

EDMOND CITY COUNCIL MINUTES

November 9, 2009

Mayor Patrice Douglas called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, November 9, 2009, in the City Council Chambers.

Mayor Douglas thanked the Citizens Police Academy Alumni Association for the banquet that was held last week.

Mayor Douglas also announced that the "Shop Edmond" program will be instituted in the near future and she encouraged the public to watch for the brochures announcing the program.

2. Approval of October 26, 2009, Minutes. Motion by Miller, seconded by Lamb, to approve Minutes. **Motion carried** as followed:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and Miller
NAYS: None
ABSTAIN: Councilmember Page

3. City Council Presentations:

- A. **Presentation of Code Enforcement of the Year award to Terry Humphrey by the American Association of Code Enforcement.** Steve Commons, Assistant City Manager of Administration, presented the award to Mr. Humphrey.
- B. **City Manager's Progress Report.** Larry Stevens addressed Council and stated the City staff has submitted three grant projects for an estimated \$60 million to the U.S. Department of Transportation for TIGER stimulus funds. Approximately 1,400 applications nationally were submitted for these funds. It is staff's understanding that the federal funding decisions will be announced in January, 2010.

Mr. Stevens updated the Council on the public transportation Citylink program. He noted that ridership has increased substantially since the program began. He noted that vehicle maintenance expenses have also declined dramatically this month and that the City should begin receiving revenue from grants and UCO soon. City and UCO staff are meeting this week to discuss the new Citylink brochure and are

hoping to complete the project by Mid-November. Staff is currently working on the locations for shelters and bus stop signs. Mr. Stevens stated the City is currently running approximately 1,000 hours over the contract revenue hour amount. The City has been tracking each route and has submitted recommended schedule revisions and implementation will begin immediately after ample notice is provided to passengers. He stated no complaints have been received but two service changes have been received.

4. Appointments to Boards and Commissions:

A. Mayor Douglas nominated the following citizens for appointment:

- 1) Vicky Weaver Payne, to the Arts and Humanities Council to serve a term expiring February, 2010
- 2) Linda Lerdahl, to the Edmond Community Oriented Policing Leadership Council(COPS) to serve a term expiring November, 2012
- 3) Stephen Pierce, to the Edmond Community Oriented Policing Leadership Council(COPS) to serve a term expiring November, 2012
- 4) Marcus Whitt, to the Edmond Community Oriented Policing Leadership Council(COPS) to serve a term expiring November, 2012

Motion by Waner, seconded by Lamb, to approve General Consent Items 4.A.(1-4). **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller
NAYS: None

5. GENERAL CONSENT ITEMS: (General Consent Items were voted on collectively except where noted.)

A. Approval of Administrative Items:

- 1) **Discussion and consideration of number of members to the Community Oriented Policing Leadership Council (COPS).** Mayor Douglas stated the COPS Council currently allows 15 to 21 members. She felt the membership should be reduced to a more workable number and requested input from Council. Mayor Douglas stated the members of the COPS Council wanted to retain some longtime members to preserve the historical knowledge that those members have. General consensus of Council

was the number of members should be reduced and that all committees/boards/commissions should be consistent in the number of members, with a few exceptions. She stated she would discuss with the members of the COPS Council the number of members that they feel are necessary and then meet with the City Attorney to draft paperwork establishing a workable number of members for this Council.

- 2) **Acceptance of easement from Legacy Lakes, LLC, for the Spring Creek Sanitary Sewer Interceptor, Phase II improvements.**
- 3) **Acknowledge receipt of construction permits from the Oklahoma Department of Environmental Quality.**
- 4) **Acceptance of public improvements and maintenance bonds for the following:**
 - Kickingbird Golf Course halfway house and restroom renovation
 - FY 2008/09 School Zone project
 - Edmond Memorial High School, Phase 12
 - Danforth and Coltrane intersection improvements
- 5) **Approval of supplemental appropriations for the Police Public Safety Limited Tax Fund - \$8,000**
- 6) **Approval of supplemental appropriations for the Police Public Safety Limited Tax Fund - \$150,000**

