

EDMOND CITY COUNCIL MINUTES

September 11, 2006

Mayor Sandra Naifeh called the regular meeting of the Edmond City Council to order at 5:30 p.m., Monday, September 11, 2006, in the City Council Chambers.

2. Appointment to Boards and Commissions:

A. Mayor Naifeh nominated the following youth for appointment:

- 1) Wil Hunt reappointment to the Edmond Convention and Tourism Advisory Board to serve a one-year term expiring in July, 2007
- 2) Matthew Duncan reappointment to the Historic Preservation Trust to serve a term expiring in January, 2007
- 3) Ryan Brasses to the Social Agency Review Board to serve a one-year term expiring in September, 2007

Motion by Miller, seconded by Page, to approve Items 2.A.(1-3). **Motion carried** as followed:

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

3. 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 Central Communications Department - \$17,422.50**
- 2) **Approval of transfer of appropriations for a new cemetery building - \$176,500.** Mayor Naifeh stated additional landscaping along the railroad tracks will be installed about the same time as the new building is constructed later this year.
- 3) **Approval of transfer of appropriations for FY 2006/07 Fleet Management Fund - \$23,287**
- 4) **Approval of an amendment to the Capital Projects and Financing Task Force procedural guidelines.**

- 5) **Approval of transfer of appropriations from City Council to Administrative Support - Marketing - \$3,000**
- 6) **Acceptance of Final Plat, public improvements and maintenance bonds for Quarters at Kelley Pointe and University Plaza, Phase III.**
- 7) **Approval of the following electric easements:**
 - a) Canady Properties, LLC
 - b) Thomas and Lisa Price
 - c) Edmond Office Partners, LLC
- 8) **Acceptance of three off-site sanitary easements from Donna Drake, Alice Bowles and Robert and Alice King to serve the Tuscan Park subdivision.**
- 9) **Acceptance of utility easement from Thirty Third Partners, LLC, to serve Christman Parke Office Development.**
- 10) **Acceptance of public improvements and maintenance bonds for the following:**
 - a) 2020 Master Water Plan Improvements, Contract 4, Coffee Creek transmission pipeline and Northwest Complex distribution mains
 - b) Intersection of 15th and Rankin and 15th and Hunters Ridge Drive
 - c) Coltrane bridge at Spring Creek waterline relocation
 - d) Broadway and Covell waterline project
 - e) 2020 Master Water Plan Improvements waterline to serve wells 63, 64 and 65
 - f) Doug's Automotive
 - g) Enterprise Development
 - h) Broadway south of Danforth
 - i) Hidden Prairie at Kelly Point

Motion by Lamb, seconded by Sanford, to approve General Consent Items 3.A.(1-10). **Motion carried** as follows:

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

B. Approval of Purchases:

- 1) **Approval of bid dispositions by the Purchasing Manager for the following:**

- a) **Wayest Safety** - carbon cylinders (36) for the Fire Department in the amount of \$812.25 each for a total \$29,241.
 - b) **Wayest Safety** - dual manifold hose assembly (58) for the Fire Department in the amount of \$425 each for a total of \$24,650
- 2) **Award of bid and approval of contract for the Cemetery office/storage building project and Resolution No. 26-06 appointing Purchasing Agent for the Park and Recreation Department.** Purchasing Manager recommended accepting bid from RQC, Inc. in the amount of \$208,000.
 - 3) **Award of bid for a crack sealing unit for the Fleet Management Department.** Purchasing Manager recommended accepting bid from Paving Maintenance Supply in the amount of \$28,997.
 - 4) **Award of bid for miscellaneous cable and wire for the YourGovShop member participants.**

Motion by Miller, seconded by Page, to approve General Consent Items 3.B.(1-4). **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

6. PLANNING CONSENT ITEMS:

- A. **Public Hearing and Consideration of commercial Site Plan approval for an office building, located on the west side of West I-35 Frontage Road, one-eighth mile north of 33rd Street (Oklahoma Municipal Power Authority, applicant) Case No. SP060037.**
- B. **Consideration of Final Plat of the Shops at the Piazza, located on the east side of Kelly, north of the Northoaks Shopping Center (Michael Forth, applicant) Case No. PR060023.**

