

**EDMOND CITY COUNCIL MINUTES**

August 23, 2004

Mayor Sandra Naifeh called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, August 23, 2004, in the City Council Chambers.

**2. Approval of Minutes.** Motion by Lamb, seconded by Miller, to approve August 9, 2004, Minutes. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

**3. City Council Presentations:**

A. Presentation to the Marks Family in recognition of dedication of walking trails in Hafer Park.

B. Presentation of the Mayor's *Fingerprints on the Future* award to Kindra Vaden, Management Information Systems Department.

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

A. Approval of Administrative Items:

1) Acceptance of City Manager's Financial Report for month ending July 31, 2004.

2) Acceptance of City Treasurer's Investment Report for month ending July 31, 2004.

3) Acceptance of construction permits from the Oklahoma Department of Environmental Quality for 194 linear feet of 8-inch sewer line to serve North Kelly Planned Unit Development.

4) Acceptance of public improvements and maintenance bonds for the following:

- a) Service/Blake Soccer Complex lighting, Fields 1-3, 5
- b) 12 inch water line from Kelly along the railroad to ground storage tank

- c) John Ross Elementary School
- d) Edmond Memorial High School
  
- 5) **Acceptance of Final Plat, public improvements and maintenance bonds for the following:**
  - a) Thornbrooke Manor
  - b) Oaktree Park Estates IV
  
- 6) **Acceptance of Final Plat, public improvements and maintenance bonds for Creek Bend III, located at Kerry Lane and 15<sup>th</sup> Street.**
  
- 7) **Acceptance of water line easement from Bill J. Stewart on behalf of Petra Industries.**
  
- 8) **Acceptance of sanitary sewer easement from Dr. Paul Harris associated with construction of the Animal Welfare Facility at the Cross Timbers Municipal Complex.**
  
- 9) **Acceptance of street right-of-way easement from Broadway Corner, LLC, for the northeast corner of 2<sup>nd</sup> Street and Broadway.**
  
- 10) **Approval of FY 2003/04 year end budget amendments to balance departmental budget categories for governmental fund types.**
  
- 11) **Approval of Request for Qualifications (RFQ) for the Transportation Master Plan.**
  
- 12) **Consideration of authorizing solicitation of bids for site preparation work for property located on 2<sup>nd</sup> Street, south of the University of Central Oklahoma (UCO) not to exceed \$250,000 as part of the Oklahoma State Bureau of Investigation project.**

Motion by Lamb, seconded by Miller, to approve General Consent Items 4.A.(1-12). **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

B. **Approval of Purchases:**

- 1) Approval of Change Order No. 1 with L.G. Construction for rehabilitation of residential structure located at 229 S. State Street (aka 600 W. Main) in the amount of \$387 as part of the Community Development Block Grant (CDBG) program.
- 2) Approval of Change Order No. 1 with Titan Home Remodel for rehabilitation of residential structure located at 229 Sunset Drive in the amount of \$1,550 as part of the Community Development Block Grant (CDBG) program.
- 3) Approval of Change Order No. 1 with Cimarron Construction Company for the Fine Arts Institute waterline improvement project in the amount of \$9,076.20.
- 4) Approval of Change Order No. 4 with Wynn Construction Company for multiple solutions associated with the Phase I Streetscape project in the amount of \$24,170.
- 5) Approval of Change Order No. 1 with Cowboy Concrete and Construction, Inc. for the Safe Routes to Schools sidewalk project, Phase II in the amount of \$62,146.
- 6) Approval of renewal of agreement with Gallagher Bassett Services, Inc. to provide for third-party administrative services for Workers' Compensation claims in the amount of \$26,344.
- 7) Award of bid for a rear load unit for the Fleet Management Department. Purchasing Manager recommended accepting bid from United Engines in the amount of \$122,681.
- 8) Approval to reject bid received for the fiber optic cable project for the Management Services and Fire departments.
- 9) Award of bid for distribution of wood poles from International Paper for the YourGovShop member participants.