Motion by Miller, seconded by Waner, to approve General Consent Items 5.A.(2-6). **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller
NAYS: None

B. Approval of Ordinances and Resolutions:

- 1) **Public Hearing and Consideration of Ordinance No. 3238 amending Chapter 23.40 Flood Damage Prevention by amending Section 23.40.060(B) of the Edmond Municipal Code providing for changes in the General Provisions, specifically adopting the Flood Insurance Study for Oklahoma County, Oklahoma and incorporated areas, Dated December 18, 2009; providing an Effective Date; and providing for Repealer and Severability. The Federal**

Emergency Management Agency (FEMA) has updated the flood insurance study and the flood insurance rate map for Oklahoma County which depict FEMA's regulatory 100-year floodplain. The proposed ordinance amends Title 23 in order to adopt as regulatory the updated study and map. Participation in the National Flood Insurance Program requires adopting the FEMA studies and abiding by floodplain management ordinances in order to ensure that federal flood insurance is available for all structures located in the City of Edmond and also ensures continued eligibility for future federal disaster assistance.

Steve Manek, City Engineer, addressed Council and stated several areas of the City were not previously included in FEMA's flood insurance rate map and have now been studied and incorporated into FEMA's 100-year floodplain. Councilmember Lamb noted that the new study includes Arcadia Lake for the first time.

Motion by Waner, seconded by Lamb, to approve Ordinance No. 3238 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

- 2) **Public Hearing and Consideration of Ordinance No. 3239 amending Title 21 of the Edmond Municipal Code by amending Section 21.03.100, connection to Electrical System, providing for installation costs, and providing for Repealer and Severability.** The proposed ordinance would eliminate the requirement for commercial and residential developers to provide their own trenching, conduit and installation of conduit by absorbing those costs. Staff felt approval of this ordinance would provide an incentive for future development to connect to Edmond Electric while lowering the developers overall project cost. Due to passage of House Bill 1739 by the State Legislature last year, which allows other electric utilities to negotiate for new customers where they have existing facilities, staff felt it was in the City's best interests to amend the existing ordinance. It was noted that Edmond Electric's competitor, OG&E, already absorbs those costs.

Motion by Miller, seconded by Lamb, to approve Ordinance No. 3239 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

C. **Approval of Purchases:**

- 1) **Approval of budgeted funds for Capital and Operating Expenditures for the Guthrie/Edmond Regional Airport in the amount of \$6,402.25.**
- 2) **Approval of disposal of used firearms for the Police Department in the amount of \$10,620.**
- 3) **Award of bid and approval of contract for the FY09/10 Street Overlay project and Resolution No. 28-09 appointing Purchasing Agent.** Purchasing Manager recommended accepting bid from Schwarz Paving Co. in the amount of \$1,759,945.90.
- 4) **Approval of interlocal agreement with the Board of County Commissioners of Oklahoma County for the paving of the currently unpaved mile section of Covell Road, between Post Road and Westminster Road in the amount of \$375,000.** Councilmember Miller noted this cost is only for material and that the County supplies the labor and equipment for this type of project. He stated this section of road was one of only three miles of unpaved streets in the City.

Motion by Page, seconded by Waner, to approve General Consent Items 5.C.(1-4). **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

6. Discussion and Consideration of Resolution No. 29-09 protesting the discontinuation of the Edmond Senior Nutrition Site Program and requesting equitable distribution of State funds and fairness in the reduction of allocation and requesting assistance from the Oklahoma Department of Human Services to reinstate the program. Mayor Douglas stated Edmond was one of only four sites that were closed. She noted the other three