- C. Consideration of Final Plat for the Naylor Addition, located west side of Broadway, west of Applebee's Restaurant (Dollar Developers, LLC, applicant) Case No. PR050020.
- D. Public Hearing and Consideration of Preliminary Plat for Peavine Ridge Addition, located west of Douglas Boulevard, one-half mile north of Sorghum Mill Road (Paul and Cynthia Waits, applicants) Case No. PR060022.
- E. Consideration of Final Plat of the MHA Business Park, located south of Kelly Pointe Drive, north of 33rd Street (Mark Harris, applicant) Case No. PR060021.
- F. Consideration of Final Plat for Water's Edge at Covell Village, located northeast of Covell Village Parkway, west of Kelly, south of Covell (Derek Turner, applicant) Case No. PR060024.
- G. Public Hearing and Consideration of Ordinance amending Chisholm Lake Townhouse Planned Unit Development Design Statement, located on the south side of W. Edmond Road, east of the Inspirations Tea Room, west of the Jim Bryan Insurance Office and the Laurel Court Development (John Gravitt, applicant) *Continued to October 9, 2006, at the request of the applicant.*

Motion by Lamb, seconded by Page, to approve Items 6.A. through 6.F. and to continue Item 6.G. as requested by the applicant. **Motion carried** as follows:

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

7. Public Hearing and Consideration of Ordinance No. 3045 amending Edmond Plan III from Single Family Dwelling to Suburban Office usage, located north of Danforth Road at 1413, 1431, 1531 W. Danforth and 1311 Sherry Lane (Catherine Ethridge, French Properties, LLC, Phillip and Melba Castillo and R.W. and Sue Lute - Plaza's of Ketch Acres applicants) Case No. Z060022. The site contains approximately six acres in the Ketch Acres Addition. The project may develop as one project or a series of buildings on separate building sites. The three interconnected lots will share a drive and there will be no access onto Sherry Lane or Carol Drive. Water and sewer will need to be constructed to City standards. When this application was considered by the Planning Commission, an optical business was planned as one of the uses.

Planning Commission recommended denial. The application has been amended since the Planning Commission meeting to office use only.

Randel Shadid, attorney representing the applicants, addressed Council and stated access will not be allowed to the applicant's lots from the unimproved cul de sac. He stated Lots 1 and 2, Block 2 will have a shared driveway. Mr. Shadid stated several of the existing circle driveways will be eliminated and the number of curb cuts on Danforth will not be increased. The buildings will be either brick or stone on all sides. Mr. Shadid stated due to the amount of traffic on Danforth, this application is an appropriate use of the property. He stated the two metal buildings on Mr. French's property will remain as accessory buildings for residential storage use only. He noted the lots are deep and a significant buffer can be installed during the site plan review process. The intent is to construct an office complex similar to the development on 9th Street, west of Bryant.

Bill West, 1700 Sherry Lane, addressed Council in opposition. He stated shortly after the accessory buildings were constructed, the south building was used to operate a cabinet shop with hired personnel. He stated this activity is against City codes and should not be allowed. He felt if the application is approved that the property owner would begin this operation again. Mr. West stated even though the addition is a modest, older addition, it is not in a run down condition and all the homes are maintained nicely other than property owned by two of the applicants which look worse now than when they were recently purchased. He was also concerned about increased traffic on Danforth. Mr. West submitted two letters written by him and a petition signed by 44 of the 52 property owners. He stated the covenants for the addition prohibit commercial uses. He stated the application has been denied by the Planning Commission and he felt their recommendation should be upheld.

Mayor Naifeh stated as a note of clarification that many times applications are amended between the Planning Commission meeting and City Council meeting. She stated the Council does not always agree with the Planning Commission's recommendation because they have received new and additional information.

Tim Reese, President of the Edmond Neighborhood Alliance, also addressed Council in opposition. He stated the application is in direct violation of the covenants which can only be changed by a vote of the residents of the addition. Mr. Reese stated he felt Council should not approve the application until the covenant issue is settled. He also felt it would be setting a bad precedent by approving this application.

