



**COMMUNITY DEVELOPMENT AND /PUBLIC WORKS  
COMMITTEE MEETING  
COUNCIL CHAMBERS  
November 17, 2008**

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The Community Development/Public Works Committee of the Merriam City Council met on Monday, November 17, 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; Randy Carroll, Public Works Director; Susan Hayden, Director of Parks and Recreation; Tim Murphy, Assistant Director of Parks and Recreation; Beth Linn, Neighborhood Services Manager and Judy Devere, Recording Secretary.

**Public Items**

Chair Stephens asked if there were any items to be discussed that were not on the agenda. Hearing none, she reminded the audience that there is a five minute time limit when speaking regarding an item on the agenda. Chair Stephens requested that each person wishing to speak state their name and address for the record and speak clearly into the microphone.

**1. Consider approval of Merriam Aquatic Center 2009 Recommended Season Operating Schedules and Fees**

Susan Hayden, Director of Parks and Recreation, stated that the 2008 Aquatic Center season was positive. She said that the city provided a number of different programs including the daily open swim, the Merriam Dolphins swim and dive program, Aqua Aerobics program, swim lessons and private party pool rentals and special events.

Ms. Hayden said that in light of the economic climate and poor weather conditions daily attendance exceeded 2007 by over 1400 additional visitors. She said that expenditures were lowered by 14% over 2007, revenues were approximately 5% lower than 2007 and the revenue to expenditures cost recovery was 34% this year; an improvement of 3% over 2007.

Ms. Hayden noted there were a number of reports in the packet including one that details comparison over the last ten years and a daily pool report as well as a survey of daily fees charged by some of the local cities.

Ms. Hayden said the staff recommendations for 2009 were discussed with the Parks and Recreation Advisory Board and they were unanimously approved at their October meeting.

Ms. Hayden presented a summary of staff recommendations for 2009 as follows:

- **Season Schedule:** Sunday, May 24 – Monday, September 7
- **Normal Operating Hours:** Noon – 8:00 PM Daily
- **Reduced Hours beginning mid-August to Labor Day**
  - **Current (past years) reduced hours schedule:**
  - 4:00 PM–7:00 PM M-Th, 4:00 PM-8:00 PM Fridays, Noon-8:00 PM Saturday and Sunday
  - **Recommended new schedule:** Closed Monday-Thursday
    - Open Fridays 4:00-8:00 PM, Saturdays Noon-8:00 PM, Sundays Noon-7:00 PM
- **Aquatic Programs:** Offer the same programs as 2008
  - Learn to Swim
    - Offer three morning and three evening sessions/8 lessons per session, and one private lessons session
  - Merriam Dolphins Swim and Dive Team
    - Provide funding for coaches, league dues, staff support for home meets
  - Aqua Aerobics evening lessons
  - Special Events: Dive-In Theater and Pooch Paddle
  - Private Party Pool Rentals
    - Offer Saturday and Sunday morning rentals in addition to evenings
- **Concessions**
  - Simplify menu to basic items that sell well and do not require extra staff for preparation
  - Reduce staffing from 3 to 2 workers on duty per shift
    - Labor cost savings is an estimated \$4000
- **Admission and membership policies:**
- **Daily Admissions-**
  - Current daily fees: (last increase 2007)
  - Merriam resident \$4.50 youth, \$5.00 adult;
  - Johnson County resident and guests of members/residents \$5.00 youth, \$5.50 adults
  - Proposed new daily fees:
  - Merriam resident \$5.00
  - Johnson County resident and guests of members/resident \$6.00
  - Proposed punch card available to all residents and non-residents
    - Resident 10 visit \$45.00
    - Non-resident 10 visit \$54.00

Ms. Hayden added that the proposed fees were comparative with other cities and eliminating the \$.50 makes it easier and faster for the cashiers to process the pool patrons. Staff also proposed a 10 visit punch card that would give patrons a discount, increases the potential for revenue, encourage visits and not have to purchase a season pass. Ms. Hayden said that the estimated revenue gains from the proposed daily fees would be approximately \$6,000.

- **Season Passes-**
  - No fee increase recommended-fees were increased in 2007
- **Rules and Operating Policies**
  - No changes recommended

Councilmember Hands noted that the 10 visit punch card was a nice alternative to the season pass.

The council members complimented Ms. Hayden for her efforts in continuing to work on the revenue to expenditures costs and stated she had made good steps this year. Chair Stephens added that the pool would be beneficial for the residents in the summer with people not traveling as much as in the past due to the economics and gas prices.

**COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF THE MERRIAM AQUATIC CENTER 2009 RECOMMENDED SEASON OPERATING SCHEDULES AND FEES AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.**

## **2. Consider approval of Merriam Farmers' Marketplace 2009 Recommended Season Schedule and Regulations**

Tim Murphy, Assistant Director of Parks and Recreation, provided the background for this item stating that the Farmers' Market had no complaints this year regarding the rules, regulations and operation of the marketplace.

Mr. Murphy said that staff continued to work with a vendor steering committee to answer questions throughout the year and provide recommendations for next year's season.

Mr. Murphy stated that the 2008 Farmers' Market shopper attendance was 10,247 compared to 9,922 in 2007. He said the average shopper attendance was 446 per week. Vendor attendance increased to 491 compared to 440 in 2007. Mr. Murphy noted that a comprehensive statistical season report was included in the packet.

Mr. Murphy stated that the staff and vendor recommendations were discussed with the Parks and Recreation Advisory Board at their October meeting. As a result of those discussions, the advisory board and staff recommended the following:

1. **Farmers' Market 2009 operating season dates and hours to be Saturdays, May 2<sup>nd</sup> – October 10<sup>th</sup>** from 7am-1pm. Close at 11:30am on Saturday, July 4<sup>th</sup> (vacate space no later than 1pm) to allow for Fields for Freedom program set up.
2. **Allow sale of food related products**, i.e. pasta, recipes, etc. to allow for one stop shopping area
3. **Allow the sale of eggs**; three vendors that are qualified by the state requested the opportunity to sell eggs and staff is trained to check the temperature of the eggs
4. **Institute a vendor incentive program-** Provide a \$100 fee refund at the end of the year for 2009 registered season vendors who recruit new produce vendors to purchase a season stall. New vendors must attend the market at least 80% of the time in June, July and August. There would be a maximum of 2 new vendors per registered vendor.

Mr. Murphy said staff had been talking to tree nurseries and seasonal plant sellers about being in the market in May or September to sell different products to get the Marketplace looking fuller. He added they are headed in the right direction but wanted to get other people there.

**COUNCILMEMBER HANDS MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF ALL FOUR ITEMS FOR THE MERRIAM FARMERS' MARKETPLACE 2009 RECOMMENDED SEASON SCHEDULE AND REGULATIONS AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.**

Chair Stephens changed the order of the agenda removing item #7 from the agenda because the representative could not appear at this meeting and stated that this item would be moved to the December meeting. She moved item #8 up immediately following item #5 for the convenience of the public in attendance regarding this item.

### **3. CIP Monthly Update**

Beth Linn, Neighborhood Services Manager, presented the CIP monthly update stating that the spreadsheet had been updated to show completion of Residential Streets Group I and 61<sup>st</sup> Street. In addition, she said that the changes have been made to reflect adjustments to project made during the 2008 CIP planning process.

### **4. Consider acceptance of the 61<sup>st</sup> Street/Residential Streets Group I Street and Drainage Improvements and authorize final payment to Miles Excavating, Inc.**

Beth Linn, Neighborhood Services Manager, provided the background for this item stating that this project converted six streets from ditch section to the urban standard with improved storm drainage. Sidewalk and new street lights have been installed on one side of the streets.

Ms. Linn said that on March 24, 2008, the City entered into a contract with Miles Excavating, Inc. to provide the physical improvements. The Notice to Proceed for Residential Streets Group I was issued on May 5 and on June 1 for 61<sup>st</sup> Street. Construction was substantially complete on September 15, prior to the expiration of the contract time. The contractor and city staff have come to an agreement on the final items and their quantities for pay associated with the project.

Ms. Linn said that the total for the project was \$1,238,959.91 which is about \$181,000 under budget. She noted the major contributors to the line item decrease on the project are the lack of need for items such as temporary surfacing due to the quick construction schedule. She said that is a testament to the dollars and days bidding process and a less inconvenience to the residents.

Ms. Linn noted that 61<sup>st</sup> Street was a project done in conjunction with the City of Shawnee and they will pay 30.6% of the design and construction and anticipates that revenue will be approximately \$93,600.

Ms. Linn said that Randy Carroll's crews have finished reforestation for the project.

**COUNCILMEMBER STEPHENS MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR ACCEPTANCE OF THE 61<sup>ST</sup> STREET/RESIDENTIAL STREETS GROUP I STREET AND DRAINAGE IMPROVEMENTS AND AUTHORIZE FINAL PAYMENT TO MILES EXCAVATING, INC. AND PLACE ON THE CONSENT AGENDA. FUNDING SOURCE: SPECIAL SALES TAX PROJECTS-STREETS. THE MOTION WAS UNANIMOUSLY APPROVED.**

**5. Consider approval of an Interlocal Agreement with Johnson County for 2009 CARS funding for the 47<sup>th</sup> Street and Drainage Improvements**

Beth Linn, Neighborhood Services Manager, provided the background for this item stating that in February, City Council approved a resolution acknowledging review and approval of the 2009-2013 CARS application. One of the projects that the City of Merriam submitted for funding consideration was street and drainage improvements on 47<sup>th</sup> Street from Antioch Road to Switzer Road.