sites were accommodated by other sites but that Edmond was not given that option. She noted that in 2008 the program was serving an average of 80 seniors per day but this year the budget was reduced and now the program is only able to serve 65 seniors on a daily basis with State funding. Through local grants and partnerships five additional meals are able to be served, bringing the total to 70 meals daily. Mayor Douglas stated out of a total of \$173,000 that had to be cut from the State budget, Edmond's share of the cut was \$53,000 which is over a third of the budget that was cut. She noted one of the reasons that Edmond's nutrition program was targeted was that the homebound seniors who had slowly moved into the Mobile Meals program were not counted and Edmond was considered to have zero homebound seniors. She noted the mobile meals program is only 20% funded by the City with the remaining 80% being funded by private donations. She stated a press conference was held this morning not to protest that Edmond should not share in the budget cuts but that Edmond's share of the budget reduction was a disproportionate share of the total amount cut from the state budget. She felt by dissolving the nutrition program, the State agency was not respectful of Edmond and was not mindful of the leadership shown by Edmond in the mobile meals program. Mayor Douglas stated the Edmond State Legislators are very supportive of Edmond's efforts to regain funding for this very important program and are working to find a way to bring this program back to Edmond. It was noted by Council that the program is not only about nutrition for seniors but also the camaraderie of the seniors who participate in the programs offered at the Senior Center.

Consensus of Council was to encourage the state agency to restore the funding. Councilmember Lamb commended the Mayor on her leadership in aggressively pressing this issue. He noted that Edmond allows the Mobile Meals program to use a City building and to have this action count against the City is unfair. He noted Edmond does have a significant senior population in need of this program.

Motion by Miller, seconded by Lamb, to approve Resolution No. 29-09. **Motion carried** as follows:

AYES:	Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller
NAYS:	None

Motion by Miller, seconded by Page, to recess the City Council meeting in order to convene the Edmond Public Works Authority meeting. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller
NAYS: None

Mayor Douglas reconvened the City Council meeting.

9. PLANNING CONSENT ITEMS:

- A. **Public Hearing and Consideration of Ordinance No. 3240 amending Edmond Plan from General Commercial to Single Family Residential at 501 Wade Martin Road, located south of 2nd Street, one-half mile east of Bryant (Gary and Kathleen Dickenson, applicants) Case No. Z090030.**

Motion by Lamb, seconded by Page, to approve Ordinance No. 3240 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and
Miller
NAYS: None

Motion by Miller, seconded by Lamb, to attach Emergency Clause to Ordinance No. 3240. **Motion carried** as follows and Ordinance No. 3240 is in effect immediately:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and
Miller
NAYS: None

- B. **Public Hearing and Consideration of Ordinance No. 3241 rezoning from "E-1" General Commercial to "A" Single Family Residential at 501 Wade Martin Road, located south of 2nd Street, one-half mile east of Bryant (Gary and Kathleen Dickenson, applicants) Case No. Z090028.**

Motion by Miller, seconded by Page, to approve Ordinance No. 3241 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and
Miller
NAYS: None

- C. **Consideration of Final Plat of Legacy Station, located south of Thatcher Street, north of Edwards Street, west of Broadway (Turning Point Ministries, applicant) Case No. PR090017.**

Motion by Lamb, seconded by Miller, to approve Planning Consent Item 9.C. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller

NAYS: None

- D. **Consideration of Final Plat of the Offices at Thirty-Third, located on the north side of 33rd Street, one-half mile west of Bryant (Thirty-Third Street Partners, LLC, applicant) Case No. PR090014.**

Motion by Waner, seconded by Lamb, to approve Planning Consent Item 9.D. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller

NAYS: None

- E. **Public Hearing and Consideration of Site Plan approval for multi-family residential known as the Arbor Place Apartments, located on the south side of Kickingbird Road, one-half mile east of Bryant, west of the Huntwick Addition and south of the Woodcreek Townhomes Addition (BVP Arbor Place, LLC, applicant) Case No. SP080021. *The applicant requested this item be continued to November 23, 2009.***

Motion by Lamb, seconded by Miller, to continue Planning Consent Item 9.E. to November 23, 2009, as requested by the applicant. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller

