

EDMOND CITY COUNCIL MINUTES

July 10, 2006

Mayor Saundra Naifeh called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, July 10, 2006, in the City Council Chambers. Councilmember Lamb was absent.

2. Approval of June 26, 2006, Minutes. Lydia Lee, attorney representing herself and Bryant Accord III, addressed Council and distributed and outlined several proposed amendments to the Minutes. Councilmember Page also outlined several amendments he wanted included in the Minutes.

Councilmember Miller stated he had issues with Ms. Lee's last amendment as he felt it was very subjective and one sided. He stated he would not consider the last amendment the way that it is written because she was putting all the blame on one person which he felt were caused by external entities. He stated he would consider the remainder of the proposed amendments.

Nancy Nichols, City Clerk, addressed Council and stated the Minutes are not a transcript of the meeting and should only contain what action was taken.

Motion by Sanford to approve the Minutes as submitted. **Motion died** for lack of a second.

It was noted that a DVD of the meeting is available for review. After further discussion it was determined that Council needed additional time to review the proposed amendments before approving any changes to the Minutes.

3. City Council Presentations:

A. Recognition of the Edmond Fire and Rescue Department.

B. City Manager's Monthly Progress Report. Larry Stevens addressed Council and stated the state recently authorized additional funding of \$6.3 million for the regional forensics center which will allow the bond advisors to sell bonds. Because of the delayed receipt of the additional funds, the completion date of the project (summer of 2007) will probably be delayed by a few months. He stated the culvert replacement at Edmond Road and Santa Fe is nearing completion and should be completed slightly ahead of the July 14th deadline. The City is funding the entire construction cost of \$528,818 through the 2000 Capital Improvements Sales Tax.

Mr. Stevens stated the Oklahoma Department of Transportation will bid the 33rd Street widening project, Kelly to Santa Fe, this month. All right-of-way has been acquired and the utilities relocated. Staff anticipates an eight month construction time frame. Mr. Stevens stated the Fire Training Facility, Phase II, project is on schedule for completion by the end of the calendar year at a cost of \$2.7 million. He noted that all but \$55,000 will be funded from the Fire Public Safety Limited Tax Fund with the remainder being funded through the 2000 Capital Improvements Sales Tax for metered water valves. Mr. Stevens stated the dedication of the Bickham-Rudkin Park will be held on Friday, July 14th at 5:30 p.m. He stated Phase I is now complete at a cost of \$700,000. He noted there will also be a special event held at the Edmond Dog Park portion of the park from 6:00 to 8:00 p.m. that evening with games and other events for dogs and their owners.

4. Appointments to Boards and Commissions:

- A. **Appointment to the Arts and Humanities Council.** Mayor Naifeh nominated June McCoy for appointment to serve a term expiring in February, 2009.
- B. **Appointment to the Edmond Centennial Commission.** Mayor Naifeh nominated David John Hansen for appointment to serve a term expiring December 31, 2007.
- C. **Appointment to the Board of Adjustment/Board of Appeals.** Mayor Naifeh nominated Josh Moore to serve a three-year term expiring in July, 2009.

Motion by Page, seconded by Miller, to approve Items 4.A. through 4.C. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page, Sanford, 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 agreement with the Center for Economic Development Law for legal consulting services.**
- 2) **Approval of amendment to the Danforth water tower cellular site lease with T-Mobile Central, LLC.**

- 3) **Approval of supplemental appropriations for the YourGovShop program - \$25,000**
- 4) **Approval of the description and scope of services to establish the Edmond Fire Department Training Trust Fund account for all hazards public safety training.** Mayor Naifeh stated she has not received any information on this item and requested an explanation.

Fire Chief, Gil Harryman, addressed Council and stated the Fire Department is proposing to develop a regional training center that will be capable of servicing departments and agencies from across the state and region. He stated one of the goals of the training center is that it will be revenue producing. Chief Harryman stated one of the ways to produce revenue is by charging participants a fee to cover training expenses. A second method is by partnering with private companies, groups and individuals who will donate money for training purposes. He stated it is his intention that the donated funds would be placed in a trust fund that will be established as a perpetual fund. Chief Harryman stated the goal is to have \$5 million in the trust fund. The proposed trust fund would cover training expenses and participant scholarships. He noted that several small cities and towns and most volunteer fire departments do not have money in their budgets to provide for training and could apply for a scholarship. He stated the principal would be invested with the City Treasurer's office and only the interest would be used to fund scholarships and training expenses. Chief Harryman stated the interest would go through the normal budgeting process and purchases would be processed through the Purchasing Department and would follow city and state statutes regarding bidding. He noted no City funds would be used.