Ms. Linn said that this funding request has been approved for 2009 and the Interlocal Agreement has been drafted by Johnson County. The agreement was included in the packet.

Ms. Linn stated that the total costs of construction of this project are estimated at \$2,689,000. She said this is a joint project with Unified Government of Wyandotte County/Kansas City, Kansas. Staff estimates Merriam's half of construction costs to be \$1,344,500. The ILA with Johnson County CARS provides for a 50% financial contribution from Johnson County of Merriam's portion of construction costs up to a maximum of \$672,000. The remaining funding for Merriam's portion of construction costs will come from general capital improvement funds.

Councilmember Rowe questioned how the fuel prices affect project costs. Ms. Linn said that staff met with a consultant and they are not seeing the drop in asphalt to mimic the drop in gasoline and part of that may be the way bid prices are done. She said staff is under discussions with a design engineer to try an innovative bid package where they would do asphalt indexing which would take the volatility of the asphalt market out of it for the contractor and the consultant has seen more aggressive prices in bid pricing. Staff is researching that to find out how it works and any pros and cons that go with that and in the 95% review staff anticipates going over that with the committee to talk about what that means.

**COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL FOR APPROVAL OF AN INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR 2009 CARS FUNDING FOR THE 47<sup>TH</sup> STREET AND DRAINAGE IMPROVEMENTS AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.**

**8. Discussion regarding removal of the median at 57<sup>th</sup> Place and Knox as part of the Residential Streets Group II Street and Drainage Improvements project**

Beth Linn, Neighborhood Services Manager, stated that on October 22, 2007, City Council approved a Professional Services Agreement with Affinis Corporation for the design of Residential Streets Group II. This project includes the conversion of five ditch section streets to curb and gutter streets with improved storm drainage. Sidewalk is envisioned on one side of the street. Public Works would install new residential street lighting. Ms. Linn provided overhead photos of the items to be discussed.

Ms. Linn stated that in August 2008, city staff completed a field check of the preliminary plans with Affinis. The field check includes walking the entire project to check the proposed plans with existing features in the field. During the field check, she said city staff and Affinis had a lengthy discussion regarding the median at 57<sup>th</sup> Place and Knox Avenue and the island at the end. Ms. Linn said that because of a wall along Knox Avenue, Affinis recommended removing the median to increase the sight distance for cars entering Knox Avenue from 57<sup>th</sup> Place. Removing the median allows the street to be narrowed to 24 feet wide, which is the residential street standard width. This moves the lane of traffic farther away from the wall and allows a longer site distance looking north on Knox Avenue. In addition, she said that removal of the median assists Public Works in snow removal and allows a wider driving lane for emergency vehicles.

Ms. Linn said that city staff held a public information meeting on September 30, 2008 to discuss the project with the residents. Overall, the residents seemed pleased with the design and the process the city has used to solicit feedback. She said that the residents who attended the meeting did not raise any concerns about removal of the median or island at the end. However, after the meeting the property owner at 9619 West 57<sup>th</sup> Place and their representative raised a concern with the proposed removal of the median at 57<sup>th</sup> Place and Knox Avenue. The property owner has cared for the

median for many years and places great value on the trees and landscaping within the median.

The property owner's representative suggested removing the stone retaining wall to improve the site distance rather than remove the median. Ms. Linn noted that Affinis ran some figures on the site distance and for this road type and speed; the recommended sight distance is 290 feet. The existing site distance is 80 feet. Below is how changes to the median and/or wall would impact the sight distance at this intersection.

|   |                            |
|---|----------------------------|
| Remove median with no modifications to wall     | 140 feet                   |
| Remove median with slight modifications to wall | 290 feet                   |
| Keep median with no modifications to wall       | 80 feet (same as existing) |
| Keep median and remove wall                     | 290 feet                   |

Ms. Linn stated that staff recommends the removal of the median with slight modifications to the wall to increase the sight distance rather than removal of the wall. The stone retaining wall was installed in the late 1990s during the construction of Knox Avenue north of Johnson Drive. The wall was installed a great expense to the project during construction. She noted that removal of the median would bring the street into compliance with the residential street standard, allow for easier snow removal operations for Public Works and allow a wider driving area for emergency vehicles. By removing the median, Ms. Linn commented that the road would be narrowed and the property owners north and south of the median would gain additional front yard area (14 feet on the north and 8 feet on the south). Since the property owner at 9619 West 57<sup>th</sup> Place has been caring for the trees and other landscaping for many years, Ms. Linn stated that staff would replace those trees and shrubs during the reforestation process as outlined by the council policy for reforestation.

