go to the Planning Commission, City Council and staff does not review it. The Plat of Survey is filed and the properties are divided in one-half. Mr. Dyer stated that the other end of the spectrum on this in regard to levels of regulations is what the City of Olathe has done. On the zoning and subdivision side, they have said if the parent parcel and parent building structures, if they meet all zoning regulations i.e. setbacks and lot size before the lot splits occur, they can do the lot split. On the building code side, he said they have said that before the lot split happens there has to be an affidavit filed with the County RTA that states there is a one hour rated firewall in the structure which is obviously a lesser level than what the code says. Mr. Dyer said the questions he would like feedback from the committee and if

- Is there an interest from the committee in facilitating duplex splits
- In regards to what level of review would the city have from none to a high level review with having the lot splits come before the Planning Commission and in regards to handling the building code issues with the fire rated wall.

With that, Mr. Dyer asked for input and guidance from the committee and said he would also be bringing this before the City Council as well.

Mr. Dyer said that the Planning Commission had indicated that it appears that there is a need for investigating on the basis of increasing the opportunities for affordable housing for home ownership within Merriam and the Planning Commission liked the model of Olathe and would like to have the one hour firewall inspected if it goes forward as well as having an affidavit filed with the County so that whenever someone does a title search, that would be pulled up. He added that the person that brought up the duplex split was in attendance and most probably would like to

proceed at a quicker pace and there is a potential that the Planning Commission could see a lot split for a duplex and he would discuss with Legal Counsel as to whether or not the Planning Commission in looking at the lot split can grant a waiver from that requirement in the subdivision regulations or whether or not it would actually go to the Board of Zoning Appeals for a variance first so there is the potential that the Planning Commission could see this come before them before the City get the codes modified.

Chair Stephens asked if new construction would be separate from existing construction. Mr. Dyer replied that if a one or two hour firewall was required it would be for existing structures and in talking with John Hollis, Chief Building Inspector, probably date it to anything prior to 1999 to say you would be able to allow a one hour rated firewall. He said any structure after 1999 would require a two hour rated firewall.

Chair Stephens commented that splitting a duplex is wonderful for home ownership but the problem she sees is someone purchasing it for rental and there are two landlords with one person really maintaining the property and one that does not.

Councilmember Rowe asked if any duplex in Merriam currently is under single ownership to which Mr. Dyer replied "yes and no". Mr. Dyer stated there are Plats of Surveys that have been filed that do not meet city code. He said until just very recently, the city has no review of those. Anybody at anytime can go down to Johnson County and file a Quitclaim Deed and parcel off a little hunk of their land and sell and the city would never know about it. Mr. Dyer noted there are duplexes in Merriam that have Plats of Surveys and have been split. Councilmember Rowe asked if there had been requests for duplex lot splits. Mr. Dyer said there has been one that came through and precipitated this discussion and when he started looking at the code and from his past experience at the City of Olathe, and was trying to be proactive and start the conversation. He added that if this is something that the council does not want to pursue, there would be no changes but if the council wants to see something changed regarding this, and then there would need to be some determinations of the code or make code revisions.

Phil Lammers, City Administrator, commented that the city could have a bad landlord on one side but still have both under control. He said a lot of cities are talking about the splitting of duplexes. Chair Stephens added that if the city was thinking about looking at the possibility of doing that type of development plus houses in the South Park area, the city should think about being proactive regarding that and that would allow for the sale of duplexes in the redevelopment area. Councilmember Hands stated that she supported the Olathe model. Mr. Dyer clarified that from staff level this was just for duplex lot splits and that when you get into larger than that there are some other code issues and also get into condominium plats where the owner just owns the structure and the property is owned in common.

8. Update on development projects

Bryan Dyer, Community Development Director, updated the committee on the following developments:

- Assistant Community Development Director/Engineer – Mr. Dyer said the position is currently being advertised and would close October 13.
- Merriam Pointe – 2 hotels have submitted for building permits
- Merriam Village – The street lights at Eby and Johnson Drive are in. Final Inspections are still needed for Eby Street. Circuit City is moving forward and they are hoping for a late October or early November soft opening.
- Timber Ridge – It has been mowed.
- Pointe at Prairie Haven – Watching closely for mowing issues. There were some hydrants installed but there has been no more activity.
- Shawnee Mission Medical Center – Additional signage approved by the Planning Commission for the new building and additional monument signs. They are looking at a late December opening for the new addition. Signage for the Medical Office Building to the west of the hospital was also approved by the Planning Commission.
- South Park – Mr. Lammers and Mr. Dyer met with a prospective developer and there were some concerns about the way the process is going. They then met with the school district superintendent and assistant superintendent and will have a lot of information to bring to the City Council meeting.

9. Report on Shadowcliff Conference

Councilmember Hands reported that she attended the “America’s Green Region” workshop about sustainable communities at the Shadowcliff Conference in Colorado. Councilmember Hands said there were 22 attendees, 7 of those were elected officials, 6 from cities and 1 from Jackson County. She said there were 6 city staff people and additionally Dennis Murphy who presented. There was 2 Johnson County staff, 1 MARC representative, 2 from EPA Region Seven, and 4 private citizens; 1 from KCP&L, a lawyer, a private school administrator and the publisher of Greenability. She added that it was a very diverse group with lots of dialogue.