Councilmember Sanford stated she has always supported training for the Fire Department as well as the new facility but she was not ready to create a special fund such as the trust fund that has been proposed. She stated she felt staff should have discussed this matter with Council prior to including it on the agenda. She also felt it should have gone through the previous budget process for FY 2006/2007.

Mayor Naifeh stated she needed additional time to study the proposal and she requested the item be tabled to allow time for additional review.

No action was taken on this item.

- 5) **Acceptance of construction permits from the Oklahoma Department of Environmental Quality for construction of 1,942 L.F. of 12-inch and 180 L.F. of 8-inch water line and for construction of 500 L.F. of 8-inch sewer line to serve the Edmond Centennial Elementary School.**
- 6) **Acceptance of Final Plat, public improvements and maintenance bonds for Doug's Automotive, located at 1324 S. Kelly.**
- 7) **Acceptance of Final Plat, public improvements and maintenance bonds for Market Square 1 at Covell Village.**
- 8) **Approval of renewal of amended interlocal agreement with the Board of County Commissioners of Oklahoma County for rural roadway reconstruction improvements on Westminster Road from Highway 66 south to 15th Street; 2nd Street from Westminster west 5/8 of one mile; and the west one-half mile of Anderson Road from 2nd Street to 15th Street in the amount of \$366,611.**

Motion by Miller, seconded by Page, to approve General Consent Items 5.A.(1-3,5-8). **Motion carried** as follows:

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

B. Approval of Purchases:

- 1) **Approval of budgeted funds for capital and operating expenditures for the Guthrie/Edmond Regional Airport in the amount of \$28,043.98.**
- 2) **Approval of the following bid disposition by the Purchasing Manager:**
 - a) **East Jordan Iron Works - fire hydrants (including renewal options) for the Field Services Utility Line Maintenance Division in the annual estimated amount of \$30,000**

- b) **GT Distributors** - ammunition (including renewal options) for the Police Department in the annual estimated amount of \$30,000
- 3) **Approval of annual maintenance agreement for computer mainframe from IBM Corporation as a sole source supplier in the estimated amount of \$19,000.**
- 4) **Approval of agreement with Studio Architecture for architectural design services for renovation/addition to Fire Station No. 4 in the amount of \$35,600.**
- 5) **Approval to purchase computers and network equipment on State contracts in the amount of \$314,000.**

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

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

Motion by Page, seconded by Miller, 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, and Miller
NAYS: None

8. PLANNING CONSENT ITEMS:

- A. **Public Hearing and Consideration of Site Plan approval for an office/warehouse, located at 210 W. Edmond Road (Gale Garvin, applicant) Case No. SP060022.** The building will contain 1,200 square feet on a 7,000 square foot lot. The Central Edmond Urban Board recommended approval of a variance to allow less than 10% landscaping based on the architectural compatibility with the existing building, connectivity to the parking lots and improvement of the parking arrangement, completion of the detention facility without a variance, the small size of the lot, and paving of the alley to City standards at the developers cost. The application was amended from 4½% landscaping to 7% landscaping after it was considered by the Urban Board. The additional landscaping will be achieved by removing one parking space on the northeast corner of the site.

Councilmember Miller stated he was concerned with the number of curb cuts along this section of the street and hoped to eliminate one of the curb cuts. He stated due to the circumstances, he could support the application.

Gale Garvin addressed Council and stated the existing curb between the two properties would be removed so the east and west parking lots could function together using both curb cuts. He stated at this point there is no way for a car to exit the east parking lot without backing out into traffic.

Mayor Naifeh stated although the application does not comply with City landscaping codes she expressed appreciation for the additional landscaping and paving the alley.