Ms. Linn pointed out that Affinis is finalizing the design plans in preparation to bring them to December CD/PW committee meeting for concurrence to bid. She said it is critical that a decision be reached on the median to prevent delay in release of plans to utilities or construction start in March.

Councilmember Rowe asked if removing the wall would create a drainage issue. Ms. Linn replied when researching the construction of the wall, she found they were trying to redirect the water that would come across Knox at that point from going into the home on the north that sits fairly low to the street. She thought that slight modifications would still keep that purpose but there would be a concern in removing the entire wall.

Chair Stephens asked about the cost of staff's recommendation for modifying the wall. Ms. Linn said she did not know at this time. Chair Stephens said that in her opinion, she would not want to see the whole wall removed. Ms. Linn added that when she talked to the City Engineer about how to go about that is when the construction project was bid, they would bid the normal line item quantities for the city's normal stone retaining wall where it is built from scratch and would do a modification to the existing stone retaining wall as a separate bid item because it

would probably require slightly different intensity of work because of removal individual stones and then recreating the smooth finish.

Colin Gotham, 5301 Albervan, Shawnee, representing Leona McMenemy, resident at 9619 West 57<sup>th</sup> Place, said Ms. McMenemy is in her 80's and not in the best of health but asked that he appear for her to express her concerns regarding removal of the median. He said she was for keeping the island and as far as the wall is concerned, if the city wants to cut it down, they are fine with that. Mr. Gotham said they did not think the island is the problem with visibility because the island is set back off from the actual intersection and is not right up to the intersection. He added that if anything blocks the visibility it is the existing wall. Mr. Gotham said that regarding emergency vehicles, the island has been there for a long time and there has never been a problem or anything that would restrain anyone from getting into the properties. He said there were about 12 homes on the street and it is just like any other divided highway, if that went all the way down it might be a concern but it is a fairly short area and provides an aesthetic quality that his client and some of the other residents believe it adds something to the street and neighborhood. Mr. Gotham remarked he did not think there was ever a problem with snow removal equipment as it exists now. He said he understood the city's position regarding the visibility but they thought the visibility issue is the wall not the island. He said the island is set so far back that you do not stop at the island and look either way, you would pull up much further probably 50 ft. or so before turning. Chair Stephens noted that the concern was not that the island was impeding the visual but if the island was removed it would allow the street to move over and would put the street where the island is to allow a greater visibility. Ms. Linn added that staff was not indicating that the median itself was actually impeding the sight vision triangle. She said by removing the median it allows for moving the lane of traffic to where the median is today and would bring the westbound traffic farther south which allows for a longer distance up the hill to Knox. Mr. Gotham said that is not significant and he did not understand exactly. Ms. Linn explained that by removing the median line the new curb line would be on the north median line so traffic would actually set where the median is today.

Mr. Gotham stated that because the median has trees on it and adds an element of landscaping, the green space associated with it and is somewhat unique, his client prefers it to remain but does not have a position about taking down the wall.

Chair Stephens commented that Mr. Gotham said his client was in her 80's and had been caring for the maintenance of the median; but as time goes by, is she prepared to have the median cared for all the time. Mr. Gotham replied that is not her property and has been caring for the median as a community service but it is asking a little much to ask her to guarantee for the care indefinitely adding it is for the benefit of the neighborhood and has been doing this as a community service activity. Chair Stephens said it is not up to the city to maintain the median and there should be some responsibility and that would be a concern for her. Mr. Gotham said Ms. McMenemy would be willing to maintain the median as long as she is alive but what the future holds he is not sure. Chair Stephens asked if Ms. McMenemy would be happy if the city removed the median and gave her more trees to beautify her yard to replace what would be lost with removal of the median. Mr. Gotham said he did not think his

client would think that would be a fair trade off; that is provides something for the whole streetscape and not just her property.

Tony Caravello, 9613 West 57<sup>th</sup> Place, said it came to his attention about one week ago when surveyors were out marking the new center line of the street that it appears the street would move far south into his yard and was confirmed by the surveyor that was the new center of the street and if his understanding was correct that the street would be about 30 ft. wide. Ms. Linn said the 30 ft. is what is called paved improvements so it is 24 ft. of roadway from back of curb to back of curb and 2 ft. of green space and 4 ft. of sidewalk. Ms. Linn added that the surveyor was correct, that staff was preparing for a utility meeting and they always pin the road to help the utilities do any potholing. She noted the street does shift quite a bit to the south and the paved improvements are centered within the right-of-way and the existing roadway is not anywhere near centered within the right-of-way. She said what is done is to center the paved improvements within the right-of-way so that property owners on both sides of the street are sharing the burden of the improved street.

