

MERRIAM DRAINAGE DISTRICT
OF JOHNSON COUNTY, KANSAS
MONTHLY BOARD MEETING
September 29, 2026

The special meeting of the Merriam Drainage District of Johnson County, Kansas, took place at Merriam City Hall, 9001 W 62nd Street Merriam, KS 66202 during the regularly scheduled Downtown Merriam Master Plan Steering Committee Meeting.

Eric Jackson, Chairman
Dan Leap, Secretary
Jeff Weisbender, Treasurer

John Martin, CPA
Jim Orr, Attorney
Steve Roth, Engineer
Rebecca Heatwole, Reporting Secretary

Mr. Orr was provided 15 minutes to address the Steering Committee during the meeting; his presentation began at 6:25pm.

Mr. Orr informed the Steering Committee that Merriam Drainage District is the controlling entity over Turkey Creek in Merriam and parts of Shawnee. The Drainage District has exclusive jurisdiction over Turkey Creek. Mr. Orr quoted part of the KS Statute where it says, “it is authorized to take charge of and exercise exclusive control of all nature water courses within the district.”

Mr. Orr explained further that MDD has veto power over anything that involves the creek. It is his understanding that Plan B would involve Turkey Creek and its configuration. The Drainage District is not just a stakeholder of Turkey Creek; in many respects it is the stakeholder. This is no surprise to the City, because Mr. Orr and Mr. Jackson met with representatives of COE and the City in 2024 and specifically addressed these issues and concerns. It is not only a right, it is an obligation. The Drainage District has to be a good steward of Turkey Creek drainage area and the funding that is raised.

Mr. Orr informed the Steering Committee that the Merriam Drainage District has fiscal impact concerns with the project. If there be new improvements constructed, we need to figure out who is going to pay for it. Typically, the Merriam Drainage District does. Even if the City or other grant money pays for it, MDD still has to monitor and keep track of all the engineer and legal fees to make sure that what is taking place is consistent with what the drainage district has been doing for many years. Long term maintenance is more problematic because somebody must maintain whatever is done ad infinitum. As of right now, the legal situation is such that the Drainage District has to, but this creates both financial and legal questions. Legally, a government entity in Kansas cannot spend more than it allocates in its budget each year. More to the point, MDD doesn’t know how much “it” is and to be good steward of the taxpayers, we need to know what we’re facing with the proposal.

More troubling is that whatever takes place may result in taxation without representation because a number of MDD constituents live in Shawnee and while they get to vote for the Board members, they don’t get to vote for whatever the Steering Committee decides to do. This does need to be looked at because the people in Shawnee may end up paying for projects that are not in their city and they have no control over what is happening. MDD takes all of their constituents very seriously and the board has worked very hard to give value to the taxpayers. There are estimates but they really aren’t all inclusive estimates and these are big numbers and MDD has limited resources, so we need to know what we are doing before it happens.

Mr. Orr asked the Steering Committee to keep in mind tax increment financing, which erodes MDD’s tax base. If the city acquires land that is not dedicated to private use but keeps it to public, it also erodes the tax base. Plan B would take out properties and leave them undeveloped will take away tax dollars, this shifts the burden to the tax payers within the District.

Mr. Orr added, MDD has a culture of fiscal responsibility going back years. The board works very hard to be good stewards and caretakers of the public money. Mr. Orr stated, that no other governmental entity in the state of Kansas has a better track record when it comes to meeting the Revenue Neutral Rate (RNR). Since the inception of the RNR, Merriam Drainage District has not exceeded that rate once. The City of Merriam has exceeded the RNR in 2024, 2025, and 2026.

For over 20 years the COE has been working with the City and MDD to develop flood project and everyone involved has spent significant amount of money. Congress has appropriated \$30M to the project to update the creek. The purpose of the project is flood control to save lives and to save property and the members of the board unanimously agree that is the most important factor. MDD is concerned that saying never mind to the COE project is a colossal waste of time and money decades of work and thousands of dollars down the drain.

MDD is urging enhanced cooperation, enhanced collaboration between the City and MDD. Years ago, the City was short on money and MDD and the City joint ventured to work on repairing the Johnson Drive Bridge. It was efficient and effective and saved an important element of infrastructure in this part of the county. Mr. Orr is hopeful we can reinvigorate this spirit.

MDD wants to participate more actively in this type of proceeding. There are meetings that take place with City officials, COE, and our engineer. It would be helpful if a member of our board could attend the meetings. Mr. Orr is asking for an ongoing seat at the table with things that involve Turkey Creek.

There was a member of the Steering Committee had a question about the authority of MDD. The moderator asked Mr. Orr, Merriam Drainage District feels it has exclusive authority to manage the flood plain, is that correct? Mr. Orr answered by saying, "Yes, subject to federal authority". To which the moderator replied, The City also has authority to manage the floodplain they do from state statutes.

Ryan Denk, attorney for the City of Merriam, stated he was asked to look at the issue of jurisdiction with the Drainage District. There may be a good faith dispute with what Mr. Orr presented. The resolution that was adopted by the County back in 1946 the reason the drainage district was formed was to control flooding along Turkey Creek and the City was formed 4 years later. Mr. Denk believes everyone in the room has the mutual interest of control flooding along Turkey Creek. The Drainage District has specific statutory authority to contract with cities in collaborative efforts. He went on to say that when Mr. Orr sent his request, he specifically mentioned MDD was looking to collaborate. Mr. Denk doesn't think it's beneficial this evening to fight over who controls the channel if the City and MDD come together and work collaboratively, he thinks they can get the project done.

The member of the Steering Committee asked, the drainage district is a large area, a lot of that area outside of the floodplain. Does the Drainage District only have authority over the creek or over anything else in that district that the creek might affect. In other words, if something changes in the historic part of downtown they raise it out of the floodplain it would have the potential to create flooding issues in other areas within the District. Mr. Orr said, the short answer because there could be nuance to the answer, it's the water courses that the Drainage District deals with but to the extent something changes the water course that could open a whole can of worms legally.

So, when the historical part is raised out of the floodplain, it is going to affect what goes on on the south side of the intersection and could any of that affect where the creek may come out in a different place. Mr. Orr said that the water is going to go somewhere, but that's an engineering question.

Would MDD have authority over that potential risk? Over just raising the ground, he doesn't think so but to the extent it has a negative affect on Turkey Creek, he would want to look at that more closely, but he does think MDD would have standing. The moderator stated that MDD would not necessarily have authority, but

they would be a party to that issue. Federal water laws would say that you can't have downstream impact unless you mitigate those. MDD wouldn't have authority, but they would have a stake.

Mr. Jackson made a motion to end the meeting at 7:38pm; seconded by Mr. Leap; unanimously approved.

cc: Board and staff

Respectfully submitted,
Rebecca Heatwole
Recording Secretary