NAYS: None

10. **Public Hearing and Consideration of extension of undeveloped portions of the Coffee Creek Planned Unit Development (PUD), located of north Covell Road, east of Kelly Avenue, west of Boulevard (Covell Road Properties, LLC, applicant) Case No. Z090022. The PUD was approved and started in 1996. Although the development has progressed continually, the PUD ordinances in**

effect at the time of approval provided that if only a portion of the PUD is completed within the five year time limit, the Council with a hearing, can determine that the undeveloped portion be considered for an extension of the PUD. A majority of the development is complete with homes, businesses, a post office and Touchmark at Coffee Creek senior housing. The PUD extension does not require rezoning of any property since the extension is to continue the PUD Master Plan. Some of the properties in this PUD have been developed with single family homes even though the zoning was "C-2" Multi-Family, "C-3" Multi-Family and "D-1" Restricted Commercial. The application contains less units than originally projected in the PUD Master Plan based on the decrease in acreage devoted to single family rather than multi-family. Planning Commission recommended denial.

Todd McKinnis, attorney representing the applicant, addressed Council and stated he felt the property has already been developed according to the definition of "developed" contained in the Title 22 that was in effect at the time the original PUD was approved. He noted the applicant has installed water and sewer lines, a road surrounds the property and off-site detention has been provided for this site. Mr. McKinnis stated the only improvement to the property that has not been completed is the vertical improvements. He noted the applicant felt that an extension of the PUD was not required but that City staff felt an application to extend the PUD was needed and the applicant wanted to be up front with the citizens who live in that area. He stated the City has not given notice to the developer for a "show cause" hearing to revert the property back to the original zoning, which is required by ordinance. He stated the applicant would waive the requirement for a "show cause" hearing because the developer is the only entity required to receive a notice and they are aware of the procedural process. He noted the site is one of the most actively developed areas in the last 15 years to develop. Mr. McKinnis stated continuing with the development as originally planned promotes stability for the developer to know where he stands as to completeness of the project and the residents can rely upon the zoning that has been in place since 1996. He noted there has never been a single property that was reverted back to the original zoning in the history of Edmond. He stated the property is being developed consistent with the Master Plan that was approved in 1996. He stated density of the area has been reduced due to the development along Covell road from multi-family to single family. He noted the area has developed consistently with the original plan approved 14 years ago. He stated the reasons he has cited show cause as to why the PUD should be extended.

Matthew Winton, attorney representing the Villages of Coffee Creek Homeowners Association, addressed Council in opposition. He stated Title 22 requires the City to provide notice to the developer of a "show cause" hearing if the PUD has not developed in five years but the agenda item is not worded as such for this meeting. He also noted the agenda for this meeting that is available for the public is not numbered the same as the agenda being used by the Council. Mr. Winton stated in order to procedurally review this issue, the agenda needed to contain the proper wording for a "show cause" hearing. He stated even though the ordinance is not clear as to who should receive notice of the "show cause" hearing, he felt the policy is to periodically review a PUD that is not completed and in order to do that a public notice is required, which has not been done in this case. He also felt that the PUD is not complete according to the definition of "developed".

Kelly Work, attorney representing residents in the Coffee Creek Addition, also addressed Council in opposition. He stated according to Ordinance No. 2289, adopted in 1996, rezoning the property from "A" Single Family to the PUD, if the property is not fully developed within five years, it would revert back to the original use. He stated after five years Title 22 requires that the applicant hold a "show cause" hearing as to why the property should not revert back to the original zoning for the areas of the PUD that are not fully developed. Mr. Work contended that waiving the "show cause" hearing is not an option because of the language contained in the ordinance. He noted the PUD expired in 2001 and that a "show cause" hearing has never been requested by the City or the applicant. He stated the agenda wording does not comply with Title 22 and he requested the Council comply with the ordinance and give a 30 day notice to the applicant and the public that a "show cause" hearing is to be held. Mr. Work stated in compliance with Ordinance No. 2289, the property is not developed and he requested a "show cause" hearing be held.