Councilmember Lamb stated he did not feel the application will set a precedent because this type of development has been done in his neighborhood and others on much smaller lots than these are. He noted in those limited cases where the old platting of residential lots did allow for platting of lots fronting on a section line road, "D-0" zoning has been utilized to deal with transition of the area.

Councilmember Page stated he felt the Council should not get between the covenants that exist. He felt this is an unusual situation with different issues than those cited by Councilmember Lamb.

Councilmember Miller stated he felt it was not the Council's position to expend funds to enforce covenants and he also did not feel it was his place to force residents to hire an attorney to take this issue to court to enforce the covenants. He stated he felt the applicant should work with the homeowners to resolve the covenant issues prior to rezoning these properties.

Mr. Shadid stated the Council has never been involved in enforcing covenants. He stated he would prefer not to file a lawsuit against the homeowners but he can if necessary. Mr. Shadid noted those properties are no longer viable for residential development due to the surrounding area. He stated office development is a good option due to the low impact from this type of development. He noted because the lots are so deep it would be possible to install a large buffer from the residential homes on the back portion of the addition. Mr. Shadid stated the covenants should not even be an issue and this issue will not be resolved until a lawsuit is filed.

Mr. Reese addressed Council and clarified his earlier statement. He stated he felt it would be setting a precedent if Council approves an application that is in direct conflict with existing covenants which were in place prior to the City annexing the addition, not by using "D-0" zoning on lots abutting residential property. Mr. Reese stated he felt Council should deny the application until such time as the covenant issues are resolved.

Councilmember Sanford stated she was under the impression that covenants should not enter into the decision when Council is considering zoning issues. She stated she feels that Council would be setting a precedent by allowing the covenant issue to enter into their decision when they are totally out of the realm of their influence. She requested the City Attorney explain the City's role regarding covenants.

Steve Murdock addressed Council and stated since the City is not a party to the covenants when they are established and are not

given an opportunity to participate in their development, they have never been in the practice of enforcing or adopting or requiring certain covenants on any subdivision.

Motion by Lamb, seconded by Sanford, to approve Ordinance No. 3045 as read by title by City Planner. **Motion was denied** as follows:

AYES: Councilmembers Sanford and Lamb

NAYS: Mayor Naifeh, Councilmembers Page and Miller

8. Public Hearing and Consideration of Ordinance rezoning from "R-2" Urban Estate Dwelling to "D-O" Suburban Office Planned Unit Development (PUD), located north of Danforth Road at 1413, 1431, 1531 W. Danforth Road and 1311 Sherry Lane (Catherine Ethridge, French Properties, LLC, Phillip and Melba Castillo and R.W. and Sue Lute - Plaza's of Ketch Acres applicants) Case No. Z060023. This is a companion to the above item and was not considered due to the failure of that item.

9. Public Hearing and Consideration of Special Use Permit to include a convenience store, car wash, gasoline sales and commercial Site Plan approval for one building in "D-1" Restricted Commercial District, located on the northeast corner of Air Depot and Covell (Mark Abel, applicant) Case No. U060008. The site contains 1.64 acres and 38 parking spaces are provided, not including 13 spaces that could be affected by the right-of-way along Air Depot. One driveway is planned on Covell and two on Air Depot. A six foot sight proof fence is required along the north property line. Building signs would face Covell and Air Depot for the convenience store. The application is in compliance with the 10% landscaping requirements. Planning Commission recommended denial.

It was noted that the applicant moved the building further back on the site in order to include the 13 parking spaces in question for a total of 51 parking spaces. These 51 spaces will provide all the parking for the entire project when an additional building is added in the future.

Randel Shadid, attorney representing the applicant, addressed Council and stated no light poles are planned other than one pole that may be needed on Air Depot next to the 13 parking spaces on the north side of the driveway. All other lighting will be under the canopy of the pump island and wall packs will be on the building. The exterior walls of the building will be brick veneer and split face block at the bottom and the pump island will have a standard canopy. One six foot tall, 42 square foot monument sign with a brick base is planned. He stated there is a significant elevation drop from north to south and a six-foot site proof fence

with brick columns will be installed along the north side of the site. He felt due to the elevation change the building would be hidden from view of the residents. Mr. Shadid stated although the application complies with the landscaping requirements, they would be willing to add landscaping along both the Air Depot and Covell frontages. He noted area homeowners support the project.