Mr. Caravello asked about the current width of the street to which Ms. Linn said it was approximately 21 ft. to 22 ft. wide so the actual street would actually widen only a few feet. Mr. Caravello said one of his concerns is if the street is shifted to the south; there are two large black walnut trees that would be removed and obviously did not grow up in the last ten or fifteen years. One is 18 inch diameter would sit at the edge and one is 16 inch diameter that would be damaged during the construction phase. He said both trees are very close to where the street would be and puts the street significantly closer to his front door. Ms. Linn said she would be glad to meet with Mr. Caravello in the day or evening to address his concerns. Ms. Linn noted that the two walnut trees are marked on the plans to leave in place which means they are not removed with construction. She added that the best thing to do is for staff to come out and mark the trees in the field. Ms. Linn said that contractors work next to trees all the time and requirements of the contractor are to treat the trees differently when they have to do improvements next to them where they no longer use the track hoe to come in and remove the area next to the tree; they actually come through and slice the roots which seals the roots off and allows trees to do much better adjacent to the street construction. She added that trees very close to the roadway have done very well and recognizes that trees are very important to the residents.

Mr. Caravello requested that when he meets with Ms. Linn to discuss a sloped curb rather than a hard curb at the front of his property. Ms. Linn answered there would be sloped curb at his driveway but the City of Merriam installs high back curbs at the rest for drainage. Chair Stephens noted that is the established city standard that was adopted to use straight back curb and rolled curb at the driveways and that would not be an option for Mr. Caravello. Chair Stephens added that the city also adopted the 24 ft. wide street with 2 ft. green space and 4 ft. sidewalk as standard for street projects throughout the city.

Mr. Caravello said he had heard concerns from residents about the loss of the circle median at the end of the street and would prefer that it stay. Ms. Linn said a public meeting was hosted on September 30<sup>th</sup> and these plans were shown with the median removed and during the field check, staff had spoken with residents and everyone

they talked to indicated they were OK with the median island being removed and city staff has not heard otherwise. She said if there are residents present that would like to express their concerns, the committee would be happy to hear from them. Ms. Linn said the removal would help by providing area for turn around traffic and makes it easier for maintenance of the road because it is easier to do without the island in the middle.

Chair Stephens commented the city learned a lesson on Goodman north of Johnson Drive, the neighbors thought they wanted something on that street and what is there is a constant source of concern and some of the people that pushed for that no longer live on that street and she hopes this is never repeated and Overland Park north of 75<sup>th</sup> Street has some of these types of issues. She said that is why the city tries to keep to the standards so those things don't happen again.

Mr. Caravello asked who was to maintain the existing median at the head of the street when it was installed. Chair Stephens replied she did not know as did Ms. Linn. Mr. Caravello asked if this was a responsibility of the city. Bryan Dyer, Community Development Director, stated those were typically homes associations responsibility and most likely when that was created, there was a homes association in existence that was responsible for the upkeep and maintenance and typically cities do not maintain those medians.

Councilmember Rowe stated that the first concern is public safety; the second concern is emergency vehicles and the third concern is city maintenance. He said he did not see how there was a format for leaving the median there.

Councilmember Hands commented she previously lived on Goodman and she had a large oak tree that survived the construction proving that the standards do work and change is difficult.

**CHAIR STEPHENS MOVED TO DIRECT STAFF TO CONTINUE TO FINALIZE THE PLANS OF RESIDENTIAL STREETS GROUP II INCLUDING REMOVAL OF THE MEDIAN AND ISLAND AT THE END AT 57<sup>TH</sup> PLACE AND KNOX AND SLIGHT MODIFICATIONS TO THE WALL TO ALLOW FOR A 290 FOOT SIGHT DISTANCE.**

**6. Consider approval of pay estimate proposal for additional grading at 8030 West 55<sup>th</sup> Terrace by Miles Excavating, Inc.**

Beth Linn, Neighborhood Services Manager, stated that in 2007, the City completed the Lowell Road/55<sup>th</sup> Terrace Street and Drainage Improvement project. This project converted Lowell Road (north of Johnson Drive) and 55<sup>th</sup> Terrace (Lowell Road to Goodman Road) from ditch section street to the urban standard with improved storm drainage.