Motion by Lamb, seconded by Page, to approve General Consent Items 4.B.(1-9). Motion carried as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

5. **Approval of Tort Claim Committee's recommendations on Tort Claims.**

<u>CLAIM NUMBER</u>		<u>RECOMMENDATION</u>
24-0059	Engineering Department	Pay - \$200.00
25-0003	Police Department	Pay - \$465.49

Motion by Miller, seconded by Page, to approve Tort Claim Committee's recommendations on Tort Claims. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, 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 Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

9. **PLANNING CONSENT ITEMS:**

- A. **Public Hearing and Consideration of commercial Site Plan approval for office/retail buildings, located on the north side of W. Edmond Road, one-quarter mile west of Kelly (Sean Brownlee representing Creekside Office Complex, applicant) Case No. SP040026.**

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

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

10. **Public Hearing and Consideration of commercial Site Plan approval for Fox Lake Plaza, located west of I-35, 1130 feet north of 15<sup>th</sup> Street (Frank Battle, applicant) Case No. SP030028.** The site encompasses 24.5 acres. The first phase of the project will contain two buildings totaling 208,075 square feet which is 2,000 square feet smaller than the original proposal considered on June 24, 2004.

Randel Shadid, attorney representing the applicant, addressed Council and reminded all present that this application is for site plan approval only and discussion should not include zoning issues. He stated the application meets or exceeds all I-35 Corridor criteria. He noted the buildings are much further away from homes than the Wal-Mart Supercenter which was recently approved in this area. He stated that the original developer of Fox Lake intended for the lake to act as a buffer between the Fox Lake Addition and commercial development. Mr. Shadid stated the site has been lowered an additional two feet on the retail sites from the original proposal and they have reduced the largest building by 2000 square feet. The applicant will construct an eight foot masonry wall along the back of the buildings identical to the wall constructed by Wal-Mart. He noted the masonry wall in the gap between the Wal-Mart and Fox Lake Plaza will be increased to 10 feet. The front exterior walls will be constructed primarily of sandstone and brick with other decorative materials. Mr. Shadid stated the back and side walls will be tilt-up poured in place stone. He stated the back of the building will be dyed a brown color to blend in with the color of the bark of the trees. He noted the site will contain three additional pad sites in the existing "F-1" Light Industrial zoning portion of the site. Mr. Shadid stated if temporary detention is needed during construction, the detention area will be directed to one of the three pad sites not part of this phase and not on the landscaping area. He stated the three pad sites will be cleared along with the rest of the site and then landscaped along the frontage road. He noted that the applicant will comply with tree preservation primarily along the back portion of the buildings and that they exceed the 22.5% landscaping requirements. He stated that 75% of the parking lot will not be visible from I-35 as required by City ordinances. Mr. Shadid stated the underground detention facility exceeds capacity requirements for the site. He noted the detention will be detained under the parking lot and filtered prior to exiting to the north under Fox Lane and eventually into Arcadia Lake. He stated the sedimentation will comply with the Department of Environmental Quality and City codes. He noted they do not plan to contribute to the homeowners association to help maintain Fox Lake since their stormwater run-off will not drain into the lake. A trail easement will be granted along the west side of the property compatible with the easement granted by Wal-Mart.

Tom Langdon, Fox Lake Addition, addressed Council in opposition and stated the site plan is different than what was portrayed to homeowners in the 1970s when the Fox Lake Addition and Fox Lake were developed or told to the current homeowners when their

homes were purchased. He stated the noise levels will be increased with removal of the ridge that acts as a buffer thus changing the entire terrain of the property. He also stated the building elevation materials are not compatible with the surrounding homes. Mr. Langdon stated a primary reason the residents object is because the development does not adopt the spirit of the I-35 Corridor ordinance. He also requested a traffic study be conducted because he felt the existing frontage road would not accommodate the increased traffic that will result from the shopping center. He noted that residents are responsible for maintaining the lake and that the stormwater run-off is needed in order to maintain the current level of the lake.

Jim Holmes, Jean Stanford, Larry Woods, Judy Langdon, Will Whitman (all Fox Lake Addition residents) and Chuck Peterson (Arrowhead Valley) also addressed Council in opposition.

Joe Jekel (Asheforde Oaks) addressed Council in support.

Gerald Brintley, MBRK Architects, addressed Council and outlined the materials that will be used for the exterior walls. He stated the slate material will be used as an accent for the main entrances primarily.

Chuck Twibel and Matt Smith, Smith Roberts Baldischwiler, addressed Council on behalf of the applicant. Mr. Twibel outlined the grade of the property and noted that the 10 foot wall will be used as a sound and site buffer for area residents. Mr. Smith stated they will install inlets for the water to flow into and install protection around them to contain the silt and allow the water to drain to the middle of the site where it will be contained in the underground storage facility.

Responding to a question, Councilmember Lamb stated the application complies with the drainage requirements but that he could not speak regarding any legal issues related to the diversion of water from this part of the watershed flowing into the lake. He asked the applicant if he would be willing to agree to many of the same commitments as Wal-Mart specifically the construction of the retaining wall prior to any building construction as this would assist in ensuring that effect on the lake was minimized. The applicant stated they would be willing to make several of the same commitments that did not address specifics of the Wal-Mart site.

