

EDMOND CITY COUNCIL MINUTES

February 11, 2008

Mayor Dan O'Neil called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, February 11, 2008, in the City Council Chambers.

2. Approval of Minutes of January 28, 2008. Motion by Miller, seconded by Lamb, to approve Minutes. **Motion carried** as followed:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

3. City Council Presentations:

A. **Presentation of City of Edmond Comprehensive Annual Financial Report, financial audit for the year ending June 30, 2007, by Arledge and Associates, P.C.** Andy Cromer presented the report and answered questions from Council. He stated the City received a qualified opinion on the audit which is the best that is given.

Motion by Miller, seconded by Page, to accept audit report.
Motion carried as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

B. **Presentation of City of Edmond Performeter for the year ending June 30, 2007, by Crawford and Associates, P.C.** Marcy Twyman presented the Performeter, a Financial Statement Analysis of the City. She stated the 2007 reading of 8.3 indicates that the City's overall financial health and performance declined slightly from last year but remained well above satisfactory for the fiscal year ended June 30, 2007.

C. **Presentation of "Alive at 25" program.** Sgt. Bob Pratt, Edmond Police Department, presented the report.

D. **City Manager's Progress Report.** Larry Stevens addressed Council and stated Fretz Road from Sunset to 10th Street has been re-opened to traffic. He stated the remaining section (4th through 7th Streets) has some sections of paving remaining and will be opened as soon as the street has been

paved completely. He noted the paving is weather dependent. The project was funded entirely by the City at a cost of \$896,000. Mr. Stevens stated the project included pavement replacement, utility relocations and installation of sidewalks and school zone in-pavement lights.

Mr. Stevens stated the installation of left-turn lanes and automated signals at the intersections of Vista Lane and Bradbury Lane at 2nd Street is continuing. The curb and gutter work has been completed and sidewalk construction continues in some areas and is substantially complete in other areas. Significant construction remains on Vista Lane south of 2nd Street. The work will be completed for one intersection and then the other. The automated signals will be the last items to be installed. Completion of both intersections is anticipated by spring. The \$1.3 million cost is funded by the City through the 2000 Sales Tax.

Mr. Stevens stated Streetscape, Phase III, includes the area from Hurd and Broadway north to Campbell, then east to University Drive. The cost of approximately \$1.85 million is being funded through the 2000 Sales Tax. The contractor is estimating the project will be completed in two to three weeks, weather permitting.

4 Appointments to Boards and Commissions:

- A. **Appointment to the Edmond Historic Preservation Trust.** Mayor O'Neil nominated Dr. James Watson for appointment to serve a term expiring in March, 2012.
- B. **Appointment to the Edmond Community Oriented Policing Leadership Council.** Mayor O'Neil stated this item would be withdrawn from the agenda.
- C. **Appointment to the Edmond Community Oriented Policing Leadership Council.** Mayor O'Neil nominated Don Harris for appointment to serve a term expiring in October, 2010.
- D. **Appointment to the Kickingbird Tennis Center Advisory Board.** Councilmember Page nominated Bill Towler to serve a term expiring in February, 2011.
- E. **Appointment to the Edmond Fish and Game Commission.** Councilmember Page nominated Todd Atendido for re-appointment to serve a term expiring in January, 2012.

Motion by Waner, seconded by Lamb, to approve Items 4.A., 4.C. through 4.E. **Motion carried** as follows:

AYES: Mayor O'Neil, 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) Approval of transfer of appropriations for the Human Resources Department classification and compensation study - \$31,500
- 2) Approval of transfer of appropriations from the City Manager's Regular Pay-Civilian fund to the City Manager's office supplies fund - \$4,000
- 3) Approval of Memorandum of Understanding with Edmond Amateur Radio Society, Inc. volunteers for critical communications during emergency situations and several planned events.
- 4) Approval of outdoor warning device disposal plan to replace several old siren units.
- 5) Acknowledgment of receipt of construction permits from the Oklahoma Department of Environmental Quality for Iron Horse Ranch IV.
- 6) Acceptance of easements from the following:
 - a) Rodney Armstrong
 - b) Gerald D. Greninger
- 7) Acceptance of maintenance bonds, public improvements and Final Plats for the following:
 - a) The Shoppes at the Piazza - 1436 N. Kelly
 - b) Cheyenne Springs - 1201 W. Danforth
- 8) Acceptance of maintenance bonds for the following:
 - a) Festival Marketplace Plaza project
 - b) Kickingbird Tennis Center courts