Ms. Linn stated that during the design of the project, the property owner at 8030 West 55<sup>th</sup> Terrace expressed concern with the proposed drainage improvements on his property. Prior to the project, she said there was an existing underground pipe that went from the street, along the west side of his house, and opened up just passed the

northwest corner of his house. The preliminary plans designed by Affinis and approved by the City Engineer replaced this existing corrugated metal pipe with concrete pipe in a similar location and length.

Ms. Linn said that due to the amount of water entering the pipe from the improved street, the property owner felt the pipe should be extended past his house all the way to the back fence line before it opened to allow the water to travel above ground into Overland Park. The property owner contacted the Mayor and former City Administrator with this proposed solution. The City Engineer did not feel the extension of the pipe was necessary for several reasons.

After meeting with the property owner and visiting the site, Ms. Linn said that an executive decision was made to extend the pipe past the existing length, adding an additional 160 feet to the middle of the property owner's yard. In order to construct and bury the pipe, Affinis performed additional survey and design work at this property. Due to the lack of cover needed to bury the pipe and grow sod, Ms. Linn said that Affinis designed two parallel 18" pipes extending partially through his back yard. Staff explained to the property owner that due to the existing topography there would be a "hump" in his yard resulting from the buried pipe. During construction, the surrounding property had to be built up around the pipe to provide enough cover to grow grass. The additional design and construction costs totaled \$21,590.

Ms. Linn said that earlier this year the property owner notified staff that he felt the pipe was not draining correctly. The property owner believes that the incorrect drainage is being caused by sediment that had settled in the area of the pipe outlet and that the area surrounding the underground portion of the pipe had settled. Ms. Linn said that staff asked Affinis to survey the property and compare it to the construction plans. Affinis designed an updated plan that includes regrading the swale at the outlet of the pipe to insure proper drainage of the water off the property. In addition, she said that Affinis identified areas around the pipe that had settled and could be brought back to grade.

Ms. Linn said that staff asked Miles Excavating, Inc. to prepare an estimate to perform the additional work designed by Affinis. It is important that any work completed on this property is performed by Miles since the project is still under warranty although everything was installed correctly based on the design plans. If another contractor performs the work, the warranty would be void. This work does not qualify as warranty work since the improvements were installed as designed during construction. Ms. Linn pointed out that sediment exiting the pipe and normal settlement around the buried pipe has caused the current situation. Once the grading and fill work is complete, all areas disturbed would be sodded. The estimate submitted by Miles is \$17,300 to complete this work. She said all work in this back yard must be completed by hand. The yard is too wet all year round for the contractor to use any machinery.

Ms. Linn said that sediment that travels through the pipe will continue to settle at the outlet and will silt in the outlet area. This will continue to be a maintenance challenge for the city particularly since any future work must be completed by hand. The property owner has suggested the installation of a concrete pad at the outlet of the

pipe to allow him to wash off the sediment exiting the pipe. Ms. Linn stated this would greatly increase the cost of the proposed work due to the price of concrete and the difficulty in getting the concrete to the outlet of the pipe.

Ms. Linn remarked that the continued maintenance of this installation was a concern of the former city engineer and construction inspector during construction. The initial design of the pipe extension included the installation of rip rap at the outlet that would have better protected the slope needed for water to continue to drain off the property. However, the property owner did not want the installation of rip rap.

Due to the projected maintenance, Ms. Linn said that staff would recommend that if City Council chooses to approve this work that the property owner be required to sign a release that the future maintenance responsibility would rest with the property owner.

If City Council chooses to approve this work, the funding would come from Special Sales Tax for Streets – Contingency funds. The Lowell/55<sup>th</sup> Terrace project was closed once reforestation was completed in 2007 and any excess funds were allocated to the CIP beginning balance.

Chair Stephens said she talked to Ms. Linn and Mr. Dyer regarding this situation and had Councilmember Bertocin look at it because she is a council person for Ward IV. She noted that there are several things the matter with this. Two wrongs do not make a right. The City Engineer said not to do this project and was done over his objections, cost the city \$21,590. This was never mentioned to the Councilmembers, it was never brought to a meeting, and it was just done. She said the city is looking at an ongoing problem here that the property owner could come back against the city even if they signed a release. Chair Stephens added that the requested work was done, which she did not think should have been done in the first place, and her opinion is that the councilmembers should just forget this and she is not the least bit interested in doing this project and thinks it is wrong. Chair Stephens said this is not what needs to be done and the city does not need to go into private back yards and fixing drainage problems when there are drainage problems all over the city that need to be addressed. She pointed out this is approximately \$50,000 when residents have come forward with petitions to fix drainage problems that are far worse than this. This is on private property that drains into Overland Park where 54<sup>th</sup> Terrace behind is currently being done. She said she personally feels the city can not double the mistake.