Councilmember Miller requested the applicant contribute to

maintenance of Fox Lake and also provide a construction schedule.

Mr. Shadid stated the development will not increase the water flow into Fox Lake more than the current levels. He noted the only water flowing into the lake would be from the undisturbed area. Mr. Shadid stated they are not required to submit a construction schedule since the site plan is good for one year.

Motion by Lamb, seconded by Sanford, to approve Item 10 as submitted subject to the following conditions:

- 1) Posting of signs stating no overnight parking of recreational vehicles, semi-trucks, etc.
- 2) No open display on sidewalks or other outside display of any kind outside the building or structure
- 3) No metal containers
- 4) Quarterly monitoring of the storm sewer system for the first 24 months and semi-annually thereafter
- 5) 8 foot masonry wall constructed first along with the retaining wall on the west side of the property prior to any other construction
- 6) No delivery trucks from 10:00 pm to 6:00 am
- 7) The trail easement to connect to the easement granted by Wal-Mart

**Motion was denied** as follows:

AYES: Councilmember Lamb  
NAYS: Mayor Naifeh and Councilmembers Page, Sanford, and Miller

**11. Public Hearing and Consideration of Ordinance amending Edmond Plan III from Restricted Commercial Development Planned Unit (PUD), Suburban Office PUD and Restricted Light Industrial PUD to General Commercial PUD, located on the southeast corner of Thomas Drive and Covell Road (Pat Garrett, applicant) Case No. Z040015.** Mayor Naifeh stated this item will be continued at the request of the applicant.

**12. Public Hearing and Consideration of Ordinance rezoning from "D-1" Restricted Commercial Development Planned Unit (PUD), "D-O" Suburban Office PUD and "E-3" Restricted Light Industrial PUD to "E-1" General Commercial PUD, located on the southeast corner of Thomas Drive and Covell Road (Pat Garrett, applicant) Case No. Z040014.** This is a companion to the above item and will also be continued at the request of the applicant.

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

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller

NAYS: None

**13. Public Hearing and Consideration of Ordinance No. 2865 amending Edmond Plan III from Limited Light Industrial and General Office District Planned Unit Development (PUD) to Single Family Dwelling PUD, located on the northwest corner of Air Depot and Covell Road (Covell Development, LLC, applicant) Case No. Z040018.** The site contains 81.89 acres and is directly south of the City's electric substation and east of the solid waste transfer station. The City's Cross Timbers Municipal Complex is also located in this area. More than 25% of the total property will be a dedicated common area and a tree conservation easement will also be provided consisting of approximately 5.3 acres along the west side of the development to serve as a permanent buffer.

Todd McKinnis, attorney representing the applicant, addressed Council and stated the existing natural drainage on a portion of the property is a significant deterrent to commercial development in this area. He stated they contracted with an urban forestry company to design a conservation easement. Mr. McKinnis stated the urban foresters will continue to advise the applicant during the development phase to ensure that the trees in the easement are not damaged during construction and will continue to survive for many years. He noted the Edmond Land Conservancy Trust has agreed to accept the easement.

Tim Cannon, Certified Urban Forester, addressed Council and outlined the conservation easement that he and Veronica Keathly designed.

Rand Phipps, Chairman of the Edmond Land Conservancy Trust, addressed Council and stated the Trust unanimously approved going forward with the conservation easement. He stated since the easement will be extended to the north it will provide an opportunity to connect to the trail system.

Mr. McKinnis stated a split-rail fence will be installed on the perimeter of the development. He noted the fence will be installed first on the west boundary of the property to ensure that the conservation easement stays in place and also to deny

access. Mr. McKinnis stated they will provide, in advance, as much information as possible to potential homeowners regarding the surrounding zoning and developments. He distributed two handouts to Council showing the covenants of the development and an acknowledgement to be retained by the development company for first generation purchasers of lots. He stated a good faith effort will be made to disclose as much as possible to potential homeowners.

Bob Sullivan, The Bob Sullivan Group, a real estate broker specializing in industrial and commercial properties, addressed Council and stated he has specifically studied the industrial market in north Oklahoma City and Edmond in the past five years. He stated the last two years the industrial market has been very stagnant. He noted they have seen little to no absorption of available industrial property in the northern metro area. This site has been marketed for the last two years and has received no interest at all. Mr. Sullivan stated he felt that retaining the industrial zoning on the front of the property would be adequate for the foreseeable future.