Those citizens appearing in opposition were: Vi Stride, Dan Shelton, Rainer and Andrea Stachowitz, Betty Cook, Dave Sparks, Ray Roush, Steve Adams, Justin Wallace, Richard Hasse, Teri Smith and Cecilia Scott, all residents of Coffee Creek Addition. Nicole Willard, Thomas Trails Addition, also appeared in opposition. Their primary concerns were increased traffic and crime and the change in density of the proposed area. The residents also felt their property values would be lowered and that the apartment development would fall into disrepair in the

future as happens frequently with this type of development. Mr. Roush also felt that environmental, architectural and traffic studies should also be required.

Councilmember Waner stated she has long felt the City should enforce their sunset clause regarding plan amendments and that PUDs should be periodically reviewed. She agreed from a planning standpoint, the property is developed, but to the average person the property does not look developed. She felt the current meeting is considered the "show cause" hearing and she requested the applicant provide the just cause as to why the property should not revert back to the original zoning.

Mr. McKinnis addressed Council and stated the application is consistent with the original Master Plan approved in 1996. He noted the infrastructure in place is in accordance with apartment usage and the applicant has complied with all the regulations set out in the original master plan. He stated this tract is the last remaining project in the master plan.

Derek Turner, applicant, addressed Council and stated the project has been developed within the guide lines approved with the PUD and that the development has been consistent from the beginning.

Councilmember Waner stated it was her understanding that if the item is approved then the original PUD would be followed and if the item is denied, then the property reverts back to the original use of single family. Steve Murdock, City Attorney, addressed Council and stated if the item is denied then staff will request direction from Council on whether to proceed with the "show cause" process. If the item is approved, then the revert issue is a moot point. He stated the process to revert property back to the original zoning is not an automatic action taken by staff.

Councilmember Page stated he felt the property has not developed as it was planned. He felt it was unfair to the residents of the property that was originally planned for multi-family but was developed as single family to now have a dense multi-family development next to their backyards. He preferred the tract be developed with individually owned townhomes or condominiums. He also felt that a public review of incomplete PUDs is needed on a regular basis. Councilmember Page noted the utilities that are in place on this property were installed to service the single family addition and not specifically this tract. He felt the community should be able to continue to maintain the standards of

the previously developed portion of this PUD and he will vote no on the proposed PUD extension.

Councilmember Lamb stated when this PUD was approved under the old Title 22, single family was allowed as a use in higher density zoning but is not allowed in the updated Title 22. He stated from his perspective the development is complete due to installation of the utilities and streets but has not been built with vertical improvements. He noted the PUD is very active and viable and he feels a "show cause" hearing is not necessary because the project has not gone dormant.

Councilmember Waner stated she was not comfortable moving forward without addressing some of the changes that have occurred with the development since it was originally approved. She mentioned the Covell underpass, development at Kelly and Covell, and extensions to North High School. She felt the following elements should be addressed by the applicant based on the original PUD documents, Planning Commission and City Council minutes:

- 1) "C-2" tracts contain 11 detached units per acre with 1 to 2 stories
- 2) "C-3" tracts contain 15.6 units per acre up to 3 stories
- 3) Single family tracts contain 2.92 to 6 units per acre
- 4) 15% landscaping in "C-2" tracts
- 5) 25% landscaping in "C-3" tracts
- 6) Consideration should be given to single family construction
- 7) Ownership element re: townhomes and condominiums
- 8) Satisfactory traffic flow within project
- 9) Confirmation that the right-of-way is not in place but will be provided by the applicant
- 10) Parking lots with design elements precluding lights on residences
- 11) Preservation of 59 acres of common area, pro-rated
- 12) All unit calculations be based on "usable" land areas not including drainage areas
- 13) Site Plan be reviewed by Council

She stated based on her calculations, the number of units is considerably lower than the applicant proposes. She asked if the applicant was aware of these issues and would abide by them.

Mr. McKinnis addressed Council and stated the applicant fully intends to comply with all the conditions of the PUD. He stated it is not the intent of the applicant to request any variances to the original PUD. He noted most of the above items will be addressed during the Site Plan review process.