Motion by Miller, seconded by Page, to approve Planning Consent Item 8.A. **Motion carried** as follows:

AYES: Mayor Naifeh, Councilmembers Page, Sanford and Miller

NAYS: None

- B. **Public Hearing and Consideration of commercial Site plan approval for a self storage facility and shopping center, located on the east side of Kelly, north of the North Oaks Shopping Center (Shops at the Piazza/Michael Forth, applicant) Case No. SP060016.** Two projects are proposed for this site, a self-storage facility including a residence for the on-site care taker, and a retail shopping center. In the future, a bank is also proposed on the frontage of the property along Kelly. The side yard setbacks will be 10 feet or greater. The setback next to the Westborough Addition for the self-storage facility will be 10 feet which represents a variance since City codes require a 30 foot setback.

Councilmember Page stated he was concerned about the serious change in elevation next to the Westborough Addition fence.

Steve Manek, City Engineer, addressed Council and stated the retaining wall on the east side of the property would be four to six feet lower than the Westborough Addition. He stated a six-foot fence would be installed either on top of the retaining wall or on the upper level of the ground. He stated the detention pond would have a 4 to 1 slope.

Randel Shadid, attorney representing the applicant, addressed Council and stated a fire lane is not needed along the self-storage facility because there will not be any traffic. He stated there is no point in providing a 30 foot setback since

traffic will not be allowed. Mr. Shadid stated there will be an extra buffer along the east. He noted the applicant will remediate the detention facility at his cost and be responsible for future maintenance of the detention facility. He stated as the detention facility is being remediated, a dam will be relocated to the east and the extra dirt removed from the detention facility will be used to fill in the area adjacent to Kelly where a future bank is proposed. He noted the area would then be the same height as the City's right-of-way.

Mayor Naifeh asked for an explanation from staff regarding how moving the dirt from the detention facility will benefit the City. She noted that she is inclined not to approve landscaping variances.

Steve Manek, City Engineer, stated by moving the dirt from the detention facility to the area by Kelly to bring it up to street height, the applicant will eliminate the need for the City to obtain right-of-way from a private property owner or construct a retaining wall as Kelly is being widened.

Mr. Shadid stated he understood the Mayor's hesitation on approving landscaping variances but the landscaping variance will be in the self-storage area where it will not be seen from the street. He noted five parking spaces have been eliminated in order to plant additional landscaping. Mr. Shadid stated they would be installing plants along the chain link fence around the applicant's property as requested by the Westborough residents. He stated the site proof fence next to the Westborough Addition will be repaired if it is damaged during construction. He noted a portion of the chain link fence will abut the site proof fence to comply with the applicant's insurance requirements.

Mayor Naifeh noted that Council usually does not grant landscaping variances without an adequate trade-off and she asked staff how much the extra dirt from the detention facility would be worth to the City. She noted that she did not want to set a precedent for future developers to use their detention areas to comply with landscaping requirements.

Dr. Michael Forth addressed Council and stated they would be moving an estimated 23,000 cubic yards of dirt next to Kelly which will give the City additional right-of-way. He stated he felt the development would be a substantial improvement to the area.

Mr. Shadid stated by making the proposed improvements the applicant will be saving tax payers from paying for additional right-of-way and other work when Kelly is widened.

Ronnie Williams addressed Council representing the Edmond Neighborhood Alliance, and several Westborough Addition residents. He questioned whether there would be outside storage or truck rentals at this location and the applicant answered no there would not be. He expressed appreciation to the applicant for remediation and maintenance of the detention facility. Mr. Williams noted the residents had landscaping concerns and also the lack of an adequate buffer next to their properties. He stated he felt the applicant should maintain the existing stockade fence which they have not offered to do.

General discussion was held regarding landscaping on other self-storage sites.

Bob Schiermeyer, City Planner, addressed Council and stated that usually very little landscaping is required and that it was difficult to provide adequate landscaping due to the lanes. He noted that the amount of landscaping depended upon how the development was laid out. Mr. Schiermeyer stated the detention facility is commonly used toward the landscaping requirements but only the landscaping around the edges of the pond can be counted.

Mr. Shadid addressed Council and stated that a self-storage center is a more benign use of the property than a shopping center would be and that it could not be seen from the surrounding homes. He stated 20 cars a day is the national average for this type of facility.

Mayor Naifeh asked if the applicant would be willing to replace the existing stockade fence as a trade-off for not meeting the setback requirement and the applicant agreed to replace the fence behind the self-storage units next to the Westborough Addition. She stated she felt there was adequate benefit to the City and she could support the application.