Mr. McKinnis noted in the history of the "F-O" industrial zoning category there has never been any industrial development in the City with the exception of the transfer station. He stated the frontage of the property would be more appropriate for industrial development than this portion of the site. He noted that the Edmond Plan has been amended approximately 91 times since 1999 but very rarely is the Plan down zoned.

Councilmember Lamb stated he applauded the applicant's effort to incorporate the conservation easement and other important areas of concern into the development but due to the City's investment in the regional Guthrie/Edmond airport as a way to create a more appealing environment of industrial style high commercial activity, he was reluctant to amend the Plan to allow for rezoning of any property available for industrial development along the Interstate because of the limited inventory. He noted that if this property is rezoned then 2/3 of the available industrial zoning disappears from this valuable intersection with I-35. Councilmember Lamb stated the accessibility of this area and other infrastructure investments currently being made in this area are valuable and improving the industrial potential. He stated the development is a good project but not for this location.

Randel Shadid addressed Council in support of the application. He stated this area is not appropriate for industrial

development but is more suited to office use. He stated industrial property in Edmond is not developing due to the stringent 30% landscaping requirement for industrial developments. Mr. Shadid also noted that property appropriate for industrial development is less expensive in Oklahoma City than in Edmond.

Councilmember Sanford stated she agreed with Councilmember Lamb and she felt if the zoning on that parcel is relinquished then the City will always be fighting a battle with area homeowners who do not want industrial development near them. She stated she felt the area would change since it has water available and eventually Air Depot may be four-laned or a parkway and she was not willing to support the rezoning yet.

Mayor Naifeh and Councilmember Page asked if the 50 foot right-of-way on Air Depot is adequate if the street is widened in the future.

Steve Manek, City Engineer, addressed Council and stated staff is hoping to begin addressing that issue during the Transportation Master Study to be conducted in the near future. He noted it depends on how far the street will be four-laned, the topography of the land and the number of utilities that are in the right-of-way as to the amount of right-of-way needed.

Earnest Isch, engineer for the applicant, addressed Council and stated the standard four-lane street requires a 50 foot right-of-way and a parkway requires 70 feet. He noted that the applicant was providing 70 foot of right-of-way on Covell Road to allow for a four-lane street and 20 foot landscaping easement.

Sean Brownlee, area resident and developer, addressed Council and stated he felt it was wrong to force a property owner to keep his property zoned for industrial development when there is no need for this type of zoning.

Motion by Miller, seconded by Lamb, to approve Ordinance No. 2865 as read by title by City Planner. **Motion was denied** as follows:

AYES: Mayor Naifeh and Councilmember Miller  
NAYS: Councilmembers Page, Sanford and Lamb

**14. Public Hearing and Consideration of Ordinance rezoning from "F-O" Limited Light Industrial and General Office District to**

"A" Single Family Dwelling District Planned Unit Development (PUD), located on the northwest corner of Air Depot and Covell Road (Covell Development, LLC, applicant) Case No. Z040019. This is a companion to the above item and was not considered due to the failure of that item.

15. Public Hearing and Consideration of Ordinance amending Edmond Plan III from Single Family Dwelling to Suburban Office usage, located on the east side of Santa Fe, west of Cedar Pointe Addition, south of Covell Road (John Coleman, applicant) Case No. Z040016. Mayor Naifeh stated this item will be continued to September 13, 2004, at the request of the applicant.

16. Public Hearing and Consideration of Ordinance rezoning from "A" Single Family Dwelling District to "D-O" Suburban Office District, generally located on the east side of Santa Fe, west of Cedar Pointe Addition, south of Covell Road (John Coleman, applicant) Case No. Z040017. This is a companion to the above item will also be continued to September 13, 2004, at the request of the applicant.

Motion by Miller, seconded by Lamb, to continue Items 15 and 16 as requested. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

17. Executive Session to discuss the following pending claim:  
(Executive Session authorized pursuant to 25. Okla. Stat.  
Section 307(B)(4):

Barnthouse et al vs. City of Edmond

Motion by Miller, seconded by Page, to meet in Executive Session to discuss the above item. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

Mayor and Councilmembers recessed to the City Council Conference Room at 8:40 p.m. and returned to the City Council Chambers at 9:02 p.m.

Motion by Miller, seconded by Lamb, to adjourn Executive

Session. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

18. **Consideration of action regarding the above pending claim.** Mayor Naifeh stated no action would be taken on this item.

19. **NEW BUSINESS:** None

20. Motion by Miller, seconded by Page, to adjourn meeting.  
**Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page,  
Sanford, Lamb and Miller  
NAYS: None

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City Clerk

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Mayor