Councilmember Waner asked the applicant to agree to participate in meaningful conversation with the homeowners and the applicant agreed to work with the homeowners' representatives regarding site plan issues. Mr. Winton stated the residents were unaware that the applicant wished to continue the original PUD but had only had discussions regarding the new PUD. He also agreed to work with the developer regarding these issues.

Mayor Douglas stated the 1996 PUD identified single family, apartments, townhomes, duplexes and multi-family dwellings would be constructed in the development. She stated many of the residents were under the impression that the property was planned for townhomes and duplexes. She noted the applicant is not requesting a change in zoning but just a continuation of the 1996 PUD. She also felt this meeting constitutes the "show cause" hearing for extension of the PUD.

Mr. McKinnis stated the original PUD showed 480 apartment units for the "C-3" tract under discussion plus additional multi-family uses in the remainder of the "C-2" and "C-3" tracts. He noted the area did not develop in that manner as the eastern tract developed into smaller single family homes and the western tract is the senior living development. Mr. Turner stated he has always been upfront about what was planned for this area.

Discussion was held regarding whether the site plan review process would adhere to the previous Title 22 under which the PUD was approved or the current Title 22. It was noted by staff that the previous Title 22 required site plan approval by both the City Council and Planning Commission and the current Title 22 only requires approval by the Planning Commission during consideration of the PUD. It was determined that the site plan review process would adhere to the previous Title 22 and that any site plan would be considered by Council. City Planner, Bob Schiermeyer, stated it was expected that sensitive borders, while not addressed extensively in the old Title 22 would also be addressed in this project, as is the current Council custom.

Motion by Lamb, seconded by Miller, to approve Item 10. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and Miller
NAYS: Councilmember Page

11. Public Hearing and Consideration of Ordinance amending Edmond Plan from Single Family Dwelling Planned Unit Development (PUD), Medium Density Multi-Family PUD and High Density Multi-Family PUD to Planned Unit Development allowing 345 apartment units known as Coffee Creek Commons, located on the north side of Covell Road, east of Shortgrass (Covell Road Properties, LLC, applicant) Case No. Z090026. The applicant requested this item be continued to January 11, 2010, due to approval of Item 10.

12. Public Hearing and Consideration of Ordinance rezoning from "A" Single Family Dwelling Planned Unit Development (PUD), "C-2" Medium Density Multi-Family PUD and "C-3" High Density Multi-Family PUD to Planned Unit Development allowing 345 apartment units known as Coffee Creek Commons, located on the north side of Covell Road, east of Shortgrass (Covell Road Properties, LLC, applicant) Case No. Z090027. This is a companion to the above item and was also requested to be continued to January 11, 2010.

Motion by Lamb, seconded by Miller, to continue Items 11 and 12 to January 11, 2010. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

Mayor Douglas stated when the applicant submits the site plan for consideration they will be required to submit everything as one cohesive document with all the amendments that have been approved in order for Council to be assured the applicant is following all the requirements contained in the original PUD. She noted the only item approved tonight is the extension of the original PUD and that no action was taken on the new PUD other than continuing the application to January 11, 2010.

Mayor Douglas stated the meeting would be recessed for ten minutes.

13. Public Hearing and Consideration of commercial Site Plan extension for Bridges of Spring Creek Shopping Center, located south of Hafer Park, north of 15th Street, east of Bryant (Sooner Land Company, LLC, applicant) Case No. SP070028. The Site Plan was received prior to the effective date of the changes to Title 22 zoning ordinance. Staff feels the applicant is past the April, 2009, deadline and the Site Plan has expired. The applicant disagrees and feels that their last extension was in 2008 for 18 months rather than the 12 months originally approved. Planning Commission recommended approval.

Randel Shadid addressed Council on behalf of the applicant. He stated there was some confusion on their part as to whether the extension was in effect for 12 or 18 months and he thought it was the latter time frame. He noted the application continues the same conditions that were previously approved.

Councilmember Page asked if all the changes approved with the previous Site Plan extension been incorporated into one document. Bob Schiermeyer, City Planner, stated at this time they do not have such a document nor has a building permit application been submitted. Mr. Schiermeyer also stated staff will ensure the building permit contains the 12 conditions previously approved on April 14, 2008.