Steve Manek addressed Council and stated with all the improvements to the detention facility and the improvements along the frontage of Kelly, the project would equal approximately \$60,000 plus in benefits to the City.

Councilmember Miller stated he did not have an issue with the landscaping because most existing self-storage facilities have little or no landscaping. He stated by lowering the elevation it negates the setback requirement. He stated the

development benefits the taxpayers because of the work that the applicant has agreed to do. He noted he researched crime statistics for self-storage units in the City and he found there were only three incidents of crime since 2003 so he did not feel that increased crime is an issue.

Motion by Miller, seconded by Sanford, to approve Planning Consent Item 8.B. subject to replacing the existing fence next to the Westborough Addition behind the self-storage units. **Motion carried** as follows:

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

9. Public Hearing and Consideration of Ordinance No. 3032 closing the east 20 feet of a 50 foot wide fire lane, located east of McDonalds/Conoco, on the north side of 15th Street, 2141 W. 15th Street (Onyx Holdings, LLC, applicant) Case No. ES060005. The applicant is planning to construct a new building to house a Starbucks Restaurant and several lease spaces. The building will be located east of the existing building. A floodplain is on the site of the proposed building and will be carefully evaluated prior to any construction. When the property was originally platted, the developer provided a larger fire lane than is necessary because of the uncertainty of what would be developed on that site. The Starbucks building and drive-in lane will need to extend into the fire lane on the west side of the building. The Fire Department has no objections to this application since they felt there was adequate space around the existing buildings. Planning Commission recommended approval.

Motion by Miller, seconded by Page, to approve Ordinance No. 3032 as read by title by City Planner. **Motion carried** as follows:

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

10. Executive Session to discuss the following claim with the City Attorney (Executive Session authorized pursuant to 25 Okla. State. Sec. 307 (B)(4)):

Bass vs. City of Edmond

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

AYES: Mayor Naifeh, Councilmembers Page, Sanford and Miller

NAYS: None

Mayor and Councilmembers recessed to the City Council Conference Room at 7:40 p.m. and returned to the City Council Chambers at 7:50 p.m.

Motion by Miller, seconded by Page, to adjourn Executive Session.
Motion carried as follows:

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

NAYS: None

11. Consideration of action with regard to the Bass claim.

Motion by Miller, seconded by Page, to authorize City Attorney to proceed with settlement negotiations on the Bass claim. **Motion carried** as follows:

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

NAYS: None

12. NEW BUSINESS:

Lydia Lee, attorney representing the Bryant Accord III, addressed Council and stated she appreciated Councilmember Miller's comments regarding the last amendment to the Minutes that she requested earlier in the meeting. She noted the changes that she requested were to bring about a dialogue and felt the items needed to be added. She stated she felt citizens should be allowed to applaud during meetings to show their support with what was being said.

Ms. Lee distributed a copy of the Oklahoma City Council agenda on which she noted it was clearly stated that an Emergency Clause would be considered. She requested Council re-consider their approval of Ordinance Nos. 3025 through 3028 that were approved on June 26th. She requested PUD amendments be presented to the public prior to City Council meetings to allow citizens to know before the meeting what is being changed. Ms. Lee stated the Open Meeting Act and the City Charter were both violated because the applicant provided the amendments to the PUD to Council five minutes prior to the beginning of the meeting. She stated this action deprived the public of their right to a full and fair hearing because they did not know what was being considered by the Council. Ms. Lee stated City codes require that a master plan be submitted to the City along with five copies prior to approval by the City Council which she noted was not received until the following day. She stated prior discussions with Council by the

applicant before an application is considered are inappropriate when they are not disclosed to the public. Ms. Lee stated emergency clause notifications for Ordinance Nos. 3025 and 3027 were not listed on the agenda and should not have been approved and are thereby void. She also noted that no reason was given regarding the necessity for approving the Emergency Clauses. She stated because the citizens were ordered from the Council Chambers prior to the vote also affects their right to be present and have a full and fair hearing. She requested that the approval of those ordinances be rescinded because of the reasons given.

Mayor Naifeh stated she received a letter from a citizen thanking Edmond Electric and the Park Department employees for their assistance with the installation of a piece of public sculpture.

Mayor Naifeh also commended the LibertyFest Committee for the successful festivities this year.

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

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

City Clerk

Mayor