Motion by Miller, seconded by Waner, to approve General Consent Items 5.A.(1-8). **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and
Miller
NAYS: None

B. Approval of Purchases:

- 1) **Award of bid for a mini excavator for the Fleet Management Department.** Purchasing Manager recommended accepting bid from G&R Equipment dba Bobcat of Oklahoma in the amount of \$39,022.
- 2) **Award of bid for an asphalt paver for the Fleet Management Department.** Purchasing Manager recommended accepting bid from G.W. Van Keppel in the amount of \$54,028.
- 3) **Approval of Banking Institutions and Brokers/Dealers to service the General and Operating/Public Works Authority Investments as recommended by the City Treasurer's Office.**
- 4) **Approval to negotiate and finalize a contract with Johanson Group to assist the City of Edmond in a classification and compensation study in an amount not to exceed \$71,500.**
- 5) **Approval of budgeted funds for Capital and Operating expenditures for the Guthrie/Edmond Regional Airport in the amount of \$6,962.68.**

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

AYES: Mayor O'Neil, 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 O'Neil, Councilmembers Page, Waner, Lamb and
Miller
NAYS: None

Mayor O'Neil reconvened the City Council meeting.

9. PLANNING CONSENT ITEMS:

- A. **Consideration of Final Plat of Walton's Subdivision (Murphy's Oil), located on the east side of Santa Fe Avenue, approximately one-eighth mile south of Danforth (Wal-Mart Stores East, Inc., applicant) Case No. PR070050.** The site contains .60 acres and is developed as Murphy's Convenience Store/Gas sales. There is no change in any developed portion of the site. Murphy's Oil would like to purchase the land and that is why the plat is required. The applicant has submitted easements with covenants and restrictions to provide for the offsite use of the original Wal-Mart detention area. An additional 20 feet of right-of-way has been granted along Santa Fe to comply with street standards. A portion of the landscaping and the ground sign fall within the right-of-way but at this time the City has no plans to improve the Street. Planning Commission recommended approval.

General discussion was held regarding the applicant's failure to comply with the site plan agreements made by Wal-Mart when the Supercenter was approved. It was noted that Murphy's Oil has failed to comply with those agreements regarding open display at this location. Representatives of Murphy's Oil are continually told to remove drink and snack machines from the area where they are displayed and each time they comply but then a few months later the machines are back again. Council stated they were not pleased that staff continually has to visit this site to ensure compliance with the prior agreements. Councilmember Lamb asked if this were a separate application, would it meet the site plan requirements regarding landscaping. Bob Schiermeyer, City Planner, answered that it would comply. Mayor O'Neil stated the previous owner placed deed restrictions on the property prohibiting open display in exchange for certain zoning considerations. Councilmember Lamb asked if it was possible to link the prior agreement to the action taken at this meeting regarding the Final Plat in order to ensure that as the process goes forward, Council retains the authority to enforce the application of the operation as it was approved originally. Consensus of Council was to make that link part of the approval of this application. Steve Murdock, City Attorney, stated the Mayor will not sign the Plat until the City receives a satisfactory response from Murphy's Oil that they will comply with all the requirements of the past agreement.

Ed Gray, Sandcreek Engineering, addressed Council on behalf of the applicant and stated he would draft a letter to the applicant's engineer, Michael Lawshe, informing him of these issues. He also stated he would request that Mr. Lawshe send

a copy of any documents or letters that he sends to Murphy's Oil also to the City of Edmond.

Motion by Lamb, seconded by Miller, to approve Planning Consent Item 9.A. subject to Murphy's Oil complying with all prior agreements regarding the use of the property. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

B. Consideration of Final Plat of Bryant Place Addition, located south of Kickingbird Road, east of Bryant Avenue (BVP Bryant Place, LLC, applicant) Case No. RP070015.

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

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller

NAYS: None

10. Public Hearing and Consideration of Ordinance No. 3129 amending Edmond Plan from Restricted Commercial to Heavy Commercial Limited Use, located on the northwest corner of Rhode Island and Memorial Road (Buddy Morgan, applicant) Case No. Z070042. The site contains 3.2 acres and will be used for a climate controlled storage facility. The applicant previously rezoned two acres as General Commercial Planned Unit Development (PUD) but has since decided to rezone his entire ownership in order to enlarge his project. The use has not changed from the previous application. A Site Plan will be required prior to any construction. Planning Commission recommended approval.