Motion by Page, seconded by Lamb, to approve Item 13 subject to the following 12 conditions:

1. The buffer north of Turtle Creek Commons Addition is extended along the entire boundary of the Addition into the detention area. The detention area was modified for this. Twenty feet of the 30 foot buffer is undisturbed and 10 feet is a landscaping area.
2. A six-foot tall fence will be constructed on the Bridges of Spring Creek side of the buffer area where there is also a retaining wall.
3. The dumpster enclosure shown north of Turtle Creek Commons has been relocated to the north adjacent to the east building.
4. The 45 foot tall tower will not be constructed and the maximum height of any building is 35 feet.
5. The landscaping requirement for this project is 25% of the site area and the points required for the plant units.
6. A two-foot to four-foot tall retaining wall will need to be constructed adjacent to the tree area to be preserved in the southwest part of the site near the existing home.
7. A speed bump will be constructed on the drive extending north from 15th Street approximately two-thirds of the way north of 15th Street.
8. The bridge over the tributary to Spring Creek nearest Bryant would not be constructed with the initial improvements which relate to the plat approval.
9. The plat improvements and the Final Plat is intended to be modified through a separate City Council meeting in order to consider the above ground detention. Soil would be removed from the proposed detention area and used to prepare building sites on Bryant along with the grading for the

plat. All of this work is on the west side of the creek. The dirt will be taken to 15th Street from the proposed detention area and then Bryant to access the property.

10. The site to be dedicated next to Pelican Bay will need to be evaluated with the revised plat and is not being approved as part of the site plan extension request because there is insufficient information to determine the feasibility of the site.
11. If the Final Plat approved on April 23, 2007, is to be changed from the original approval, it will need to be reconsidered at a new hearing of the City Council.
12. Victorian lights on the entrance and WLS 386 style lights on the interior of the main project

Motion carried as follows:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and Miller
NAYS: Councilmember Page

14. Public Hearing and Consideration of extension of commercial Site Plan approval for Fox Lake Plaza, located west of I-35, 1130 feet north of 15th Street, east of Bryant (Expressway Development, applicant) Case No. SP030028. This item has been extended numerous times and was last extended for six months on May 11, 2009. The applicant is working on the Final Plat improvements. There has not been any additional work regarding the site plan.

Councilmember Page asked staff if the applicant was in compliance with erosion control requirements. Steve Manek, City Engineer, addressed Council and stated he was not aware of any action by the Code Enforcement Department at this time. Councilmember Page asked the applicant if the lien placed on the property had been paid. He also asked if the site would be seeded, sodded or other improvements to correct the erosion problems that have been ongoing.

Randel Shadid addressed Council on behalf of the applicant and stated he submitted a check to the City Clerk's office for payment of the lien. He stated the property has not been improved at this time and that the applicant would attempt to seed or sod the property next Spring if they do not have any agreements for pad sites. Mr. Shadid stated there is a purchase contract on the western most pad site and a ground lease contract for a site to the east is being negotiated. He noted several more improvements will be needed when the pad sites are ready to be built upon but the major infrastructure is installed. He

stated at this time the applicant does not have the money to make any further improvements but if the property negotiations work out that he will seed or sod the property during the spring when the weather is conducive to growing vegetation. He stated the applicant was requesting another six month extension. He noted if the extension is not granted the problems will continue to get worse.

Motion by Page to declare the property a public nuisance. **Motion died for lack of a second.**

Mayor Douglas stated it was imperative that if the pad sites are sold that the erosion problems with the property be remedied as soon as possible.

Mark Reisweber and Rob Hamm, both Fox Lake Addition residents, addressed Council in opposition. Mr. Reisweber noted the property has languished for many years and that silt and erosion were still a problem. He questioned why the City continues to reward the applicant for failure to remedy problems by extending his project. He stated the erosion problems also create a traffic hazard during heavy rains and that nature was not going to correct these problems.