Councilmember Hands asked if this was why there was no staff recommendation. Ms. Linn replied yes, that as a member of CIP when the original work was done, staff struggled with this at that point and at this point staff's thought is trying not to continue a mistake that was made. She said she would anticipate the property owner would continue to come to the city for maintenance into the future. Councilmember Hands asked if the mistake made was the attempt to be addressed with Ms. Linn noting that when street projects are done, what staff tries to do is address the drainage so that it gets it past the low opening of any structure and not deal with it on a large drainage scale. She said in particular, if this was going to be addressed if they were really thinking the water was coming from a larger area up above them upon the hill

at Goodman from surrounding areas, then that really constitutes much more of a magnitude of a drainage project rather than in conjunction with a street project so in her personal opinion, replacing the existing pipe that was there with concrete and matching what was already happening in the existing situation was the correct method. She added that the concern was for the future is not putting the city in a position where the city is there once a year regarding the swale in a back yard that requires it to be done completely by hand and adding that work to Mr. Carroll's continual maintenance program. Discussion followed regarding street improvement requests from property owners and bad decisions made on street projects that have been concerns for the city and opening up the city to continuing problems.

**COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL TO DENY THE PAY ESTIMATE PROPOSAL FOR ADDITIONAL GRADING AT 8030 WEST 55<sup>TH</sup> TERRACE BY MILES EXCAVATING, INC. THE MOTION WAS UNANIMOUSLY APPROVED.**

**7. Discussion regarding proposed storm drainage improvements at 9725 West 47<sup>th</sup> Street as part of the 47<sup>th</sup> Street/County Line Road Street and Drainage Improvements**

This item was removed from the agenda and will be placed on the December agenda.

**9. Revising the Planning and Codes Technician position to Planner I**

Bryan Dyer, Community Development Director, stated this was information for the committee regarding the structure of the Community Development Department. He said typically the City Council looks at personnel issues when changing salary structure but this is not the case with this item. He said it is his desire to change the Planning and Codes Technician position, which is a funded position, to Planner I position with no changes to the salary range. He said the duties would be similar to the Planning and Codes Technician position and also added in that person making presentations to Planning Commission and City Council. He said his idea behind this change is for this person is for an entry level planner to gain experience needed to further their career. He noted the whole purpose of this was to rename the position and add some additional responsibilities and assuming the committee is comfortable with that staff would start advertising for the position and fill the position quickly. The committee was in agreement with Mr. Dyer's comments.

Chair Stephens asked about the Assistant Community Development Director/Engineer position with Mr. Dyer stating that first and second interviews had been conducted and hoped to bring that to the City Council in December for confirmation and start work by the first of the year.

**10. Discussion regarding FEMA's adoption of the Johnson County Floodplain and possible public information meeting**

Bryan Dyer, Community Development Director, said that Johnson County is at the very last leg of their huge process of mapping all of Johnson County floodplains. He

said the Johnson County floodplain maps are very detailed in comparison to what FEMA does and it has gone to completely urbanized water shed. He said as water sheds urbanize you get increase of impervious surfaces with floodplains changing in both width and depth.

Mr. Dyer stated he had been in contact with Johnson County and in June or July of 2009; FEMA will adopt the Johnson County floodplain maps. He said Johnson County would like to have the maps out in the public realm, on their website, in February. All the Johnson County communities have had public information meetings on the maps which are simply meetings of information. Merriam has not had those meetings. Mr. Dyer said if the City Council would like to have those public information meetings, staff would like to hold them in February or March. He said he is looking to the committee if they would like to hold the public information meetings. Chair Stephens and the councilmembers agreed they wanted to hold the public information meetings.

Chair Stephens asked how Turkey Creek would be affected. Mr. Dyer said the floodplain is made up of two things; floodway and floodway fringe (floodplain). Development can be done in floodway fringe and not in floodway. For downtown, in general, the floodplain stays fairly similar except the floodway is larger so some areas in the downtown that were in the floodway fringe are now in the floodway which will make it very difficult for them to redevelop.

Mr. Dyer stated that another question might be the Corps of Engineers plans for Turkey Creek and how it will affect the floodplain. He said that is an unknown until the Corps actually puts down an actual plan and hydrology is done and models done. Chair Stephens asked how far the Corps is with their plans for Turkey Creek and she had heard that the Federal Government may go ahead and move on projects that are already ready to get jobs going. Mr. Dyer said the Corps is in the process of doing the feasibility study so it is a study to show what could go down there and what is the best. It is not construction plans. Mr. Dyer said it would be at least spring of next year before the Corps gets back to the city with a feasibility study.