Councilmember Lamb stated his issue is that the parking lot abutting Air Depot does not provide any landscaping feature to soften the building. He stated he is also concerned about future right-of-way but felt staff would need to provide direction to Council on that issue since a transportation plan has not been approved. He stated now is the time to bring up right-of-way issues since these streets are the first north/south parallel road junctions east of the major interchange off I-35.

The applicant agreed to install additional landscaping to those areas that Councilmember Lamb is concerned about and will provide whatever landscaping the Council requests.

Mayor Naifeh requested the columns on the canopy be all brick to match the building. She commended the applicant on the monument sign and felt it was an enhancement to the project. Mayor Naifeh requested the roofline be changed to a pitched roof in order to complement the surrounding buildings. She also requested that the building remain the same color and not be painted over with company logos. The Mayor also wanted to restrict the number and type of advertising signs in the windows.

Mr. Shadid stated his client felt the flat roof was preferable and did not impact the surrounding area. He stated the only signs being approved tonight are the wall signs and the monument sign. He noted the advertising signs in windows are a code enforcement violation and should be dealt with by the Code Enforcement Department.

Dan O'Neil, representing the Edmond Neighborhood Alliance, addressed Council and stated he understood there would be a 30 foot tree buffer on the north side of the property next to the residential development. He noted this buffer was planned but he wanted to be assured that it will be installed prior to construction of any additional buildings.

The applicant agreed to install the sight-proof fence along the north property line and the sensitive border buffer at the beginning of the project.

General discussion was held regarding the right-of-way on both Air Depot and Covell Road. The applicant agreed not to install the underground fuel storage tanks adjacent to Covell in the event

that additional right-of-way is needed in the future and will provide 70 feet of right-of-way on both Covell and Air Depot.

Councilmember Miller stated he was not pleased with the amount of right-of-way provided since Covell Road will become a major thoroughfare as the City is developed east of I-35. He stated the proposed development does not come close to following the precedent set by the City when the Cross Timbers Municipal Complex was developed and he felt the applicant was not willing to give enough.

Councilmember Lamb stated that the application did provide more right-of-way than is required by current codes along Air Depot and meets the code along Covell and he felt it was probably not reasonable to require more from the applicant at the site plan stage. The Council needs to establish the higher standards so they can be known at zoning.

Motion by Lamb, seconded by Miller, to approve Item 9 subject to the sight-proof fence being constructed of brick columns and wood panels, the columns on the canopy being all brick, no painting of the building with the company logo, no additional parking spaces other than those cited above and the 10 foot landscaping planting bed along and outside the Air Depot right-of-way. **Motion carried** as follows:

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

10. Public Hearing and Consideration of request to amend the current "D-1" Planned Unit Development (PUD) Design Statement for the Danforth Plaza project, located south of Danforth, west of the Park Lane Addition, east of the Wal-Mart Supercenter on the southeast corner of Danforth and Santa Fe (Patsy Ruble, applicant) Case No. Z060060. The applicant requested this item be continued to September 25, 2006.

11. NEW BUSINESS:

Jean Brewer asked the status of the Council renovations of the sound system. Mayor Naifeh stated the Council will discuss the renovations at a workshop scheduled prior to the next City Council meeting.

Mayor Naifeh stated that Tim Reese has requested that the State Senator representing Edmond file a constitutional challenge to the November election date to decide on the rezoning and plan amendment ordinances that were recently approved regarding the

Bridges at Spring Creek. She stated the Senator told her he was not inclined to file the challenge.

Mayor Naifeh stated she toured the Fink Park to Hafer Park trail system with Steve Manek today and felt it will be a wonderful trail when it is opened next Spring.

Mayor Naifeh reminded all citizens to be aware of school zones and children now that school has resumed.

Councilmembers Page and Miller announced the Edmond Historical Society's Living History Social scheduled for September 17th from 2:00-5:00 p.m. in Stephenson Park. They noted the event is free and invited all citizens to attend.

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

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

City Clerk

Mayor