Councilmember Page stated this property is a gateway to the City and that the situation at this site has been ongoing for many years and no major improvements have been made to the property. He felt the residents in the Fox Lake Addition deserved to have the problems in this area remedied. He requested the property be declared a public nuisance to allow the City to remedy the erosion control problems on this site.

Councilmember Waner stated that while she agreed with Councilmember Page she felt the problems would worsen if an extension is not granted. She noted the City also has economic issues and that she was hesitant to commit the City to spend money on this site at this time.

Motion by Lamb, seconded by Miller, to extend the Site Plan to April 12, 2010. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Waner, Lamb and Miller
NAYS: Councilmember Page

15. Public Hearing and Consideration of Ordinance No. 3242 rezoning from "G-A" General Agricultural to "R-1" Rural Estate

Dwelling District on a 9.98 acre tract, located on the northeast corner of Post Road and Danforth Road (Martin Teuscher, applicant) Case No. Z090029. The site contains 10 acres and would be divided into four lots of at least two acres each. The Council denied the previous application for "R-2-A" zoning on September 28, 2009. This type of re-application for a more restrictive district does not require a six month waiting period. Planning Commission recommended denial.

Martin Teuscher addressed Council and stated the existing pond would be removed in order to construct a home in that location. He stated all the homes would be constructed on the west side of the property.

Elizabeth Kruger, property owner of 10 acres to the east, addressed Council in opposition. She stated she was concerned about an existing pond on her property overflowing during heavy rains and causing damage to Mr. Teuscher's property. Mrs. Kruger stated she also has cattle on her property that could run through fences during stormy weather and damage the yards of those homeowners. Mrs. Kruger stated she wanted the property to remain agricultural in order to keep her livestock. She also felt property taxes would increase with the construction of the homes.

Also appearing in opposition was Steve McGuffin, 10201 E. Danforth Road, and Carol Ensey, 2301 Brixton Road. Mr. McGuffin stated the property is very low in this area and he felt, not suitable for constructing one home much less four homes.

Motion by Miller, seconded by Lamb, to approve Ordinance no. 3242 as read by title by the Mayor. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

16. Approval of Resolution No. 30-09 adopting electric rates for the City of Edmond effective January 1, 2010. Jerry Smith, Assistant City Manager for Operations, addressed Council and outlined the proposed rate increase. He noted that due to the increased costs for the city's wholesale supplier, Oklahoma Municipal Power Authority (OMPA), the City determined that a rate increase was necessary. Mr. Smith stated the last rate increase was in 2007. He stated OG&E recently received approval from the Corporation Commission to increase their rates and since OG&E is Edmond Electric's competition, it has been the practice of the City to mirror OG&E's rate structures. He noted by applying a

discount, Edmond Electric is able to guarantee that Edmond's rates are lower than the competition. Mr. Smith stated a study by staff and C.H. Guernsey show the average residential customer will realize a 4% increase; commercial customers a 2.6% to 4.7% increase; public schools a 0.3% decrease and 8.4% increase for Edmond Electric's largest customer, the University of Central Oklahoma (UCO). Initially the rate for UCO, using the new OG&E rate, would have been a 20% increase but C.H. Guernsey prepared a rate structure to reduce the increase to 8.4%, which includes the Pure and Simple rate (wind power). C.H. Guernsey estimated the net increase in revenues would be \$5.1 million per year. Even with the increase, the five-year financial plan for Edmond Electric shows revenues would still fall short by \$1.1 million of meeting the 45 day reserve. Mr. Smith stated due to the increased cost of equipment, labor and contractual services for construction, maintenance and operations of the distribution system, a rate increase is necessary.

Motion by Miller, seconded by Page, to approve Item 16. **Motion carried** as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller

NAYS: None

17. **CITIZEN COMMENTS:** None

18. **NEW BUSINESS:** None

19. Motion by Miller, seconded by Lamb, to adjourn meeting.
Motion carried as follows:

AYES: Mayor Douglas, Councilmembers Page, Waner, Lamb
and Miller

NAYS: None

City Clerk

Mayor