Randel Shadid, attorney representing the applicant, addressed Council and stated there is only one use allowed for this property. He stated when the Planning Commission originally considered this item, he applied to rezone the entire 3.2 acres but after some discussion he determined that the best solution for his client was to keep the current zoning on the two acres and just rezone the 1.2 acres that his client recently purchased. Mr. Shadid stated a site plan will be submitted on the entire 3.2 acres in the near future. He stated all the parking and access will be from the front of the property and the applicant has no plans at this time for an access off of Rhode Island.

Mayor O'Neil asked if the applicant would be requesting a variance from the 70 foot setback requirement to comply with the sensitive

border conditions. Mr. Shadid stated that was a site plan issue and would be discussed during the site plan review process. Mayor O'Neil stated the setback issue was very important to him and would be fully discussed.

Councilmember Waner stated she could support the plan amendment and rezoning applications but would have concerns regarding the sensitive border issues due to the precedent that would be set by approving a variance.

Motion by Lamb, seconded by Miller, to approve Ordinance No. 3129 as read by title by City Planner. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Waner, Lamb and Miller
NAYS: Councilmember Page

Motion by Miller, seconded by Waner, to attach Emergency Clause to Ordinance No. 3129. **Motion carried** as follows and Ordinance No. 3129 is in effect immediately:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

11. Public Hearing and Consideration of Ordinance No. 3130 rezoning from "D-1" Restricted Commercial District to "E-LU" Heavy Commercial Limited Use, located on the northwest corner of Rhode Island and Memorial Road (Buddy Morgan, applicant) Case No. Z070043. This is a companion to the above item and was discussed at that time.

Motion by Lamb, seconded by Miller, to approve Ordinance No. 3130 as read by title by City Planner. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
NAYS: None

12. Public Hearing and Consideration of Ordinance No. 3131 rezoning from "A" Single Family Dwelling District to "E-2" Open Display Commercial District, located at 209 W. 2nd Street in the Central Edmond Urban District (Scott Wayne Weathers, applicant) Case No. Z070034. The site currently contains a single family home which will be removed. The building to the west containing an office and warehouse, also owned by the applicant, will be also demolished. A new warehouse building will be constructed on the two properties. The Edmond Plan IV projects the property as open display commercial and so the rezoning request is in compliance

with the Edmond Plan. The property is located within the downtown study area and was also considered by the Central Edmond Urban Development Board. Staff has notified the applicant's representative that the sensitive border issue will apply when the Site Plan is considered. The Central Edmond Urban Development Board and Planning Commission recommended approval.

Mayor O'Neil stated this site is in a redevelopment area and the surrounding area is projected for commercial development. He noted that most of the existing residential property is rental property and will probably be redeveloped at some point in the future to commercial usage. Mayor O'Neil stated he did not feel this application presented the same issues that it would in a platted residential neighborhood. Councilmember Miller stated he felt the new building would be an improvement in this area.

Leroy Cartwright addressed Council on behalf of the applicant and stated he has contacted the residents to the north of this site. He stated two out of the three residents have no objections and the third resident is in a nursing home. He noted there is not much residential remaining in this area.

Motion by Lamb, seconded by Miller, to approve Ordinance No. 3131 as read by title by City Planner. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and Miller
 NAYS: None

13. Discussion and Consideration of possible rezoning of residential subdivisions that are zoned differently than developed and determination of posted notice requirements. This item was discussed at the previous Council meeting and consensus of Council was to move forward with this concept. Mayor O'Neil stated the City has certain procedures that must be followed in order to initiate rezoning requests. He noted State law requires that ordinances be published in the local newspaper and those procedures must be followed in this instance.

Steve Murdock, City Attorney, addressed Council and stated he provided Council with the procedures required to rezone property. He stated City ordinance does allow the Council to determine the number of 4 foot by 8 foot signs that have to be posted on the property. Mr. Murdock stated the Planning Department provided Council with a list of the costs involved in this process. He stated the costs to mail notices to the 115 residences in Clayton Pond as well as those property owners within 300 feet of the addition and publish the notice in the newspaper is approximately \$368. He noted this cost does not include the costs of the 4 foot by 8 foot sign posted on the property. He stated staff

recommended that Council allow the Planning staff to begin the process with Clayton Pond, Oak Brook, Chimney Hill, Kingston and Huntwick additions.