Councilmember Hands said that the definition of sustainability is much bigger than just climate change because climate change has so many people up in arms whether that is a real thing or not but that sustainability actually involves a thinking process that involves considering equity which are really the social factors, economic and environment. All of those three legs should be in every decision that anyone makes.

Councilmember Hands described her experience regarding the eco-system and the overpopulation of the elk in Colorado. She noted that “green” is becoming much more main stream and people use green everywhere. Councilmember Hands commented that Dow Jones now has a sustainability index in some of their calculations.

Councilmember Hands said that they were there to talk about America’s Green Region and was about the Metro Kansas City area which is only 8 counties, 120 municipalities. She the whole concept was created by some Kansas City stakeholders that included people from MARC, Bridging the Gap, City of Kansas City, MO,

Chamber of Commerce, and the Johnson County Government and she thought Wyandotte County. The goal of America's Green Region is to create and support a sustainable region that simultaneously increases the vitality of our social economic and environmental systems for the benefit of current residents and future generations which is huge. A lot of the process work has already been done and the purpose was to share what the stakeholders had put together to try and increase the puddle of people that are exposed to the concept.

Councilmember Hands said that they talked about the Mayor's Climate Protection Agreement. There were 3 mayors in attendance from Prairie Village, Edwardsville and Roeland Park and the group listened to the experiences from the different cities as they approached the idea of sustainability.

Councilmember Hands said that in order to expand the puddle for the Green Region, they put the group through a rather rigorous exercise to ask what they planned to do past attending the conference. She said the actions taken were to:

- Recommend to the MARC board that they wanted a collaborative group for regional sustainability.
- Under the umbrella of the Green Region to say that under the energy efficiency is something they could act on rather quickly that would be measurable and doable and will have some impact.
 1. Get together again on October 3, 2008 at Sylvester Powell Community Center
 2. Promote KCP&L programs already in effect
 3. Work on ways to increase energy audit on all buildings
 4. Find ways to incent developers and landlords to increase energy efficiency

Councilmember Hands stated that it was a great experience and she had information she could share with anyone interested.

10. Discussion regarding Everest/SureWest

Chair Stephens referred to the overhead photograph of 66th Terrace where Everest/SureWest had installed utility boxes and said that numerous residents had contacted councilmembers and staff regarding the utility boxes. She said that staff had been wonderful in handling the whole issue of resident complaints. Chair Stephens and other councilmembers had driven the streets where complaints were received and she noted that in her opinion, SureWest had done everything to make the structures look less obvious.

Bryan Dyer, Community Development Director, stated that the city does not set the rules for the utility use at right-of-way; the state does and the city plays within their boundaries that they have provided. Mr. Dyer read a portion from the state statute *"Any provider shall have the right pursuant to this act to construct, maintain and operate poles, conduit, cables, switches and other related appurtenances in facilities along, across, upon and under any public right-of-way in this stat. The authority of a*

provider to use and occupy the public right-of-way shall always be subject and subordinate to reasonable public health safety and welfare requirements and regulations of the city." Mr. Dyer noted that the state says the utilities can do it and the city can regulate it to a certain level and that certain level is only public health safety and welfare which is a very high standard. It is not aesthetics and is not mentioned in the state statues or anything like that. The city revised the ordinance regarding utility structures earlier this year and those ordinances were revised in such a manner to bring the highest level of regulation possible and the most current forms of regulation possible under the state statues so the City of Merriam has done all it can within the boundaries that have been established by the State of Kansas to regulate the utilities that are in the right-of-way. Mr. Dyer stated that Everest/SureWest has met all the standards that the City of Merriam has and Everest/SureWest has gone above and beyond in a number of cases of requirements that are in the city ordinances. He said a number of people said there were utilities in their back yards and asked why the utility boxes were not put in the back yards. Mr. Dyer said as Chair Stephens mentioned, that many times those utilities are there because it is an overhead easement and many times it is an exclusive easement and very complicated. He said that in many cases, many subdivisions, especially the older ones, do not have platted easements in their back yards. He said many times the utility companies, way back in the day, just strung a wire down the back and did not obtain an easement. Mr. Dyer commented that the City of Merriam is playing within the rules and regulations set by the state.

Mr. Dyer said that in regards to where the city is right now with this is that Everest/SureWest has heard the complaints and they spoke with Randy Carroll, Public Works Director, and they are now going to change out all the 6 inch pedestals to flush mounted boxes. He said he spoke with Everest/SureWest today and they said the vaults will look very similar to in-ground irrigation boxes and hoped to have all the boxes changed out in the very near future and are going to flush mounted boxes for anyone with a 6 inch pedestal and about 80% of the pedestals will become flush mounted within the City of Merriam.

Chair Stephens said that in speaking with Mr. Dyer and Mr. Carroll that Everest/SureWest has bent over backwards and has been so good to work with the City in addressing the residents concerns. Mr. Dyer added that the changes for the flush mounted boxes are just Everest/SureWest trying to do the right thing and there are no city ordinances, no state statues requiring them to do that; they are simply trying to address the concerns of the citizens of Merriam. Mr. Dyer said he had been asked if other utilities could come in and do this and he explained that yes they could. He stated that state statues again say that the City of Merriam can not regulate for competitive advantage and the next utility that wants to do this, as long as they meet city ordinances, can put in the utilities.

COUNCILMEMBER CRABTREE MOVED FOR ADJOURNMENT.

The meeting was adjourned at 9:27 p.m.

Respectfully submitted,

Judy Devere, Recording Secretary