Mr. Dyer said Johnson County has engaged Shockey and Associates, consulting firm, to do the public meetings. It would be a city meeting but Shockey and Associates would do all the prep work for the meetings.

#### **11. Consider approval of auction of city properties**

Bryan Dyer, Community Development Director, stated that the two properties were acquired by the city as part of a larger parcel related to the Antioch Road and I-35 Interchange improvements. He said the City Council approved securing Bill Fair and Company to hold the auctions. The auctions were held November 7<sup>th</sup> with Mayor Wilkes and Councilmember Rowe in attendance. He said Mr. Fair did a fine job with a high bid of \$37,500 for the property on Antioch Road sold to Overland Park Automotive and \$19,500 for the Benson Street property sold to All-Rid Pest Control. He said adjacent property owners purchased both properties.

Mr. Dyer stated that the City Council has to approve the bid and the real estate purchase agreement for both properties. He noted that in the real estate purchase agreement the contract purchase amount is \$41,250 for the Antioch Road property and \$21,450 for the Benson Street property and the reason for that is because there is a 10% buyer's premium on the bid price and goes to Mr. Fair for his fees for services provided. The city will receive \$57,000 from the sale proceeds and had projected about \$30,000 in the budget. Mr. Dyer said staff is recommending approval for the bids and real estate purchase agreements for both properties and could go on consent agenda. The councilmembers expressed their pleasure on the sale and proceeds of the properties.

**COUNCILMEMBER ROWE MOVED TO FORWARD A RECOMMENDATION TO THE FULL CITY COUNCIL TO APPROVE THE BID AND REAL ESTATE PURCHASE AGREEMENT FOR TRISTEN CORNER SUBMITTED BY RICKEY JOHNSON AND APPROVE THE BID AND REAL ESTATE PURCHASE AGREEMENT FOR WANDA'S WOODS SUBMITTED BY CLIFF AND MARGARET JOHNSON AND PLACE ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.**

## 12. Update on development projects

Bryan Dyer, Community Development Director, gave the following updates:

- Merriam Village – the City issued a C of O for the Circuit City building. Retail buildings 1 and 1A are nearing completion.
- Merriam Pointe – The developers will be requesting an extension of the development agreement at the next City Council meeting.
- Hotels – Still working with the Focus Group on building permits and comments.
- Pointe at Prairie Haven – The City had Mr. Applebaum, the property owner, in court and he paid his mowing fees and fines and was put on 30 days probation and will continue to watch the site.
- Timber Ridge – There has been some activity. The developer has engaged Holland Corporation to do a fire access road.
- Shawnee Mission Medical Center – Projects are moving forward.

Mr. Dyer said he had met with Randy Carroll, Public Work Director, and staff regarding concerns with residents blowing leaves out into the street or into the city drainage ditch. He said they put together some information and door hangers and Mr. Carroll's crew are going to start aggressively pursuing the violators. He said he thought the perception is that leaves are put into the street, the street sweeper can pick them up which is not the case. It is very hard on the equipment and makes for expensive maintenance for the street sweeper. He said staff hopes to get the information out there and the residents realize that the city is not in the business of picking up leaves. Chair Stephens said she understood that Roeland Park does pick up leaves and perhaps it is new people moving into Merriam that thinks this is all right. Mr. Dyer said that Roeland Park has dedicated equipment for that. Mr. Carroll added that Westwood, Roeland Park and Fairway have programs where they actually blow all the leaves out into the street and they have equipment to come by and pick

them up. Mr. Carroll said this would be put in the Merriam Highlights and had already been in the e-Merriam to work with residents and figure out a way to remedy this problem.

Chair Stephens asked about the South Park project. Mr. Dyer said the site had been advertised and posted but had not received any information from the school district.

Councilmember Rowe asked if DDR had announced any tenants for Merriam Village to which Mr. Dyer responded they had not provided any information to the city.

Chair Stephens said she received a flyer from another state where they have a program to bring to a site all kinds of trucks, buses and all kinds of vehicles that kids would like to climb around on; public works equipment, fire department and police department equipment. She asked if this is something that could be done in Merriam and generate some interest. Mr. Carroll said that has been done at the Turkey Creek Festival, the 3<sup>rd</sup> grade class from the elementary schools as well as all the daycare centers spring tour. Chair Stephens said she thought this might generate some interest at the Marketplace. Mr. Carroll remarked it is a good idea but would require additional staffing.

There was discussion of conflicts with the CD/PW Committee meeting date in January of 2009 and Phil Lammers, City Administrator, said he would follow up regarding this date.

**COUNCILMEMBER HANDS MOVED FOR ADJOURNMENT.**

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Judy Devereey, Recording Secretary