Mayor O'Neil stated the purpose of posting the large sign is to provide notice to the surrounding property owners that a change in zoning has been requested. Since usage of the property is not changing with this process, he did not feel that it was necessary to spend \$400 on a 4 foot by 8 foot sign.

General discussion was held regarding whether the posted signs were needed and if they should be considered on a case by case basis. Councilmember Lamb stated the ordinance allows the City the latitude to determine the number of signs that need to be posted or if a sign needed to be posted at all when they City is the applicant. He noted he would be more comfortable if this issue was taken on a case by case basis rather than as a blanket approval for all 26 additions that need to be rezoned. Consensus of Council was to take each group of residential additions on a case by case basis.

Randel Shadid addressed Council and stated there are many other costs associated with any rezoning request. He noted the City will need to hire an abstract company to compile a list of property owners prior to mailing the notices to the property owners in the areas that rezoning will be initiated. He stated his last list cost \$600. Mr. Shadid stated he was opposed to the City not installing the large signs on the additions to be rezoned. He noted that private citizens are required to adhere to the process and he felt the City should be required to do the same and not be treated any differently than the private sector. Mr. Shadid stated he felt the City should not be initiating these rezonings but that the homeowners associations should be applying for the rezoning and paying the costs associated with this action. He stated he did not feel the taxpayers should be bearing the costs to rezone these additions. He noted this process is also wasting City staff's time to rezone properties that home owners have not requested.

Leroy Cartwright also addressed Council on this matter. He stated he also felt the large signs should be posted in order to inform all the surrounding property owners of the City's intent. He asked what would happen with the rezoning if a property owner was opposed to the entire subdivision being rezoned under a blanket rezoning. He noted he still had not heard what the real cost figures will be for this action. He stated he did not understand the necessity of going through the process when none of the homeowners have requested it.

Councilmember Page stated he wanted to move forward on this project. He stated he felt the City could forego posting of the signs. He noted there is public access to the Oklahoma County Tax Assessor's records by which the City could compile the ownership list without the cost of hiring an abstractor to compile the list. He also stated he did not feel there would be many homeowners who would be opposed to this action.

Councilmember Miller stated any homeowners association who wanted to make a rezoning application he would be in favor of but he was opposed to the City taking the action to rezone the properties. He stated he felt it was not the City's place to take this action. Councilmember Miller noted because subdivisions are platted and have restrictive covenants in place that do not allow a commercial building to be constructed in an existing residential addition, as well as site plan requirements that must be adhered to, a commercial building could not be constructed in a residential neighborhood without going through the appropriate process. He noted he is not opposed to rezoning the properties but he felt when Title 22 was updated that action took care of this problem. He stated the cost estimates for this action does not address the soft costs and he will vote no on the process. He reiterated his position that any rezoning applications from homeowners associations he would vote to approve.

Councilmember Waner stated she felt anytime something new is tried, you don't know what the end result will be. She stated part of the appeal of this action is that the City would be tidying up the rezoning of the affected additions. She felt the City should begin the process with one or two additions due to the additional staff time that will be required. Councilmember Waner stated she could vote to approve the five additions suggested by staff but would like a report on the process as it evolves. She requested that at least one sign be posted per project, to provide public awareness of City actions.

Councilmember Lamb stated the issues that have been raised are legitimate issues but once the process begins it must be finished. He noted if the City does not initiate rezoning of all the 26 identified subdivisions, it could be seen as prejudicial treatment. He stated he agreed with Councilmember Miller and that he felt the mechanics of the process were flawed.

Motion by Page, seconded by Waner, to move forward with the first five additions suggested by the City Attorney, posting of one 4 foot by 8 foot sign in each addition, determining the list of property owners who will be notified of the rezoning requests by utilizing the Oklahoma County Tax Assessor's records rather than hiring an abstractor to determine the identity of each individual property owner. **Motion carried** as follows:

AYES: Mayor O'Neil, Councilmembers Page and Waner
NAYS: Councilmembers Lamb and Miller

14. NEW BUSINESS:

Mayor O'Neil congratulated Bob Schiermeyer, City Planner, on being named Citizen of the Year by the Edmond Area Chamber of Commerce.

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

AYES: Mayor O'Neil, Councilmembers Page, Waner, Lamb and
Miller
NAYS: None

City Clerk

Mayor